

115TH CONGRESS  
2D SESSION

# H. R. 4746

To amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to specify when bank holding companies may be subject to certain enhanced supervision.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2018

Mrs. BEATTY introduced the following bill; which was referred to the  
Committee on Financial Services

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## A BILL

To amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to specify when bank holding companies may be subject to certain enhanced supervision.

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. ENHANCED SUPERVISION OF CERTAIN BANK**  
4               **HOLDING COMPANIES.**

5       (a) TABLE OF CONTENTS.—The table of contents for  
6       the Dodd-Frank Wall Street Reform and Consumer Pro-  
7       tection Act (12 U.S.C. 5301 et seq.) is amended by strik-  
8       ing the item relating to section 113 and inserting the fol-  
9       lowing:

“Sec. 113. Authority to require enhanced supervision and regulation of certain nonbank financial companies and certain bank holding companies.”.

1 (b) REVISIONS TO COUNCIL AUTHORITY.—

2 (1) PURPOSES AND DUTIES.—Section 112 of  
3 the Dodd-Frank Wall Street Reform and Consumer  
4 Protection Act (12 U.S.C. 5322) is amended in sub-  
5 section (a)(2)(I) by inserting before the semicolon “,  
6 which have been the subject of a final determination  
7 under section 113”.

8 (2) BANK HOLDING COMPANY DESIGNATION.—  
9 Section 113 of the Dodd-Frank Wall Street Reform  
10 and Consumer Protection Act (12 U.S.C. 5323) is  
11 amended—

12 (A) by amending the heading for such sec-  
13 tion to read as follows: “**AUTHORITY TO RE-**  
14 **QUIRE ENHANCED SUPERVISION AND REG-**  
15 **ULATION OF CERTAIN NONBANK FINAN-**  
16 **CIAL COMPANIES AND CERTAIN BANK**  
17 **HOLDING COMPANIES”;**

18 (B) by redesignating subsections (c), (d),  
19 (e), (f), (g), (h), and (i) as subsections (d), (e),  
20 (f), (g), (h), (i), and (j), respectively;

21 (C) by inserting after subsection (b) the  
22 following:

1       “(c) BANK HOLDING COMPANIES SUBJECT TO EN-  
2       HANCED SUPERVISION AND PRUDENTIAL STANDARDS  
3       UNDER SECTION 165.—

4               “(1) IN GENERAL.—There is a determination  
5       that bank holding companies with total consolidated  
6       assets equal to or greater than \$250,000,000,000  
7       shall be subject to enhanced supervision and pruden-  
8       tial standards by the Board of Governors, in accord-  
9       ance with section 165.

10              “(2) ENHANCED SUPERVISION FOR CERTAIN  
11       BANK HOLDING COMPANIES.—

12              “(A) DETERMINATION.—The Council shall  
13       review each bank holding company with total  
14       consolidated assets equal to or greater than  
15       \$50,000,000,000 but less than  
16       \$250,000,000,000 to determine whether such  
17       company shall be subject to enhanced super-  
18       vision and prudential standards by the Board of  
19       Governors, in accordance with section 165.  
20       Such determination shall be made if the Coun-  
21       cil, on a non-delegable basis and by a vote of  
22       not fewer than  $\frac{2}{3}$  of the voting members then  
23       serving, including an affirmative vote by the  
24       Chairperson, determines that material financial  
25       distress at the bank holding company, or the

1 nature, scope, size, scale, concentration, inter-  
2 connectedness, or mix of the activities of the  
3 bank holding company, could pose a threat to  
4 the financial stability of the United States.

5 “(B) CONSIDERATIONS.—In making a de-  
6 termination under subparagraph (A), the Coun-  
7 cil shall consider the following:

8 “(i) The size of the bank holding com-  
9 pany.

10 “(ii) The interconnectedness of the  
11 bank holding company.

12 “(iii) The extent of readily available  
13 substitutes or financial institution infra-  
14 structure for the services of the bank hold-  
15 ing company.

16 “(iv) The global cross-jurisdictional  
17 activity of the bank holding company.

18 “(v) The complexity of the bank hold-  
19 ing company.

20 “(C) REVIEW OF DETERMINATION.—With  
21 respect to a bank holding company described  
22 under subparagraph (A) that is not subject to  
23 enhanced supervision and prudential standards,  
24 the Council shall perform an additional review  
25 under subparagraph (A) of such company if—

1 “(i) the Council finds that the nature,  
2 scope, size, scale, concentration, inter-  
3 connectedness, or mix of the activities of  
4 the bank holding company have signifi-  
5 cantly changed and the company should be  
6 reviewed again to determine if it may pose  
7 a threat to the financial stability of the  
8 United States; or

9 “(ii) a period of 36 months has  
10 passed since the bank holding company  
11 was last reviewed under subparagraph (A).

12 “(D) NOTIFICATION OF REVIEW.—If, after  
13 a review under this paragraph, the Council de-  
14 termines that a bank holding company de-  
15 scribed under subparagraph (A) shall be subject  
16 to enhanced supervision and prudential stand-  
17 ards, the Council shall provide the bank holding  
18 company with written notice of such determina-  
19 tion and an explanation of the Council’s rea-  
20 soning for such determination.

21 “(E) TERMINATION OF ENHANCED SUPER-  
22 VISION AND PRUDENTIAL STANDARDS.—If, with  
23 respect to a bank holding company described  
24 under subparagraph (A) that is subject to en-  
25 hanced supervision and prudential standards,

1 the Council finds, on a non-delegable basis and  
2 by a vote of not fewer than  $\frac{2}{3}$  of the voting  
3 members then serving, including an affirmative  
4 vote by the Chairperson, that material financial  
5 distress at the bank holding company, or the  
6 nature, scope, size, scale, concentration, inter-  
7 connectedness, or mix of the activities of the  
8 bank holding company, do not pose a threat to  
9 the financial stability of the United States, such  
10 company shall no longer be subject to enhanced  
11 supervision and prudential standards.”;

12 (D) in subsection (d), as so redesignated—

13 (i) in paragraph (1)(A), by striking  
14 “subsection (a)(2) or (b)(2)” and inserting  
15 “subsection (a)(2), (b)(2), or (c)(2)”; and

16 (ii) in paragraph (4), by striking  
17 “Subsections (d) through (h)” and insert-  
18 ing “Subsections (e) through (i)”;

19 (E) in subsections (f), (g), (h), (i), and (j),

20 as so redesignated—

21 (i) by striking “subsections (a) and  
22 (b)” each place such term appears and in-  
23 serting “subsections (a), (b), and (c)”; and

24 (ii) by striking “nonbank financial  
25 company” each place such term appears

1           and inserting “bank holding company for  
2           which there has been a determination  
3           under subsection (c) or nonbank financial  
4           company”;

5           (F) in subsection (g), as so redesignated,  
6           by striking “subsection (e)” and inserting “sub-  
7           section (f)”;

8           (G) in subsection (h), as so redesignated,  
9           by striking “subsection (a), (b), or (c)” and in-  
10          serting “subsection (a), (b), (c), or (d)”;

11          (H) in subsection (i), as so redesignated,  
12          by striking “subsection (d)(2), (e)(3), or (f)(5)”  
13          and inserting “subsection (e)(2), (f)(3), or  
14          (g)(5)”.

15          (3) ENHANCED SUPERVISION.—Section 115 of  
16          the Dodd-Frank Wall Street Reform and Consumer  
17          Protection Act (12 U.S.C. 5325) is amended—

18               (A) in subsection (a)(1), by striking “large,  
19               interconnected bank holding companies” and in-  
20               serting “bank holding companies which have  
21               been the subject of a final determination under  
22               section 113”;

23               (B) in subsection (a)(2)—

24                       (i) in subparagraph (A), by striking  
25                       “or” at the end;

1 (ii) by striking “the Council may” and  
2 all that follows through “differentiate” and  
3 inserting “the Council may differentiate”;  
4 and

5 (iii) by striking subparagraph (B);  
6 and

7 (C) in subsection (b)(3), by striking “sub-  
8 sections (a) and (b) of section 113” each place  
9 such term appears and inserting “subsections  
10 (a), (b), and (c) of section 113”.

11 (4) REPORTS.—Section 116(a) of the Dodd-  
12 Frank Wall Street Reform and Consumer Protection  
13 Act (12 U.S.C. 5326(a)) is amended by striking  
14 “with total consolidated assets of \$50,000,000,000  
15 or greater” and inserting “which has been the sub-  
16 ject of a final determination under section 113”.

17 (5) MITIGATION.—Section 121 of the Dodd-  
18 Frank Wall Street Reform and Consumer Protection  
19 Act (12 U.S.C. 5331) is amended—

20 (A) in subsection (a), by striking “with  
21 total consolidated assets of \$50,000,000,000 or  
22 more” and inserting “which has been the sub-  
23 ject of a final determination under section  
24 113”; and



1 (B) in subsection (c), by striking “sub-  
2 section (a) or (b) of section 113” and inserting  
3 “subsection (a), (b), or (c) of section 113”.

4 (6) OFFICE OF FINANCIAL RESEARCH.—Section  
5 155 of the Dodd-Frank Wall Street Reform and  
6 Consumer Protection Act (12 U.S.C. 5345) is  
7 amended in subsection (d) by striking “with total  
8 consolidated assets of \$50,000,000,000 or greater”  
9 and inserting “which have been the subject of a final  
10 determination under section 113”.

11 (c) REVISIONS TO BOARD AUTHORITY.—

12 (1) ACQUISITIONS.—Section 163 of the Dodd-  
13 Frank Wall Street Reform and Consumer Protection  
14 Act (12 U.S.C. 5363) is amended by striking “with  
15 total consolidated assets equal to or greater than  
16 \$50,000,000,000” each place such term appears and  
17 inserting “which has been the subject of a final de-  
18 termination under section 113”.

19 (2) MANAGEMENT INTERLOCKS.—Section 164  
20 of the Dodd-Frank Wall Street Reform and Con-  
21 sumer Protection Act (12 U.S.C. 5364) is amended  
22 by striking “with total consolidated assets equal to  
23 or greater than \$50,000,000,000” and inserting  
24 “which has been the subject of a final determination  
25 under section 113”.

1           (3) ENHANCED SUPERVISION AND PRUDENTIAL  
2           STANDARDS.—Section 165 of the Dodd-Frank Wall  
3           Street Reform and Consumer Protection Act (12  
4           U.S.C. 5365) is amended—

5                   (A) in subsection (a), by striking “with  
6                   total consolidated assets equal to or greater  
7                   than \$50,000,000,000” and inserting “which  
8                   have been the subject of a final determination  
9                   under section 113”;

10                  (B) in subsection (a)(2)—

11                          (i) by striking “(A) IN GENERAL.—”;

12                          and

13                          (ii) by striking subparagraph (B);

14                   (C) by striking “subsections (a) and (b) of  
15                   section 113” each place such term appears and  
16                   inserting “subsections (a), (b), and (c) of sec-  
17                   tion 113”; and

18                   (D) in subsection (j), by striking “with  
19                   total consolidated assets equal to or greater  
20                   than \$50,000,000,000” and inserting “which  
21                   has been the subject of a final determination  
22                   under section 113”.

23           (d) EFFECTIVE DATE; EXPEDITED RULEMAKING  
24           AUTHORITY.—

1           (1) EFFECTIVE DATE.—The amendments made  
2       by this section shall take effect on the earlier of—

3           (A) the date on which the Financial Sta-  
4       bility Oversight Council issues final regulations  
5       to carry out the amendment made by this sec-  
6       tion; or

7           (B) the end of the 18-month period begin-  
8       ning on the date of the enactment of this Act.

9           (2) EXPEDITED RULEMAKING AUTHORITY.—  
10      The Financial Stability Oversight Counsel and the  
11      Board of Governors of the Federal Reserve System  
12      shall—

13           (A) issue regulations to carry out the  
14      amendments made by this section—

15           (i) in proposed form, not later than  
16      the end of the 90-day period beginning on  
17      the date of the enactment of this Act; and

18           (ii) in final form, not later than the  
19      end of the 180-day period beginning on the  
20      date of the enactment of this Act; and

21           (B) such final regulations shall take effect  
22      not later than the end of the 1-year period be-  
23      ginning on the date of the enactment of this  
24      Act.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) consolidated asset size remains a factor, but  
4 only one of many factors, that should be considered  
5 in determining systemic risk; and

6 (2) the more objective and complete processes  
7 identified in section 112 of the Dodd-Frank Wall  
8 Street Reform and Consumer Protection Act, as  
9 modified by this Act, represent a more accurate indi-  
10 cator of systemic risk.

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