

115TH CONGRESS
1ST SESSION

S. 366

To require the Federal financial institutions regulatory agencies to take risk profiles and business models of institutions into account when taking regulatory actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2017

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

A BILL

To require the Federal financial institutions regulatory agencies to take risk profiles and business models of institutions into account when taking regulatory actions, 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 “Taking Account of In-
5 stitutions with Low Operation Risk Act of 2017” or the
6 “TAILOR Act of 2017”.

1 **SEC. 2. TAILORING REGULATION TO BUSINESS MODEL AND**
2 **RISK.**

3 (a) DEFINITIONS.—In this section—

4 (1) the term “Federal financial institutions reg-
5 ulatory agencies” means the Office of the Comp-
6 troller of the Currency, the Board of Governors of
7 the Federal Reserve System, the Federal Deposit In-
8 surance Corporation, the National Credit Union Ad-
9 ministration, and the Bureau of Consumer Financial
10 Protection; and

11 (2) the term “regulatory action”—

12 (A) means any proposed, interim, or final
13 rule or regulation, guidance, or published inter-
14 pretation; and

15 (B) does not include any action taken by
16 a Federal financial institutions regulatory agen-
17 cy that is solely applicable to an individual in-
18 stitution, including an enforcement action or
19 order.

20 (b) CONSIDERATION AND TAILORING.—For any reg-
21 ulatory action occurring after the date of enactment of
22 this Act, each Federal financial institutions regulatory
23 agency shall—

24 (1) take into consideration the risk profile and
25 business models of individual institutions and those

1 of similar type that are subject to the regulatory ac-
2 tion; and

3 (2) tailor such regulatory action applicable to
4 such institution, or type of institution, in a manner
5 that limits the regulatory impact, including cost,
6 human resource allocation and other burdens, on
7 such institution or type of institution as is appro-
8 priate for the risk profile and business model in-
9 volved.

10 (c) FACTORS TO CONSIDER.—In carrying out the re-
11 quirements of subsection (b) (and including consideration
12 of the requirements of paragraph (1) of that subsection),
13 each Federal financial institutions regulatory agency shall
14 consider—

15 (1) whether it is necessary to apply such regu-
16 latory action to individual institutions or those of
17 similar type in order to accomplish the underlying
18 public policy objectives of the statutory provision in-
19 volved;

20 (2) the impact of such regulatory action on the
21 ability of such institutions to flexibly serve their cus-
22 tomers and local markets now and in the future;

23 (3) the aggregate impact of all applicable regu-
24 latory actions on the ability of such institutions to

1 flexibly serve such customers and local markets, both
2 now and in the future;

3 (4) the potential impact that efforts to imple-
4 ment the regulatory action, including through the
5 use of examination manuals, third-party service pro-
6 vider actions, or other factors, may work to undercut
7 efforts to tailor such regulatory action described in
8 subsection (b)(2); and

9 (5) the statutory provision authorizing the reg-
10 ulatory action, the congressional intent with respect
11 to the statutory provision, and the policy objectives
12 sought by the Federal financial regulatory agency in
13 implementing that statutory provision.

14 (d) NOTICE OF PROPOSED AND FINAL RULE-
15 MAKING.—Each Federal financial institutions regulatory
16 agency shall disclose and document in every notice of pro-
17 posed rulemaking and in any final rulemaking for a regu-
18 latory action how the agency has applied subsections (b)
19 and (c).

20 (e) REPORTS TO CONGRESS.—

21 (1) INDIVIDUAL AGENCY REPORTS.—Not later
22 than 1 year after the date of enactment of this Act
23 and annually thereafter, each Federal financial insti-
24 tutions regulatory agency shall submit to the Com-
25 mittee on Financial Services of the House of Rep-

representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the specific actions taken to tailor the regulatory actions of the Federal financial institutions regulator agency pursuant to the requirements of this section.

(2) FFIEC REPORTS.—Not later than 3 months after each report is submitted under paragraph (1), the Federal Financial Institutions Examination Council shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on—

(A) the extent to which each Federal financial institutions regulatory agency differs in the treatment of similarly situated institutions of different charter type; and

(B) an explanation for such differential treatment.

(f) LIMITED LOOK-BACK APPLICATION.—

(1) IN GENERAL.—Each Federal financial institutions regulatory agency shall—

(A) conduct a review of all regulations issued in final form pursuant to statutes enacted during the period beginning on or after

1 July 21, 2010, and ending on the date of the
2 enactment of this Act; and

3 (B) apply the requirements of this section
4 to such regulations.

5 (2) REVISION.—Any regulation revised under
6 paragraph (1) shall be revised not later than 3 years
7 after the date of enactment of this Act.

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