The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. HILL) that the House suspend the rules and pass the bill, H.R. 5078, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

OPERATIONAL RISK CAPITAL REQUIREMENTS FOR BANKING ORGANIZATIONS

Mr. HENSARLING. Mr. Speaker, pursuant to House Resolution 747, I call up the bill (H.R. 4296) to place requirements on operational risk capital requirements for banking organizations established by an appropriate Federal banking agency, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 747, in lieu of the amendment in the nature of a substitute recommended by the Committee on Financial Services printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115–60, modified by the amendment printed in part A of House Report 115–582, is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 4296

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

SECTION 1. OPERATIONAL RISK CAPITAL REQUIREMENTS FOR BANKING ORGANIZATIONS.

(a) IN GENERAL.—An appropriate Federal banking agency may not establish an operational risk capital requirement for banking organizations, unless such requirement—

(1) is based primarily on the risks posed by a banking organization's current activities and businesses;

(2) is appropriately sensitive to the risks posed by such current activities and businesses;

(3) is determined under a forward-looking assessment of potential losses that may arise out of a banking organization's current activities, businesses, and exposures, which is not solely based on a banking organization's historical losses; and

(4) permits adjustments based on qualifying operational risk mitigants.

(b) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term ''appropriate Federal banking agency''—

(A) has the meaning given such term under section 3 of the Federal Deposit Insurance Act; and

(B) means the National Credit Union Administration, in the case of an insured credit union.

(2) BANKING ORGANIZATION.—The term ''banking organization'' means—

(A) an insured depository institution (as defined under section 3 of the Federal Deposit Insurance Act);

(B) an insured credit union (as defined under section 101 of the Federal Credit Union Act);

(C) a depository institution holding company (as defined under section 3 of the Federal Deposit Insurance Act);

(D) a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act; and

(E) a U.S. intermediate holding company established by a foreign banking organization pursuant to section 252.153 of title 12, Code of Federal Regulations.

SEC. 2. REDUCTION OF SURPLUS FUNDS OF FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 7(a)(3)(A) of the Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) is amended by striking ''$7,500,000,000'' and inserting ''$7,468,571,428''.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on May 1, 2018.

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services.

The gentleman from Texas (Mr. HENSARLING) and the gentlewoman from California (Ms. MAXINE WATERS) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. HENSARLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and submit extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HENSARLING. Mr. Speaker, I rise, today, in strong support of H.R. 4296, an important bill authored by Mr. LUETKEMEYER, who is a real leader on our committee. He is the chairman of the Subcommittee on Financial Institutions and Consumer Credit and has led many bills on this floor. This particular one addresses the burden that unnecessary operational capital requirements have imposed on our financial institutions and then, consequently, on our hardworking families and small businesses that are seeking credit.

The Basel Committee requires U.S. financial institutions to hold excessive capital based upon a look-back approach to an organization's risk, previous earnings, and other provisions that provide no indication of future risk.

Again, Mr. Speaker, this is about holding operational capital for past activities.

This methodology employed by the international standard setters has forced our banks to hold hundreds of billions of dollars in reserve rather than putting that money to work in the real economy—in loans and investments—for people to buy cars, to launch small-business enterprises, or maybe to make a downpayment on that first home.

Again, Mr. Speaker, let me say it so that all can hear. Hundreds of billions of dollars is currently sitting in banks across the country not being utilized to fund mortgage loans, car loans, and other day-to-day financing that American families and individuals demand.

On top of this is the increased cost of compliance that banks have had to shoulder under Dodd-Frank's onslaught of regulation. Banks like Coatesville Savings Bank, the only remaining bank in Coatesville, Pennsylvania, has told us that, now, 25 percent of their annual budget is nothing but compliance cost, Mr. Speaker. This is detrimental to the Coatesville, Pennsylvania, community. That is 25 percent. That is a huge figure, Mr. Speaker, that cannot be used to fund the American Dream in Coatesville, Pennsylvania.

So, again, Chairman LUETKEMEYER brings us a very commonsense reform and a very necessary reform.

Most agree and recognize the importance of our financial institutions to hold capital in the event of future crisis or distress. Nobody denies that, and this legislation does not remove those requirements. But, Mr. Speaker, requiring banking organizations to look back in the rearview mirror and hold operational capital against discontinued activities or products is just not nonsensical, it is crazy. It makes no sense.

H.R. 4296 simply amends the method of how reserve capital is calculated by establishing standards based on an organization's current business activities, making the requirements more accurate and tailored to a bank's current risk profile. Again, Mr. Speaker, it is just common sense. That means banks would still retain sufficient reserves to weather an economic storm, but they would be able to put the billions of dollars currently sitting on the sidelines to work to help make the economy grow, to make it healthier.

In short, this method-based approach proposed by H.R. 4296 properly calibrates operational capital while also ensuring strong, healthy financial institutions and, thus, a stronger economy for our constituents.

Again, to be very clear, Mr. Speaker, H.R. 4296, does not prevent Federal financial regulators from instituting operational risk capital requirements. It does not eliminate the authority of a regulator to assess operational risk, nor does it prevent regulators from requiring that capital be held against riskier activities or businesses. The bill simply puts forth a thoughtful framework that sets parameters, while allowing regulators the flexibility needed to ensure that capital standards are appropriately tailored.

A healthy financial system, Mr. Speaker, will enhance individuals' financial freedom and will lead to a healthier and better regulatory system.

H.R. 4296 has garnered strong, bipartisan support in our committee, passing by a vote of 43–17, again, because it is practical and common sense.

I again want to thank the gentleman from Missouri (Mr. LUETKEMEYER), who chairs our Financial Institutions and Consumer Credit Subcommittee, for his leadership on this bill. I urge all of my colleagues to join me in supporting this important bipartisan measure, and I reserve the balance of my time.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to H.R. 4296. This bill is simply another rollback of rules put in place after the financial crisis. It would undermine the stability of our country's largest financial banks by restricting the way regulators set capital requirements for these institutions.

Before I get into why this bill is problematic, let me take a moment to clarify what capital is and what it is not.

Some have said that capital is money that is held on the side or in reserve and cannot be used to lend to borrowers. This couldn't be further from the truth. Capital is not a reserve. Capital refers to the terms of the financing a bank receives.

In the most simplistic example, a bank receives funds from customers making deposits, loans it receives from other institutions, and stock it has issued to investors. The bank uses all of these sources of funding to make mortgages and other loans to customers. However, there are important differences.

Bank debt has terms like regular interest payments that, if it stops paying, the bank fails.

□ 1600

However, a bank can stop paying dividends on a stock without it failing. Banks funded with lots of debt are described as being higher leveraged and risky because only a small drop in the value of their mortgages and other assets can cause them to default.

Funding a bank through higher levels of capital makes the bank stronger, because even if the loans it has made lose value, the bank can avoid default by temporarily halting payments to their investors or lowering the value of the stock.

H.R. 4296 would impact something called operational risk capital, which is the capital used to cover the possibility of losses to the largest banks caused from their operational failures, such as rogue traders, fraudulent sales practices, and cyber breaches.

H.R. 4296 would diminish this type of capital, which only about 10 megabanks are required to maintain under an enhanced framework, by restricting the information that regulators can use to determine the appropriate balance of safe funding, like bank stock versus debt, that megabanks should have to address potential operational losses that may occur.

The bill would direct regulators to primarily consider a megabank's current activities and not their past behavior when setting the capital level, thereby enabling the bank to take on more debt.

According to Americans for Financial Reform, a nonpartisan coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups:

''While current activities are obviously central to operational risk, and are already treated as such, the recent loss experience of banks is the best concrete evidence regulators usually have as to the magnitude of current and future risks. Recent past activities are also vital to understanding the future exposures of the bank, including potential legal exposures.''

Thus, this change to how regulators determine the appropriate amount megabanks should maintain for operational risk is imprudent. A megabank's past actions are often the best indicators of future potential risks that it may experience.

Well, memories seem to quickly fade in Congress about the problems that led to the last financial crisis, so let me list some of the examples of past megabanks' operational failures by J.P. Morgan's ''London Whale'' trades and Wells Fargo's long list of violations that have ripped off millions of consumers, including those harmed by their fraudulent accounts scandal.

Given these examples of past misconduct, the megabanks have collectively paid more than $160 billion in fines since 2010. It is absurd to suggest that their past behavior shouldn't be taken into account when determining how much capital they should hold.

Even the Basel Committee, which several of President Trump's appointees now serve on, agreed in December, when they finalized Basel III reforms from where the operational risk capital originates, writing:

''Banks which have experienced greater operational risk losses historically are assumed to be more likely to experience operational risk losses in the future.''

So it makes no sense to have a forward-looking assessment that deemphasizes a megabank's past failures in setting these capital requirements. It is almost as if this bill is saying: ''Don't pay any attention to that. No matter how bad they have been, don't look at their past performance. We don't want you to look at that, because we know if you do, you will make a different decision about capital requirements.''

The nonpartisan Congressional Budget Office estimated that the bill's changes would cost the Federal Government $22 million. This calculation was based on the fact that the capital change would not only affect the bank's probability of failure, but also the magnitude of future losses to our entire financial stability, which, in turn, affects the overall U.S. economy.

This is not a bill to help community banks. It has nothing to do with community banks. Let me repeat that. This is not a bill to help community banks, so what we wish we would not hear is someone coming up talking about how it is going to hurt community banks. That is often used as an excuse. When we are trying to rein in these megabanks, they always lop in the community banks with it. This has nothing to do with community banks. This is a bill for the 10 largest banks in this country.

So the megabanks on Wall Street are hoping Congress will let them take on riskier debt by directing the regulators to downplay, if not outright ignore, their recent and extensive operational failures.

Mr. Jamie Dimon, the CEO and chairman of JPMorgan Chase, wrote in his 2016 annual letter to shareholders that:

''Operational risk capital should be significantly modified, if not eliminated.''

Let's think about it like this: most adult consumers in this country have a credit score. Banks use those credit scores to determine whether or not to lend to a consumer and, if so, under what terms.

These credit scores are based on a consumer's what?

A consumer's past payment history, because this information is considered one of the best indicators of a person's likelihood to default on future credit obligations.

Now, we all know that credit scores are problematic, but no one, including me, is proposing to get rid of them, because we can all agree that past payment information is a good indicator of how someone will handle credit in the future, but this bill takes that principle and throws it out the window when it comes to the 10 largest banks in this country.

Keep in mind, these same banks will continue to use a consumer's credit score for underwriting and rating of mortgages and other consumer loans, but the megabanks themselves are asking this Congress not to judge them on their past behavior, as they judge consumers, and to let them have a clean slate moving forward. If that isn't a double standard, Mr. Speaker, I am not sure what is.

Mr. Speaker, bank profits reached an all-time record high in 2016. Compensation for Wall Street CEOs has shot back up to levels last seen in 2006, and business lending is up 75 percent since 2010. All this happened while U.S. banks added more than $700 billion in capital to absorb potential losses. There is a simple reason for this: healthy banks lend.

U.S. banks also lent significantly more than their European counterparts, because our banks boosted their capital levels, while the European banks did not.

So despite Republicans' ''Chicken Little'' arguments about the dire consequences of the Dodd-Frank Act and related regulatory reforms, the data speaks for itself. Banks are making more money than ever and lending more than ever, but apparently that is not enough.

So I am here again today appealing for Congress to continue to uphold the commonsense safeguards for consumers, the broader economy, and the megabanks. I reject this Wall Street giveaway.

Mr. Speaker, I urge my colleagues to oppose this harmful legislation, and I reserve the balance of my time.

Mr. HENSARLING. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. LUETKEMEYER), the chairman of the Subcommittee on Financial Institutions and Consumer Credit, and the bill's sponsor.

Mr. LUETKEMEYER. Mr. Speaker, I thank the chairman for his great leadership and for helping us with this legislation.

Mr. Speaker, I rise today in support of H.R. 4296, legislation that would set reasonable parameters for Federal financial regulators when establishing operational risk capital requirements so that banks can best leverage their capital to grow their local economies.

In the wake of the financial crisis, operational risk capital requirements were first agreed to at the Basel Committee. That is a foreign group of folks who get together. We have accepted some of their advice, unfortunately, and then it was implemented in the United States by the FDIC, the OCC, and the Federal Reserve.

Like many concepts fashioned at the Basel Committee, the original intent may have seemed to be a good idea, but the implementation has brought about confusion and unintended consequences.

The committee, realizing it didn't get it right, has revised its recommended operational risk standards on more than one occasion in the last few years. The first was in the fall of 2014, when the committee found that its original standards were under-calibrated. The second came in 2016, when the Basel Committee suggested a requirement that would force banks to look back and hold capital against discounted activities and products. This is not an appropriate way to determine capital requirements.

So what does this mean?

It means that today a bank that exited a particular line of business must still hold the same amount of capital as another bank that is still engaged in that business. It also means that a bank that spends money to improve risk management will be saddled with the same capital standards as a bank that has done nothing to improve its risk management.

My legislation would instill confidence by instituting clear guardrails for operational risk capital requirements. This is particularly important considering that the European regulators have moved the goalposts on U.S. regulators and financial institutions several times.

H.R. 4296 will also ensure that the imposition of forward-looking capital requirements focus on the bank's current activities and businesses.

Equally important, this bill would incentivize institutions to mitigate operational risk, creating safer banks and a safer financial system.

To be clear, this legislation does not prevent Federal financial regulators from instituting operational risk capital requirements. It does not eliminate the authority of a regulator to assess operational risk, nor does it prevent regulators from requiring that capital be held against riskier activities or businesses.

In other words, it would allow the regulators to continue their business of regulating, but putting some common sense in the regulation and allowing the flexibility to be able to use a forward-looking way of assessing risk rather than being forced to do a look-back-type of risk analysis.

This bill puts forth a thoughtful framework that sets parameters while allowing regulators the flexibility needed to ensure that capital standards are appropriately tailored.

Given my background as both a banker and a regulator, I am often one of the loudest voices in favor of strong capital standards. At the same time, those standards need to make sense, Mr. Speaker. They need to reflect the actual risk posed by the institution to the financial system.

These standards have a tremendous impact on a bank's capital levels, and it is important that the regulators get them right so that they don't hamstring the bank's ability to meet the credit needs of its local economy and community.

I hope my colleagues will join me in voting in favor of this commonsense bipartisan legislation.

Mr. Speaker, I again thank the chairman for his support.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield as much time as she may consume to the gentlewoman from Ohio (Mrs. BEATTY), a member of the Financial Services Committee.

Mrs. BEATTY. Mr. Speaker, I thank our ranking member, Congresswoman MAXINE WATERS, for yielding me time and also for her steadfast leadership in opposing the Financial CHOICE Act and many of the provisions included in the bill, including the one that we are considering on the floor today.

Mr. Speaker, this bill flies in the face of the old maxim: Those who do not remember the past are condemned to repeat it.

This bill would effectively blindfold our regulators when calculating operational risk capital at our largest institutions—it is worth repeating again: not our community banks, but our largest financial institutions—by precluding them from looking at an institution's historic losses as an indicator of possible future losses.

Now, earlier, the ranking member injected an example of asking about our credit scores. I think it is worth elaborating on this, Mr. Speaker. Imagine if I go to a bank for a mortgage loan and they ask me for my credit score, and I simply told them they couldn't look at my past financial behavior in order to decide whether or not they are going to give me the loan.

So when you talk about good or commonsense regulation, we all know the answer to that question, Mr. Speaker.

Well, this bill would effectively do just that to our regulators. Instead of a credit score, which determines creditworthiness, operational risk determines the risk of loss resulting from inadequate or failed internal processes, people, and systems.

I would tell our regulators, when determining the appropriate level of capital a financial institution needs to hold against operational risk, you cannot look at an institution's past losses, especially if they got out of that business.

Mr. Speaker, I think this is common sense. I think whether you are a banker or a regulator, you clearly understand that we need to make sure that we don't blindfold our regulators.

So I oppose this bill, which would reduce capital in our country's largest financial institutions and blindfold our regulators' ability to safeguard the stability of our economy. I urge all of my colleagues to vote ''no.''

□ 1615

Mr. HENSARLING. Mr. Speaker, I yield myself 30 seconds.

As I listen to my colleague from Ohio, she uses the complete wrong analogies. What happens is we don't pay our home insurance premiums on the home we sold; we pay it on the home we own.

If you lived in a swamp and then you moved to a mountaintop in Colorado, you pay different insurance premiums; and if you cease to be a skydiver and you become an accountant, maybe you pay different life insurance premiums. This has to do with your risk profile today, not yesterday.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. STIVERS), a member of the Financial Services Committee.

Mr. STIVERS. Mr. Speaker, I rise in support of H.R. 4296, sponsored by my colleague BLAINE LUETKEMEYER. This bipartisan bill makes important corrections in the bank capital requirements for operational risk. Under the legislation, regulators would continue to be able to consider the bank's operational risk, but would do so in a forward-looking manner.

Currently, financial institutions are required to hold risk-based capital, even for discontinued activities and products. Accounting and the capital markets often use the concept of pro forma financials, which means you consider the ongoing operations, or the way that it would look if it looks like it is today, going forward. This bill would institute that same approach for regulators to use pro forma operational risk, so they wouldn't have to continue to charge a capital charge on operations that have been discontinued.

I think the chairman made a great comment about you don't buy home insurance on a home you have already sold. My colleague, Mr. LUETKEMEYER, during the markup of this bill, talked about how the Basel Committee has revised this specific capital requirement several times, but it is still a work in progress. This legislation is just a commonsense change to make sure that banks are not charged capital charges against things that they aren't doing anymore.

This approach will free up capital that is needlessly on the sidelines and put it back in reach of America's job creators. I urge my colleagues to vote ''yes'' on H.R. 4296.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. BEATTY). She has raised a question about the analogies that the chairman made, and those analogies seem to escape ordinary logic.

Mrs. BEATTY. Mr. Speaker, I thank the ranking member for yielding me this time.

Maybe I should try to right that wrong analogy that our chairman thought; but maybe if I take his analogy that it is not based on the house I sold but it is based on the house I am living in, well, what is the difference?

If I went to the bank and wanted to put my house up for collateral but I hadn't paid the payment on it in 4 months and it was getting ready to be foreclosed on, I think they would want to know that. And that would be maybe a better analogy on it, because what we are trying to say to the people who are out there watching and listening to this: You cannot let our larger banks put us at risk, what we know also happened in 2008.

So that was the point I was making. So let's say the analogies don't work so we don't have to go back and forth. Let me just say that I am voting ''no'' on this because I don't want to blindfold or tie the hands of the regulators' being able to do their jobs.

Mr. HENSARLING. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HULTGREN), the vice chairman of the Financial Services Subcommittee on Capital Markets.

Mr. HULTGREN. Mr. Speaker, I also want to thank Chairman HENSARLING for all of his work moving this important regulatory reform through.

I speak today in support of H.R. 4296, to place requirements on operational risk capital requirements for banking organizations established by an appropriate Federal banking agency. This bill is one of many that are being reported by the Financial Services Committee with bipartisan support.

I want to commend Congressman LUETKEMEYER and Congressman MEEKS for working together to get a very strong vote from the Financial Services Committee. I hope that is something we can accomplish today on the House floor.

This legislation acknowledges that we can make improvements to the regulatory framework that has been implemented or is still pending in response to the financial crisis. My constituents and I are very pleased to see the economic growth over the last year, but that does not mean we shouldn't take additional steps to ensure that we have an efficient regulatory system. For example, the Fed is likely going to continue tightening rates, and I am not sure Congress will always be able to provide the progrowth fiscal policy that we have seen as of late.

One of our other tools for affecting the performance of the economy is a progrowth but sensible regime that permits for investment, job creation, and financial security. H.R. 4296 will ensure our banking regulators institute operational risk capital standards that make sense for the U.S. financial system.

This legislation ensures that operational risk-based capital requirements are reflective of the banking organization's current activities and businesses. This seems logical, but the current approach is dependent on historical performance and does not provide for adjustments based on changes made by a banking organization.

So, for example, a banking organization might suffer from a cyber attack that results in losses for the organization. In fact, cyber attacks and data breaches are considered to be one of the largest categories of operational risk. In response, this banking organization could choose to overhaul its ability to detect and respond to such operational risk incidents.

Shouldn't our capital framework reflect that work, or should the banking organization continue to suffer from a punitive framework that disincentivizes proactively addressing operational risk?

I, for one, am supportive of policies that will encourage investment by banking organizations to address reputational risk, such as those that might pose a risk for a data breach. I would encourage all of my colleagues to vote in support of this bipartisan legislation. I would encourage our financial sector to proactively address operational risks, and it will also free up capital to permit for economic growth.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii (Ms. GABBARD), a member of the Congressional Progressive Caucus.

Ms. GABBARD. Mr. Speaker, I thank Ranking Member WATERS for her leadership in opposing this bill and standing for the protection of everyday Americans.

We can't forget that it was only 10 years ago that millions of hardworking families watched their life savings entirely wiped out. They lost their homes. They couldn't afford to send their kids to college. And all of this heartache, this pain, this suffering that they went through was the direct result of risky predatory lending practices and too-big-to-fail banks that did not have sufficient capital in place to support and absorb their financial losses.

It was in the aftermath of this financial disaster in 2008 that Congress passed protections to prevent this from happening again, but here we are today where these big banks now believe that we should simply forget the past mistakes that they made and, instead, only evaluate their current activities to determine certain capital requirements. I guarantee you those families that have suffered have not simply forgotten about what they went through and what they are still struggling to overcome and recover from.

By ignoring critical indicators of past activities, this bill would allow big banks, like Wells Fargo, for example, who defrauded the American people just in the last several months by opening millions of fake accounts, to get away with a slap on the wrist. And the American people are set up to take the fall for their actions.

Now, supporters of this bill claim that current capital requirements stifle lending and hurt our banks and the economy, but the facts say otherwise. In 2016, bank profits reached an all-time high, and today business lending is up 75 percent since 2010. Our country's banks added more than $700 billion in capital to absorb potential losses and protect Americans and our economy from financial disaster.

Higher capital requirements don't restrict lending. They simply ensure that big banks that are even bigger today than they were in 2008 can absorb their losses without depending on taxpayers for a bailout.

The American people deserve a financial system that works for them and their families, not one that bets against them to boost Wall Street profits. We need to pass legislation that increases these capital requirements of banks with assets greater than $50 billion and continue to enact and strengthen reforms that will protect our economy and American families from another massive collapse. That is why I am strongly urging our colleagues to reject this dangerous bill and, instead, work together towards efforts to build a financial system that serves the American people, not special interests or Wall Street banks.

Mr. HENSARLING. Mr. Speaker, I yield myself 30 seconds.

I point out to my friends on the other side of the aisle, there are over 20 different capital levels that are already applied to our banking organizations, including the Total Loss-Absorbing Capital, the TLAC.

I would also point out, if my friends are so concerned about capital levels, maybe they should have supported the Financial CHOICE Act, which is a tradeoff between greater levels of capital and Washington micromanagement of our financial institutions.

Last but not least, Chairman Powell of the Federal Reserve appeared before our committee just this morning to say safety and soundness considerations allow the Fed to, for all intents and purposes, impose any capital level they want to on our banking institutions, thus undercutting all the arguments we have heard from the other side of the aisle.

Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. PITTENGER), the vice chairman of the Financial Services Subcommittee on Terrorism and Illicit Finance.

Mr. PITTENGER. Mr. Speaker, I thank my good friend and chairman of the Financial Institutions and Consumer Credit Subcommittee, Mr. LUETKEMEYER, for his active work on this important legislation.

In the aftermath of the financial crisis, the Basel Committee expanded regulations on operational risk requirements imposed on financial institutions. Unfortunately, like many of the implemented regulations, unintended consequences were brought about. The complexity and nature of the current operational risk capital requirements have greatly diminished the availability of credit for consumers, resulting in increased costs and prices for families and small businesses.

To address these concerns, H.R. 4296 limits the burden of operational risk capital requirements to a bank's current activities and businesses and permits adjustments to lessen operational risk. This will ensure that banks are holding increased capital more efficiently and will expand the credit market to better meet the needs of hardworking Americans.

Let me be clear: This bill does not eliminate operational risk capital requirements but, prudently, ensures that requirements are forward-looking and appropriately tailored to a bank's current financial risk profile. As a key provision of the CHOICE Act, which passed the House in June, I want to thank Mr. LUETKEMEYER for his persistence and continual leadership on this important issue.

I urge all of my colleagues to please join us in supporting this commonsense, bipartisan bill.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

In addition to the concerns I have raised about this bill, I also want to mention a change to H.R. 4296 made in the Rules Committee just last night.

Because H.R. 4296 makes the 10 largest banks more likely to fail, the nonpartisan Congressional Budget Office determined that there was a higher likelihood that taxpayer funds would be used to wind down a megabank. To offset these costs, Republicans have taken funds from the Federal Reserve's surplus account.

So what is the Fed's capital surplus account? Effectively, it is a rainy-day fund intended to ensure adequate capital is available to absorb possible losses. Several stakeholders have raised concerns that, by reducing the Fed's surplus account, Congress could negatively affect the Federal Reserve's independence in monetary policy decisionmaking by rendering it dependent on Treasury for recapitalization in the event that total Reserve bank capital is depleted.

Put simply, this bill not only makes the 10 largest banks more likely to fail, but it also makes it more likely that the Federal Reserve will be unable to address problems in the financial system going forward.

I would like to also mention that, in a letter opposing this bill, the Center for American Progress highlighted, again, several budgetary considerations we should keep in mind as we debate this bill. And, of course, I have either mentioned or alluded to it, but it is important that we understand that the Center for American Progress is very concerned, and the CBO also projects, that H.R. 4296 will increase the deficit due to an increase in expected losses to the Federal Government stemming from an increase in the likelihood of another financial crisis.

□ 1630

The bill would pay for these costs by lowering the Federal Reserve System's surplus funds, once again treating the Fed like a piggy bank and shifting privately generated losses to the public.

Mr. Speaker, I reserve the balance of my time.

Mr. HENSARLING. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ZELDIN), a very hardworking member of the Financial Services Committee.

Mr. ZELDIN. Mr. Speaker, I thank Chairman HENSARLING for all of his leadership and for recognizing me to be able to rise in strong support of this bipartisan legislation introduced by my colleagues on the Financial Services Committee, Congressman BLAINE LUETKEMEYER and Congressman GREGORY MEEKS.

Like so many regulations imposed by the 2010 Dodd-Frank law, the current set of operational risk capital requirements imposed on America's financial institutions place a one-size-fits-all solution on banks, regardless of their capitalization, their various lines of business, and the customers they serve.

The current standard under Dodd-Frank requires banks to look back and hold operational risk capital against discontinued business activities or products. In plain English, this means banks are being forced to hold capital to hedge against a fictitious risk of a loan or a product discontinued years ago.

This is not an effective way to determine capital requirements, nor is it in line with the real risk these standards are meant to protect consumers from.

This is hurting consumers by making credit less available in the marketplace, and this especially hurts the small- and medium-size hometown banks that our communities rely on.

To my constituents on Long Island, and to hardworking American families across our country, the consequences of these misguided regulations are more costly loans and less available mortgages. These are the financial products that help small-business owners expand and hire or help families buy a new home.

H.R. 4296 reforms operational risk requirements so they can be focused on a bank's current activities and line of business. This legislation keeps sound standards in place so that banks must avoid risky behavior while also freeing up needed capital so that it can be lent to consumers, not be needlessly held up in a vault to meet a misguided government mandate.

By ensuring that capital standards are transparent, fair, and based on real-life economic conditions, this bipartisan solution removes a troubling roadblock to capital that would otherwise be allocated to consumers, homeowners, and businesses.

Mr. Speaker, I want to again applaud the bipartisan teamwork of my colleagues BLAINE LUETKEMEYER and GREGORY MEEKS. I also want to thank Chairman HENSARLING for all of his leadership on this important issue and so many others, and I urge all of my colleagues to vote ''yes'' on this important bipartisan bill.

Ms. MAXINE WATERS of California. Mr. Speaker, early in my statement, I warned that there would be someone who would come on the floor and claim that it was going to hurt community banks, small town banks; and this bill has nothing to do with community banks or small town banks.

This is about megabanks. This is about SIFIs. This is about the banks that can cause harm in the whole system. This is about those banks that we must be concerned about because of the displacement that they can cause, not only in this country, but internationally.

Mr. Speaker, I just remind you again this has nothing to do with community banks. This has nothing to do with small town banks. This is just the big banks that are significantly important banks.

Mr. Speaker, I reserve the balance of my time.

Mr. HENSARLING. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. DAVIDSON), a very thoughtful member of the Financial Services Committee.

Mr. DAVIDSON. Mr. Speaker, I rise today to offer my support for H.R. 4296 and for the bipartisan work of our committee, the work our chairman has helped lead; and I am encouraged that this bill will establish clear guardrails for operational risk capital requirements and improve U.S. capital framework as a whole.

This legislation is another example of ensuring regulators work in the best interest of the U.S. economy rather than abiding by international standards that hold American businesses back rather than move them forward.

In fact, the very premise of this legislation reminds me of a song. I remember when Bill Clinton was running, he had a song about: ''Don't stop thinking about tomorrow. Yesterday is gone; yesterday is gone.'' It is all about the future.

Well, this piece of legislation that is in place today, established by the Basel Committee in 2006, is thinking about tomorrow, is thinking about yesterday. What happened in the past is constraining what could happen in the future.

So banks are reserving against past losses in an era that holds them from being able to adopt the business plans that maybe even under new leadership, new board members, and a whole new set of governance requirements that will get the company moving forward at a better growth rate. This is better for not just the company, not just the executives or the board members, but the consumers that would be served by this market.

Take, for instance, historic losses being reserved against. That capital is sitting there not actively employed in the market. Even the Basel Committee saw how ridiculous this rule is; so they updated their guidance, in 2016, to include historical loss experience as a relevant indicator instead of as the sole factor.

It is time that we move forward in the best interests of our country and make rules that help American businesses instead of hold them back.

Mr. Speaker, I urge my colleagues to support this vital legislation.

Mr. HENSARLING. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. TENNEY), a hardworking member of the Financial Services Committee.

Ms. TENNEY. Mr. Speaker, I thank the chairman for yielding me the time to speak on this important bill and also for his tremendous and strong leadership on our committee.

H.R. 4296 would set reasonable standards for regulators that are based primarily on the risk posed by a banking organization's current activities and businesses, not on past activities, as you have heard.

Operational risk standards were created and are a product of the European Basel Committee and have been amended twice, actually, since that time. But their adaptation still doesn't hit the mark, and that is why, though the Basel Committee's proposal is well intentioned, this bill and this proposal will amend that to tailor it to the needs and to the effectiveness and efficiency of our banks.

The current framework is based on past activity and will hold operational capital on discontinued products, products that banks don't even have in their portfolios. This bill will correct those errors by allowing our U.S.-based financial regulators to tailor the capital requirements they need based on their unique business model.

H.R. 4296 limits the burden of operational risk capital requirements to a bank's current activities and businesses, gives the bank the ability to determine risk under forward-looking assessment, and would permit adjustment on risk-mitigating factors.

This bill, as you have heard over and over, does not eliminate the Federal Government's ability to assess operational risk or alter the regulators' authority to set capital requirements when doing business on high-risk customers.

Mr. LUETKEMEYER's bipartisan legislation would create a commonsense reform to the Basel standards, and I urge all Members to support it.

I also want to thank Congressman MEEKS, a fellow New Yorker, for cosponsoring this legislation.

Again, I want to thank Mr. Chairman for his great work on our committee and also Mr. LUETKEMEYER for his hard work, his bipartisan work on this bill, for a person who is a banker, a business person from a rural area of our country who really understands the need to protect consumers.

Ms. MAXINE WATERS of California. Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER pro tempore (Mr. WOODALL). The gentlewoman from California has 9½ minutes remaining.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let's put aside the complex terminology we often use with Financial Services legislation and call this bill what it really is: a short-sighted giveaway to Wall Street megabanks.

Approximately ten banks we are talking about, the very largest banks in our Nation, have to abide by operational risk standards under an enhanced framework. They are required to maintain this additional capital so when they continue to engage in risky behavior, like opening millions of fake accounts to drive up profits, they will not immediately become insolvent, sparking a financial crisis.

And may I just stop here for a moment and say: it is odd that, given the information that we have discovered about some of our megabanks, particularly Wells Fargo, that was involved not only in creating fake accounts, false accounts in their clients' names, but also selling them basically insurance that they did not need, I am wondering why my friends on the opposite side of the aisle are not more concerned about this operational risk that they take.

For example, when we talk about operational risk, include in that the fines, the fines that we have placed on Wells Fargo and other banks that have been caught committing fraud on its clients. It seems to me that this would be taken into consideration, and I don't think they are going to stop.

We have gone through a crisis. In 2008, we had this meltdown. We had a recession, almost a depression. We had to bail out all of these banks, yet we have Members, particularly on the opposite side of the aisle, who are doing everything that they can to go back to some of the practices that will cause us to be in the same situation we found ourselves in in 2008.

So I would just simply say that this attempt to basically say: don't look at our past, no matter how bad we have been, no matter how many fines have been placed on them, forget about that. We don't like that.

So in saying that, what they are basically saying is they are going to create more risk and they are going to put banks in the position of possibly failing.

So with that, I would just like us not to forget that our current operational risk capital standards didn't come out of nowhere. They are still recovering from the 2007 to 2009 financial crisis, which was largely caused by unsafe practices by large internationally active megabanks and inadequate regulation that ignored past misconduct and risky activities.

The crisis stripped wealth from millions of American families and destroyed the economy. Since we passed the Dodd-Frank Act and the regulators have implemented standards from the international Basel III accord, including our operational risk capital rules, we have made tremendous progress to create a better capitalized and more stable banking system, and this is bearing results.

Megabanks have experienced record-breaking profits for the past several years. Now they expect us to believe that these commonsense rules that take into account their previous behavior was keeping them from providing more affordable credit to hardworking consumers in search of the American Dream?

As I mentioned earlier, a bank can still make loans to credit-worthy consumers while funding those loans with capital instead of debt.

□ 1645

Operational capital is not cash locked away at night, but, rather, it is the value of a bank's assets minus its liabilities or debts. A well-capitalized bank that has adequate sources of funding can accommodate losses without reducing its lending. In fact, it would be able to lend in good times and in bad.

We should direct the regulators overseeing megabanks like Wells Fargo with its years of numerous consumer abuses and JPMorgan Chase with its London Whale trading scandal not to ignore these past failures and put our constituents at risk.

My colleagues on the other side of the aisle are rushing through deregulatory measures to help their friends on Wall Street. But Congress must not forget that it was hardworking consumers across the country who paid dearly for Wall Street's faults in the last financial crisis. So I would urge Members to vote ''no'' on this bill.

I am very pleased that while my colleagues on the opposite side of the aisle keep talking about this being a bipartisan bill and they mention Mr. MEEKS' name from New York, et cetera, we have the support of the Congressional Progressive Caucus and the Congressional Black Caucus in opposition to this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. HENSARLING. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HOLLINGSWORTH), who is a member of the Financial Services Committee.

Mr. HOLLINGSWORTH. Mr. Speaker, I am pleased to rise in support of this legislation because I think it addresses a fundamental flaw in how we have looked at operational risk capital.

Fundamentally, we want banks to hold capital necessary for the risks they are taking today and the likely risks that they may incur losses into the future. By purely looking backwards, we are driving down the Interstate in the financial system driving by looking in the rearview mirror only. That is a terrible mistake by only looking at past risks instead of the risks they have today.

If we want to encourage institutions to become less risky, then we need to ensure that they can reduce the amount of capital buffer if they are doing less risky activities. This is basically incentivizing the right behavior. If we continue to say to institutions: You are going to be penalized for the past irrespective of what you may be doing today, irrespective of the less risk you may be taking into the future, then we are essentially providing them no incentive to become less risky.

I think the lesson after 2008 is making sure that we allow the free markets and institutions to act with the right incentives, not the wrong incentives. We want them to become less risky over time by their own decisions and by their own elections.

This doesn't change anything about the basic operational risk capital that they must maintain, except that it says it should match what they are doing today and the activities that they are going to be engaged on in the future.

So I do think this is commonsense legislation. I do think this is a thoughtful response to a genuine problem that I hear about back home in Indiana frequently. So I continue to support H.R. 4296, and I urge all of my colleagues to do the same.

Mr. HENSARLING. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Texas has 5½ minutes remaining.

Mr. HENSARLING. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, for the perhaps two dozen people who are watching us on C–SPAN at the moment, I think it is important to add a little bit of clarity to what we are debating here.

What we are debating is: What is the proper capital level for a federally insured financial institution?

We know that if that capital level is set too low, then perhaps the financial institution could fail. If it is set too high, then they will not have the capital to help fund the American Dream—car loans, home loans, and small business loans.

So we have heard a lot about a very simple bill that helps clarify one of perhaps two dozen different capital levels that are already applicable to our banking institutions, the total loss-absorbing capacity, the supplementary leverage ratio, the enhanced supplementary leverage ratio, the liquidity coverage ratio, the G-SIB surcharge, and the list goes on and on and on.

We are talking, about, Mr. Speaker, one capital level, the operational capital—operational risk capital. So, number one, there are a multitude of different capital levels and liquidity levels that are already applied to our financial institutions.

What we are saying is, if we are measuring operational risk, we should focus on current risks. Then, if in doubt, Mr. Speaker, I always recommend that Members actually read the bills that are being debated. It is an always helpful exercise. If you would actually read the bill, you would discover in section 1 of the bill, Mr. LUETKEMEYER's bill says that operational risk capital is based primarily on the risks posed by a banking organizations' current activities and business.

If you look at subparagraph (3) of paragraph (a), it says: '' . . . which is not solely based on a banking organization's historic losses.''

So it is not prohibited to look at historic facts, but, primarily, we must be focused on the current operational risk.

As I used earlier in the debate the analogy of who would want their life insurance premiums based on the fact that in an earlier point in their life they were a skydiver or a scuba diver and now today they are facing life as an accountant? Those are different risk profiles.

If you build a home 4 feet below sea level, yet you sell that home, I doubt you want your flood insurance premiums based on the home that you already sold. It makes no sense.

As I also said earlier in this debate, when it comes to proper levels of capital, as Federal Reserve Chair Jerome Powell stated earlier today before our committee, safety and soundness considerations trump all. The regulators have the power to adjust the capital levels.

Now, this friend on the other side of the aisle talks about, oh, my God, this is a huge risk to the economy. It is $22 million. Now, that is real money. But, Mr. Speaker, we all know that is not even a rounding error here; $22 million over the 10-year budget window is approximately a $2 million risk. And from the Congressional Budget Office report, they say that it is a small, small chance that the FDIC would incur additional costs. So this is not creating more risk to the system.

What we are trying to do is calibrate the appropriate risk. If we are going to measure operational risk as opposed to the other 20-some odd capital levels, then we ought to be focused on current risk, because if we are not, Mr. Speaker, hardworking Americans are losing current credit opportunities in order to pay for past operational risk. That is not right, that is not fair, and that is not smart.

We ought to ensure that we have the proper capital level not only to make sure that we have a safe and sound financial system but to make sure that we are capitalizing the American Dream for our constituents.

My constituents in the Fifth District of Texas, who live in places like Mineola and Forney, who are desperately trying to fund their American Dream and put that down payment on a first house, we have got to make sure that they are able to.

So many Americans are living paycheck to paycheck. They need these credit opportunities, Mr. Speaker. Let's calibrate one capital ratio properly. Let's add a little common sense, and let's not allow the good people in Basel, Switzerland—as good as they may be—de facto impose what is an irrational capital system on our banking system as we are trying to help our small businesses and our families.

So, Mr. Speaker, I encourage all Members to support H.R. 4296, a strong bipartisan bill to help credit opportunities for all families.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BYRNE). All time for debate has expired.

Pursuant to House Resolution 747, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Ms. MAXINE WATERS of California. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. MAXINE WATERS of California. I am opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. Maxine Waters of California moves to recommit the bill H.R. 4296 to the Committee on Financial Services with instructions to report the same back to the House forthwith with the following amendment:

In section 1(b)(2), redesignate subparagraphs (A), (B), (C), (D), and (E) as clauses (i), (ii), (iii), (iv), and (v), respectively, and adjust the margins accordingly.

Page 2, line 16, strike ''means—'' and insert the following: ''—

(A) means—

Page 3, line 7, strike the period and insert ''; and''.

Page 3, after line 7, insert the following:

(B) does not include a global systemically important bank holding company or any subsidiary thereof, if the global systemically important bank holding company or any subsidiary thereof has engaged in a pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm.

(3) FEDERAL CONSUMER FINANCIAL LAW.—The term ''Federal consumer financial law'' has the meaning given that term under section 1002 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

(4) GLOBAL SYSTEMICALLY IMPORTANT BANK HOLDING COMPANY.—

(A) IN GENERAL.—The term ''global systemically important bank holding company'' means—

(i) a bank holding company that has been identified by the Board of Governors of the Federal Reserve System as a global systemically important bank holding company pursuant to section 217.402 of title 12, Code of Federal Regulations; and

(ii) a global systemically important foreign banking organization, as defined under section 252.2 of title 12, Code of Federal Regulations.

(B) TREATMENT OF EXISTING GSIBS.—A company or organization described under clause (i) or (ii) of subparagraph (A) on the date of the enactment of this Act shall be deemed a global systemically important bank holding company for purposes of this Act.

(5) PATTERN OR PRACTICE OF UNSAFE OR UNSOUND BANKING PRACTICES AND OTHER VIOLATIONS RELATED TO CONSUMER HARM.—The term ''pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm'' means engaging in all of the following activities, to the extent each activity was discovered or occurred at least once in the 10 years preceding the date of the enactment of this Act:

(A) Having unsafe or unsound practices in the institution's risk management and oversight of the institution's sales practices, as evidenced by—

(i) an institution lacking an enterprise-wide sales practices oversight program that enables the institution to adequately monitor sales practices to prevent and detect unsafe or unsound sales practices and mitigate risks that may result from such unsafe and unsound sales practices; and

(ii) an institution lacking a comprehensive customer complaint monitoring process that—

(I) enables the institution to assess customer complaint activity across the institution;

(II) adequately monitors, manages, and reports on customer complaints; and

(III) analyzes and understands the potential risks posed by the institution's sales practices.

(B) Engaging in unsafe and unsound sales practices, as evidenced by the institution—

(i) opening more than one million unauthorized deposit, credit card, or other accounts;

(ii) performing unauthorized transfers of customer funds; and

(iii) performing unauthorized credit inquiries for purposes of the conduct described in clause (i) or (ii).

(C) Lacking adequate oversight of third-party vendors for purposes of risk-mitigation, to prevent abusive and deceptive practices in the vendor's provision of consumer products or services.

(D) Having deficient policies and procedures for sharing customers' personal identifiable information with third-party vendors for litigation purposes that led to inadvertent disclosure of such information to unintended parties.

(E) Violating Federal consumer financial laws with respect to mortgage loans, including charges of hidden fees and unauthorized or improper disclosures tied to home mortgage loan modifications.

(F) Engaging in unsafe or unsound banking practices related to residential mortgage loan servicing and foreclosure processing.

(G) Violating the Servicemembers Civil Relief Act.

Ms. MAXINE WATERS of California (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading of the motion.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California is recognized for 5 minutes in support of her motion.

Ms. MAXINE WATERS of California. Mr. Speaker, this is the final amendment to the bill which will not kill the bill or send it back to committee. If adopted, the bill will immediately proceed to final passage, as amended.

We have talked at length today about how H.R. 4296 is a bill for Wall Street megabanks, and I deeply disagree with the bill's approach. So I offer this motion to recommit not in a manner that sends the bill to the committee and kills the bill, but, rather, to attempt to improve the bill before the House votes on final passage of the measure.

Let's discuss the elephant in the room. We all know megabanks have been given a free ride in Washington for far too long. During the savings and loan crisis, the government had no problem throwing bankers in jail for breaking the law. Over 1,000 bank executives were prosecuted. But now megabanks just get a fine, a slap on the wrist, for harming consumers.

Since 2010, megabanks have racked up over $160 billion worth of fines, yet they keep breaking the law. We have talked about Wells Fargo's growing list of illegal actions that have harmed millions of consumers. Sure they have been fined, but these fines are just the cost of doing business. This soft enforcement approach is just increasing their operational risk and losses, which, at the end of the day, will impact not only all of their customers, but the broader economy as well.

I hope Republicans and Democrats can all agree that any megabank that engages in a pattern or practice of unsafe or unsound banking practices and other egregious violations that has resulted in profound consumer harm in the last 10 years is not entitled to any benefit of regulatory relief provided under this bill.

So my amendment excludes a megabank like Wells Fargo that has fraudulently opened millions of accounts without their customers' consent, enrolled consumers in life insurance policies without their consent, and forced nearly 1 million Americans to purchase automobile insurance that they didn't even need.

Since 2016, I have been calling for Wells Fargo to face real penalties. Last year, I introduced H.R. 3937, the Megabank Accountability and Consequences Act, to compel the Federal bank regulators to fully utilize existing authorities to stop these megabanks from repeatedly flouting the law and harming millions of consumers.

So I was glad to see Janet Yellen on her last day at the Federal Reserve take bold action to cap the bank's size until it cleans up its act. I am talking about Wells Fargo. This is what Janet Yellen did on her last day at the Federal Reserve.

But we must do more to send a strong message to all megabanks that there will be real consequences for their bad actions that mislead, abuse, or deceive its customers.

H.R. 4296, in its current form, would send the opposite message to recidivist megabanks. They should not reap the profit of easier operational capital requirements while their operational breakdowns are only increasing.

Mr. Speaker, I urge my colleagues to adopt this motion to recommit so that we do not reward a recidivist megabank like Wells Fargo for repeated operational failures that ripped off millions of consumers.

Mr. Speaker, I yield back the balance of my time.

Mr. HENSARLING. Mr. Speaker, I claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, again, there are roughly two dozen different capital and liquidity levels that are applied to our banks. We are talking about, one, operational capital, and whether or not operational risk capital ought to be based on current risk.

Now, I know my friend on the other side of the aisle always likes to wave the Wells Fargo flag. Wells Fargo needs to be held accountable. There needs to be justice for all who have been wronged. There have been roughly $142 million now paid in restitution. There have been over $200 million in fines paid.

□ 1700

The board of Wells Fargo has been replaced. The CEO was fired, and the Federal Reserve capped their growth, all under existing authorities.

But under this motion to recommit, potentially, other financial institutions could be included. It is not the financial institution that counts, at the end of the day. It is capital that could be used to fund car loans. It is capital that could be used to fund homes. It is capital that could be used to fund the next Apple or the next Amazon. Instead, that capital would be put onto the sidelines.

Again, we are talking about operational risk capital only and should it be calibrated for current risk or past risk. That is a completely different issue from ensuring that customers of Wells Fargo, who clearly have been wronged, receive justice and that Wells Fargo has been held accountable.

Again, I would point out this might not have happened if the CFPB under the previous administration had been doing their business. They should have caught this. But they didn't. Instead, it was the LA Times and the Los Angeles city attorney. The CFPB was asleep at the wheel under the previous administration.

So, again, there is existing authority. But if the regulators and then-Director Cordray had been doing their job, this wouldn't have happened. The evidence was there and it was simply overlooked. We see way too many instances of that, Mr. Chair.

Again, we want to properly calibrate one capital level, operational risk capital. That is what the bill of the gentleman from Missouri does. We should not be confused about the jihad against banks, because banks, ultimately, are still funding the American Dream. You punish our constituents, you punish small businesses every time you needlessly take away capital that can fund their American dreams.

I urge a ''no'' vote on the motion to recommit. I urge an ''aye'' vote on Mr. LUETKEMEYER's bill.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. MAXINE WATERS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage of the bill.

The vote was taken by electronic device, and there were—yeas 185, nays 228, not voting 17, as follows:

[Roll No. 88]

YEAS—185

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Duncan (TN)
Ellison
Eshoo
Espaillat
Esty (CT)
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gomez
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Pelosi
Perlmutter
Peters
Peterson
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan (OH)
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Soto
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Tsongas
Vargas
Veasey
Vela
Visclosky
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Yarmuth

NAYS—228

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Chabot
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costello (PA)
Crawford
Culberson
Curbelo (FL)
Curtis
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Dunn
Emmer
Estes (KS)
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Frelinghuysen
Gaetz
Gallagher
Garrett
Gianforte
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Handel
Harper
Harris
Hartzler
Hensarling
Herrera Beutler
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
LoBiondo
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Newhouse
Noem
Norman
Nunes
Olson
Palazzo
Palmer
Paulsen
Perry
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Rutherford
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—17

Black
Carter (TX)
Cleaver
Cramer
Cummings
Engel
Huizenga
Long
Payne
Pearce
Smith (WA)
Speier
Torres
Trott
Velázquez
Walz
Wilson (FL

☐ 1728

Messrs. RUTHERFORD, COLE, REED, GROTHMAN, YODER, STIVERS, and DIAZ-BALART changed their vote from ''yea'' to ''nay.''

Messrs. COHEN, KHANNA, and RICHMOND changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. WILSON of Florida. Mr. Speaker, had I been present, I would have voted "yea" on rollcall No. 88.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HENSARLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 245, nays 169, not voting 16, as follows:

[Roll No. 89]

YEAS—245

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carson (IN)
Carter (GA)
Chabot
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Correa
Costa
Costello (PA)
Crawford
Cuellar
Culberson
Curtis
Davidson
Davis, Rodney
Delaney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Dunn
Emmer
Estes (KS)
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Frelinghuysen
Gaetz
Gallagher
Garrett
Gianforte
Gibbs
Gohmert
Goodlatte
Gosar
Gottheimer
Gowdy
Granger
Graves (GA)
Graves (LA)

Graves (MO)
Griffith
Grothman
Guthrie
Handel
Harper
Harris
Hartzler
Hensarling
Herrera Beutler
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
LoBiondo
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Meeks
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (FL)
Newhouse
Noem
Norman
Nunes
O'Halleran
Olson
Palazzo
Palmer
Paulsen
Perry
Peterson
Pittenger
Poe (TX)
Poliquin
Polis
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (NY)
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Ruppersberger
Russell
Rutherford
Scalise
Schneider
Schrader
Schweikert
Scott, Austin
Scott, David
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Suozzi
Taylor
Tenney
Thompson (PA)
Thornberry
Tipton
Turner
Upton
Valadao
Veasey
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NAYS—169

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Cooper
Courtney
Crist
Crowley
Davis (CA)
Davis, Danny
DeFazio
DeGette
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Duncan (TN)
Ellison
Eshoo
Espaillat
Esty (CT)
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gomez
Gonzalez (TX)
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meng
Moore
Moulton
Nadler
Napolitano
Neal
Nolan
Norcross
O'Rourke
Pallone
Panetta
Pascrell
Pelosi
Perlmutter
Peters
Pingree
Pocan
Price (NC)
Quigley
Raskin
Richmond
Rosen
Roybal-Allard
Ruiz
Rush
Ryan (OH)
Sánchez
Sanford
Sarbanes
Schakowsky
Schiff
Scott (VA)
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sires
Slaughter
Soto
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Tsongas
Vargas
Vela
Velázquez
Visclosky
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—16

Black
Carter (TX)
Cleaver
Cramer
Cummings
Curbelo (FL)
Engel
Huizenga
Long
Payne
Pearce
Smith (WA)
Speier
Torres
Trott
Walz

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BYRNE) (during the vote). There are 2 minutes remaining.

□ 1737

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ALLOW STATES AND VICTIMS TO FIGHT ONLINE SEX TRAFFICKING ACT OF 2017

The SPEAKER pro tempore. Pursuant to House Resolution 748 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 1865.

Will the gentleman from Georgia (Mr. CARTER) kindly take the chair.

□ 1739

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 1865) to amend the Communications Act of 1934 to clarify that section 230 of such Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sexual exploitation of children or sex trafficking, and for other purposes, with Mr. CARTER of Georgia (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, amendment No. 3 printed in House Report 115–583, offered by the gentlewoman from Texas (Ms. JACKSON LEE), had been disposed of.

AMENDMENT NO. 2 OFFERED BY MRS. MIMI WALTERS OF CALIFORNIA

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, the unfinished business is the demand for a recorded vote on amendment No. 2 printed in House Report 115–583, offered by the gentlewoman from California (Mrs. MIMI WALTERS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 308, noes 107, not voting 15, as follows:

[Roll No. 90]

AYES—308

Abraham
Adams
Aderholt
Aguilar
Amodei
Arrington
Barletta
Barr
Barragán
Barton
Bass
Beatty
Bera
Bilirakis
Bishop (GA)
Bishop (MI)
Bishop (UT)
Blackburn
Blumenauer
Blunt Rochester
Bost
Boyle, Brendan F.
Brady (TX)
Brooks (IN)
Brown (MD)
Brownley (CA)
Buchanan
Bucshon
Budd
Burgess
Bustos
Butterfield
Byrne
Calvert
Carbajal
Cárdenas
Carter (GA)
Cartwright
Castor (FL)
Castro (TX)
Chabot
Cheney
Chu, Judy
Cicilline
Clyburn
Coffman
Cohen
Cole
Collins (GA)
Collins (NY)
Comstock
Conaway
Connolly
Cook
Cooper
Correa
Costa
Costello (PA)
Courtney
Crawford
Crist
Crowley
Cuellar
Culberson
Curbelo (FL)
Curtis
Davis (CA)
Davis, Rodney
DeFazio
DeGette
Delaney
DeLauro
Demings
Denham
Dent
DeSantis
Deutch
Diaz-Balart
Dingell
Doggett
Donovan
Doyle, Michael F.
Duffy
Dunn
Ellison
Espaillat
Estes (KS)
Esty (CT)
Evans
Faso
Fitzpatrick
Fleischmann
Flores
Fortenberry
Frankel (FL)
Frelinghuysen
Gallagher
Gallego
Garamendi
Gianforte
Gibbs
Gonzalez (TX)
Gottheimer
Gowdy
Granger
Graves (LA)
Graves (MO)
Green, Al
Green, Gene
Grijalva
Guthrie
Gutiérrez
Hanabusa
Handel
Harper
Hartzler
Hastings
Hensarling
Herrera Beutler
Higgins (LA)
Hill
Himes
Holding
Hollingsworth
Hoyer
Hultgren
Hunter
Hurd
Issa
Jackson Lee
Jenkins (KS)
Jenkins (WV)
Johnson (GA)
Johnson (OH)
Johnson, E. B.
Johnson, Sam
Joyce (OH)
Kaptur
Katko
Keating
Kelly (PA)
Kihuen
Kilmer
Kind
King (NY)
Kinzinger
Knight
Krishnamoorthi
Kuster (NH)
LaHood
LaMalfa
Lance
Langevin
Larsen (WA)
Larson (CT)
Latta
Lawrence
Lawson (FL)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Love
Lowey
Lucas
Luetkemeyer
Lujan Grisham, M.
Luján, Ben Ray
MacArthur
Maloney, Carolyn B.
Maloney, Sean
Marchant
Marino
Marshall
Mast
Matsui
McCarthy
McCaul
McCollum
McEachin
McHenry
McKinley
McMorris Rodgers
McSally
Meehan
Meeks
Meng
Messer
Mitchell
Moolenaar
Mooney (WV)
Moulton
Mullin
Murphy (FL)
Nadler
Neal
Newhouse
Noem
Norcross
Norman
Nunes
O'Halleran
Olson
Pallone
Panetta
Pascrell
Paulsen
Pelosi
Perlmutter
Peters
Peterson
Pingree
Pittenger
Poe (TX)
Poliquin
Polis
Posey
Price (NC)
Quigley
Reed
Reichert
Renacci
Rice (NY)
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rooney, Thomas J.
Ros-Lehtinen