

116TH CONGRESS
1ST SESSION

H. R. 41

To provide regulatory relief for Black and community banks, to codify the
Minority Bank Deposit Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. RUSH introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide regulatory relief for Black and community banks,
to codify the Minority Bank Deposit Program, 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 “Reenergized Economic
5 Sustainability for Community and Urban Entities Act for
6 Black and Community Banks” or the “RESCUE Act for
7 Black and Community Banks”.

1 **SEC. 2. REGULATION OF BLACK AND COMMUNITY BANKS.**

2 (a) OFFICE OF BLACK AND COMMUNITY BANKS.—

3 (1) ESTABLISHMENT.—There is established
4 within the Office of the Comptroller of the Currency
5 an office to be known as the “Office of Black and
6 Community Banks”.

7 (2) SUPERVISION AND EXAMINATION OF BLACK
8 BANKS AND COMMUNITY BANKS.—The Comptroller
9 of the Currency, acting through the Office of Black
10 and Community Banks, shall supervise and examine
11 Black banks and community banks.

12 (3) REGULATORY RELIEF.—

13 (A) IN GENERAL.—The Comptroller shall
14 issue regulations to partially or completely ex-
15 empt Black banks and community banks from
16 Federal banking statutes and regulations, to
17 the extent the Comptroller determines it appro-
18 priate without endangering the safety and
19 soundness of such banks.

20 (B) TREATMENT OF MANUAL UNDER-
21 WRITING.—For purposes of risk-based capital
22 requirements for Black banks and community
23 banks, the Comptroller shall issue regulations
24 to assign a lower level of risk to loans that are
25 issued by such banks using manual under-

1 writing, in recognition of the individualized
2 scrutiny provided by manual underwriting.

3 (C) ENCOURAGING SMALL-DOLLAR LEND-
4 ING.—The Comptroller shall issue regulations
5 to encourage affordable small-dollar lending by
6 Black banks and community banks by providing
7 regulatory flexibility with respect to such lend-
8 ing.

9 (b) REGULATORY RELIEF UNDER THE SECURITIES
10 LAWS.—

11 (1) INVESTMENT PRODUCTS.—With respect to
12 investment products sold by a Black bank or a com-
13 munity bank (or an affiliate of such bank) to indi-
14 viduals in the community in which such bank is lo-
15 cated, the Securities and Exchange Commission
16 shall issue regulations to partially or completely ex-
17 empt the bank from the securities laws and regula-
18 tions issued under the securities laws, to the extent
19 the Commission determines it appropriate without
20 endangering the protection of investors.

21 (2) SECURITIES.—

22 (A) IN GENERAL.—The Securities and Ex-
23 change Commission shall issue regulations to
24 reduce the regulatory burden applicable to
25 Black banks and community banks—

- 1 (i) under the amendments made by
 2 the Jumpstart Our Business Startups Act;
 3 (ii) issuing mortgage-backed securi-
 4 ties; and
 5 (iii) issuing securities backed by loans
 6 guaranteed by the Small Business Act.

7 (B) CROWDFUNDING EXEMPTION.—Sec-
 8 tion 4A of the Securities Act of 1933 (15
 9 U.S.C. 77d–1) shall not apply to Black banks
 10 or community banks.

11 (c) CONFORMING CHANGE TO DEFINITION OF AP-
 12 PROPRIATE FEDERAL BANKING AGENCY.—Section
 13 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C.
 14 1813(q)(1)) is amended—

15 (1) in subparagraph (B), by striking “and” at
 16 the end;

17 (2) in subparagraph (C), by adding “and” at
 18 the end; and

19 (3) by adding at the end the following:

20 “(D) notwithstanding paragraphs (2) and
 21 (3), any Black bank or community bank (as
 22 such terms are defined under section 5 of the
 23 RESCUE Act for Black and Community
 24 Banks);”.

1 **SEC. 3. CODIFICATION OF THE MINORITY BANK DEPOSIT**
2 **PROGRAM.**

3 (a) IN GENERAL.—

4 (1) IN GENERAL.—Section 1204 of the Finan-
5 cial Institutions Reform, Recovery, and Enforcement
6 Act of 1989 (12 U.S.C. 1811 note) is amended to
7 read as follows:

8 **“SEC. 1204. EXPANSION OF USE OF MINORITY BANKS, WOM-**
9 **EN’S BANKS, AND LOW-INCOME CREDIT**
10 **UNIONS.**

11 “(a) MINORITY BANK DEPOSIT PROGRAM.—

12 “(1) ESTABLISHMENT.—There is established a
13 program to be known as the ‘Minority Bank Deposit
14 Program’ to expand the use of minority banks, wom-
15 en’s banks, and low-income credit unions.

16 “(2) ADMINISTRATION.—The Secretary of the
17 Treasury, acting through the Fiscal Service, shall—

18 “(A) on application by a depository institu-
19 tion or credit union, certify whether such depos-
20 itory institution or credit union is a minority
21 bank, women’s bank, or low-income credit
22 union;

23 “(B) maintain and publish a list of all de-
24 pository institutions and credit unions that have
25 been certified pursuant to subparagraph (A);

1 “(C) periodically distribute the list de-
2 scribed in subparagraph (B) to—

3 “(i) all Federal departments and
4 agencies;

5 “(ii) interested State and local govern-
6 ments; and

7 “(iii) interested private sector compa-
8 nies; and

9 “(D) support the creation of ratings, on-
10 line Black bank resources, and database prod-
11 ucts, including online lending and investment
12 facilities.

13 “(3) INCLUSION OF CERTAIN ENTITIES ON
14 LIST.—A depository institution or credit union that,
15 on the date of the enactment of this section, has a
16 current certification from the Secretary of the
17 Treasury stating that such depository institution or
18 credit union is a minority bank, women’s bank, or
19 low-income credit union shall be included on the list
20 described under paragraph (2)(B).

21 “(b) EXPANDED USE AMONG FEDERAL DEPART-
22 MENTS AND AGENCIES.—

23 “(1) IN GENERAL.—Not later than 1 year after
24 the establishment of the program described in sub-
25 section (a), the head of each Federal department or

1 agency shall develop and implement standards and
2 procedures to ensure, to the maximum extent pos-
3 sible as permitted by law, the use of minority banks,
4 women’s banks, and low-income credit unions to
5 serve the financial needs of each such department or
6 agency.

7 “(2) MINIMUM REQUIREMENT.—Notwith-
8 standing paragraph (1), the head of each Federal
9 department or agency shall ensure that at least 10
10 percent of the financial needs of each such depart-
11 ment or agency are met by the use of minority
12 banks, women’s banks, and low-income credit
13 unions.

14 “(3) REPORT TO CONGRESS.—Not later than 2
15 years after the establishment of the program de-
16 scribed in subsection (a), and annually thereafter,
17 the head of each Federal department or agency shall
18 submit to Congress a report on the actions taken to
19 increase the use of minority banks, women’s banks,
20 and low-income credit unions to serve the financial
21 needs of each such department or agency.

22 “(c) DEFINITIONS.—For purposes of this section:

23 “(1) CREDIT UNION.—The term ‘credit union’
24 has the meaning given the term ‘insured credit

1 union’ in section 101 of the Federal Credit Union
2 Act (12 U.S.C. 1752).

3 “(2) DEPOSITORY INSTITUTION.—The term ‘de-
4 pository institution’ has the meaning given the term
5 ‘insured depository institution’ in section 3 of the
6 Federal Deposit Insurance Act (12 U.S.C. 1813).

7 “(3) LOW-INCOME CREDIT UNION.—The term
8 ‘low-income credit union’ means any entity described
9 in section 19(b)(1)(A)(iv) of the Federal Reserve
10 Act.

11 “(4) MINORITY.—The term ‘minority’ means
12 any Black American, Native American, Hispanic
13 American, or Asian American.

14 “(5) MINORITY BANK.—The term ‘minority
15 bank’ means any bank described in clause (i), (ii),
16 or (iii) of section 19(b)(1)(A) of the Federal Reserve
17 Act for which—

18 “(A) more than 50 percent of the out-
19 standing shares of which are held by 1 or more
20 minority individuals;

21 “(B) the majority of the directors on the
22 board of directors of which are minority individ-
23 uals; and

1 “(C) a significant percentage of senior
2 management positions of which are held by mi-
3 nority individuals.

4 “(6) WOMEN’S BANK.—The term ‘women’s
5 bank’ means any bank described in clause (i), (ii),
6 or (iii) of section 19(b)(1)(A) of the Federal Reserve
7 Act for which—

8 “(A) more than 50 percent of the out-
9 standing shares of which are held by 1 or more
10 women;

11 “(B) the majority of the directors on the
12 board of directors of which are women; and

13 “(C) a significant percentage of senior
14 management positions of which are held by
15 women.”.

16 (2) CONFORMING AMENDMENTS.—The fol-
17 lowing provisions are amended by striking
18 “1204(c)(3)” and inserting “1204(c)”:

19 (A) Section 808(b)(3) of the Community
20 Reinvestment Act of 1977 (12 U.S.C.
21 2907(b)(3)).

22 (B) Section 40(g)(1)(B) of the Federal De-
23 posit Insurance Act (12 U.S.C.
24 1831q(g)(1)(B)).

1 (C) Section 704B(h)(4) of the Equal Cred-
 2 it Opportunity Act (15 U.S.C. 1691c-2(h)(4)).

3 (b) AMENDMENTS TO THE COMMUNITY REINVEST-
 4 MENT ACT.—Section 804(b) of the Community Reinvest-
 5 ment Act of 1977 (12 U.S.C. 2903(b)) is amended to read
 6 as follows:

7 “(b) COOPERATION WITH MINORITY BANKS,
 8 WOMEN’S BANKS, AND LOW-INCOME CREDIT UNIONS
 9 CONSIDERED.—

10 “(1) IN GENERAL.—In assessing and taking
 11 into account, under subsection (a), the record of a
 12 financial institution, the appropriate Federal finan-
 13 cial supervisory agency shall consider as a factor
 14 capital investment, loan participation, and other ven-
 15 tures undertaken by the institution in cooperation
 16 with minority banks, women’s banks, community de-
 17 velopment financial institutions, and low-income
 18 credit unions provided that these activities help meet
 19 the credit needs of local communities in which such
 20 institutions and credit unions are chartered.

21 “(2) DEFINITIONS.—

22 “(A) FIRREA DEFINITIONS.—The terms
 23 ‘low-income credit union’, ‘minority bank’, and
 24 ‘women’s bank’ have the meanings given such
 25 terms, respectively, in section 1204(c) of the Fi-

1 nancial Institutions Reform, Recovery, and En-
2 forcement Act of 1989 (12 U.S.C. 1811 note).

3 “(B) COMMUNITY DEVELOPMENT FINAN-
4 CIAL INSTITUTION.—The term ‘community de-
5 velopment financial institution’ has the meaning
6 given in section 103(5) of the Riegle Commu-
7 nity Development and Regulatory Improvement
8 Act of 1994 (12 U.S.C. 4702(5)).”.

9 (c) CONSIDERATIONS WHEN ASSESSING FINANCIAL
10 INCLUSION FOR FEDERALLY CHARTERED FINANCIAL IN-
11 STITUTIONS.—

12 (1) IN GENERAL.—In assessing and taking into
13 account the record of a federally chartered financial
14 institution under any financial inclusion assessment
15 process created by the Comptroller of the Currency
16 in any rule relating to the chartering of a financial
17 institution, the Comptroller shall consider as a fac-
18 tor capital investment, loan participation, and other
19 ventures undertaken by the bank in cooperation with
20 Black banks, women’s banks, community develop-
21 ment financial institutions, and low-income credit
22 unions, provided that these activities help meet the
23 financial needs of local communities in which the
24 federally chartered financial institution provides fi-
25 nancial products or services.

1 (2) DEFINITIONS.—For purposes of this sec-
2 tion:

3 (A) COMMUNITY DEVELOPMENT FINAN-
4 CIAL INSTITUTION.—The term “community de-
5 velopment financial institution” has the mean-
6 ing given in section 103(5) of the Riegle Com-
7 munity Development and Regulatory Improve-
8 ment Act of 1994 (12 U.S.C. 4702(5)).

9 (B) FINANCIAL INCLUSION ASSESSMENT
10 PROCESS.—The term “financial inclusion as-
11 sessment process” means any process relating
12 to the chartering of a financial institution
13 whereby the Comptroller of the Currency as-
14 sesses and takes into account the financial in-
15 stitution’s record of meeting the financial needs
16 of the bank’s entire community, including low-
17 and moderate-income neighborhoods, consistent
18 with the safe and sound operation of such bank.

19 (C) FINANCIAL PRODUCT OR SERVICE.—
20 The term “financial product or service” has the
21 meaning given such term in section 1002 of the
22 Dodd-Frank Wall Street Reform and Consumer
23 Protection Act (12 U.S.C. 5481).

24 (D) FIRREA DEFINITIONS.—The terms
25 “low-income credit union” and “women’s bank”

1 have the meanings given such terms, respec-
2 tively, in section 1204(c) of the Financial Insti-
3 tutions Reform, Recovery, and Enforcement Act
4 of 1989 (12 U.S.C. 1811 note).

5 **SEC. 4. GAO STUDIES.**

6 (a) **NEW MARKETS TAX CREDIT STUDY.**—The
7 Comptroller General of the United States shall carry out
8 a study on the award of the new markets tax credit by—

9 (1) surveying communities and specifically talk-
10 ing to Black banks, community banks, and CDFIs
11 that wish to receive the tax credit about why they
12 are not receiving the tax credit;

13 (2) determining where the tax credit money ac-
14 tually went and what it was used for; and

15 (3) to the extent possible, using a case study
16 approach.

17 (b) **LOWER-VALUE HOME MORTGAGE LOAN**
18 **STUDY.**—The Comptroller General of the United States
19 shall carry out a study on mortgage loans with a principal
20 amount of \$100,000 or less, including—

21 (1) who is making such loans currently;

22 (2) how communities are encouraging such
23 loans;

24 (3) what changes could encourage banks and
25 other persons to provide more such loans; and

1 (4) any statutory or regulatory changes that
2 the Comptroller believes may be needed to encourage
3 more such loans.

4 (c) BLOCKCHAIN STUDY.—The Comptroller General
5 of the United States shall carry out a study on blockchain
6 technology and whether such technology could be used to
7 increase investment by lower-income individuals in start-
8 ups and other crowd-funded companies.

9 **SEC. 5. DEFINITIONS.**

10 For purposes of this Act:

11 (1) BLACK BANK.—The term “Black bank”
12 means an insured depository institution—

13 (A) more than 50 percent of the ownership
14 or control of which is held by 1 or more Black
15 individuals; and

16 (B) more than 50 percent of the net profit
17 or loss of which accrues to 1 or more Black in-
18 dividuals.

19 (2) CDFI.—The term “CDFI” has the mean-
20 ing given the term “community development finan-
21 cial institution” under section 103 of the Commu-
22 nity Development Banking and Financial Institu-
23 tions Act of 1994.

1 (3) COMMUNITY BANK.—The term “community
2 bank” means an insured depository institution with
3 less than \$100,000,000 in consolidated assets.

4 (4) COMPTROLLER.—The term “Comptroller”
5 means the Comptroller of the Currency, except when
6 used in the context of the Comptroller General of
7 the United States.

8 (5) INSURED CREDIT UNION.—The term “in-
9 sured credit union” has the meaning given such
10 term under section 101 of the Federal Credit Union
11 Act.

12 (6) INSURED DEPOSITORY INSTITUTION.—The
13 term “insured depository institution”—

14 (A) has the meaning given such term
15 under section 3 of the Federal Deposit Insur-
16 ance Act; and

17 (B) includes an insured credit union.

18 (7) SECURITIES LAWS.—The term “securities
19 laws” has the meaning given such term under sec-
20 tion 3 of the Securities Exchange Act of 1934 (15
21 U.S.C. 78c).

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