



April 13, 2017

The Honorable Mike Crapo
239 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
713 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

In response to requests for proposals to foster economic growth, the Regional Bank Coalition (RBC) is pleased to submit the following plan to appropriately tailor banking regulations in order to free up needed capital to lend to consumers and small and mid-size business owners in all 50 states.

Regional banks—the economic backbone of their communities—are a major source of commercial and business lending, providing more than \$1.7 trillion in loans to Americans. However, the current regulatory environment, which is based on an arbitrary asset threshold, means many institutions have had to direct resources away from lending and towards compliance. According to a Federal Financial Analytics study, regional banks' capital available for lending has been reduced by \$20 billion over five years due to overly burdensome and improperly calibrated regulations.

The Systemic Risk Designation Improvement Act is commonsense, good policy because it will help Main Street—leading to economic growth and job creation. This bill is one of the only Dodd-Frank reform bills to enjoy bipartisan support, passing the House in December 2016. This legislation would provide a true risk-based analysis to systemic importance determinations and would ensure that regulatory supervision is appropriately tailored to a financial institutions risk profile. By creating a more effective and realistic systemic designation system, you will free up capital for lending at the very institutions who can have the greatest impact on increasing economic activity in our communities and local economies.

Systemic Risk Designation Improvement Act of 2016

Background

The Systemic Risk Designation Improvement Act of 2016 was introduced by Rep. Blaine Luetkemeyer (R-MO) and passed the House on December 1, 2016 by a bipartisan vote of 254-161 including 20 Democratic votes. The Systemic Risk Designation Improvement Act would amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to authorize the Financial Stability Oversight Council (FSOC) to subject a bank holding company to enhanced supervision and prudential standards by the Board of Governors of the Federal Reserve System if FSOC makes a final determination that material financial distress at the bank holding company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of its activities, could

threaten the financial stability of the United States. This FSOC determination procedure replaces the current process under which bank holding companies with total consolidated assets of \$50 billion or more are automatically subject to such enhanced supervision and prudential standards. FSOC must make these final determinations using an indicator-based measurement approach established by the Basel Committee on Banking Supervision to determine systemic importance, which considers each bank holding company's size, interconnectedness, available substitutes, global cross-jurisdictional activity, and complexity. This legislation would provide a true risk-based analysis to systemic importance determinations and would ensure that regulatory supervision is appropriately tailored to a financial institutions risk profile.

Legislative Text

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Systemic Risk Designation Improvement Act of 2017”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 et seq.) is amended by striking the item relating to section 113 and inserting the following:

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

SEC. 3. REVISIONS TO COUNCIL AUTHORITY.

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

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

(1) by amending the heading for such section to read as follows: “**AUTHORITY TO REQUIRE ENHANCED SUPERVISION AND REGULATION OF CERTAIN NONBANK FINANCIAL COMPANIES AND CERTAIN BANK HOLDING COMPANIES**”;

(2) by redesignating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i), and (j), respectively;

(3) by inserting after subsection (b) the following:

“(c) BANK HOLDING COMPANIES SUBJECT TO ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS UNDER SECTION 165.—

“(1) DETERMINATION.—The Council, on a nondelegable basis and by a vote of not fewer than 2/3 of the voting members then serving, including an affirmative vote by the Chairperson, may determine that a bank holding company shall be subject to enhanced supervision and prudential standards by the Board of Governors, in accordance with section 165, if the Council determines, based on the considerations in paragraph (2), that material financial distress at the bank holding company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the bank holding company, could pose a threat to the financial stability of the United States.

“(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Council shall use the indicator-based measurement approach established by the Basel Committee on Banking Supervision to determine systemic importance, which considers—

“(A) the size of the bank holding company;

“(B) the interconnectedness of the bank holding company;

“(C) the extent of readily available substitutes or financial institution infrastructure for the services of the bank holding company;

“(D) the global cross-jurisdictional activity of the bank holding company; and

“(E) the complexity of the bank holding company.

“(3) GSIBS DESIGNATED BY OPERATION OF LAW.—Notwithstanding any other provision of this subsection, a bank holding company that is designated, as of the date of enactment of this subsection, as a Global Systemically Important Bank by the Financial Stability Board shall be deemed to have been the subject of a final determination under paragraph (1).”;

(4) in subsection (d), as so redesignated—

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

(B) in paragraph (4), by striking “Subsections (d) through (h)” and inserting “Subsections (e) through (i)”; and

(5) in subsections (e), (f), (g), (h), (i), and (j)—

(A) by striking “subsections (a) and (b)” each place such term appears and inserting “subsections (a), (b), and (c)”; and

(B) by striking “nonbank financial company” each place such term appears and inserting “bank holding company for which there has been a determination under subsection (c) or nonbank financial company”;

(6) in subsection (g), as so redesignated, by striking “subsection (e)” and inserting “subsection (f)”;

(7) in subsection (h), as so redesignated, by striking “subsection (a), (b), or (c)” and inserting “subsection (a), (b), (c), or (d)”;

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

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

(1) in subsection (a)(1), by striking “large, interconnected bank holding companies” and inserting “bank holding companies which have been the subject of a final determination under section 113”;

(2) in subsection (a)(2)—

(A) in subparagraph (A), by striking “; or” at the end and inserting a period;

(B) by striking “the Council may” and all that follows through “differentiate” and inserting “the Council may differentiate”; and

(C) by striking subparagraph (B); and

(3) in subsection (b)(3), by striking “subsections (a) and (b) of section 113” each place such term appears and inserting “subsections (a), (b), and (c) of section 113”.

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

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

(1) in subsection (a), by striking “with total consolidated assets of \$50,000,000,000 or more” and inserting “which has been the subject of a final determination under section 113”; and

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

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

SEC. 4. REVISIONS TO BOARD AUTHORITY.

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

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

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

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

(2) in subsection (a)(2)—

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

(B) by striking subparagraph (B);

(3) by striking “subsections (a) and (b) of section 113” each place such term appears and inserting “subsections (a), (b), and (c) of section 113”; and

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

(d) CONFORMING AMENDMENT.—The second subsection (s) (relating to “Assessments, Fees, and Other Charges for Certain Companies”) of section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended—

(1) by redesignating such subsection as subsection (t); and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “having total consolidated assets of \$50,000,000,000 or more;” and inserting “which have been the subject of a final determination under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and”;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

SEC. 5. EFFECTIVE DATE; RULE OF APPLICATION.

(a) **EFFECTIVE DATE.**—The Financial Stability Oversight Council may begin proceedings with respect to a bank holding company under section 113(c)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as added by this Act, on the date of the enactment of this Act, but may not make a final determination under such section 113(c)(1) with respect to a bank holding company before the end of the 1-year period beginning on the date of the enactment of this Act.

(b) **IMMEDIATE APPLICATION TO LARGE BANK HOLDING COMPANIES.**—During the 1-year period described under subsection (a), a bank holding company with total consolidated assets equal to or greater than \$50,000,000,000 shall be deemed to have been the subject of a final determination under section 113(c)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

SEC. 6. EXISTING ASSESSMENT TERMINATION SCHEDULE.

(a) **TEMPORARY EXTENSION OF EXISTING ASSESSMENT.**—

(1) **IN GENERAL.**—Each bank holding company with total consolidated assets equal to or greater than \$50,000,000,000 and which has not been the subject of a final determination under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323) shall be subject to assessments by the Secretary of the Treasury to the same extent as a bank holding company that has been subject to such a final determination.

(2) **LIMITATION ON AMOUNT OF ASSESSMENTS.**—The aggregate amount collected pursuant to paragraph (1) from all bank holding companies assessed under such paragraph shall be \$115,000,000.

(3) **EXPEDITED ASSESSMENTS.**—If necessary, the Secretary of the Treasury shall expedite assessments made pursuant to paragraph (1) to ensure that all \$115,000,000 of assessments permitted by paragraph (2) is collected before fiscal year 2018.

(4) PAYMENT PERIOD OPTIONS.—The Secretary of the Treasury shall offer the option of payments spread out before the end of fiscal year 2018, or shorter periods including the option of a one-time payment, at the discretion of each bank holding company paying assessments pursuant to paragraph (1).

(5) ASSESSMENTS TO BE MADE IN ADDITION TO ANY OTHER ASSESSMENTS.—The assessments collected pursuant to paragraph (1) shall be in addition to, and not as a replacement of, any assessments required under any other law.

(b) USE OF ASSESSMENTS.—Of the total amount collected pursuant to subsection (a)—

(1) \$60,000,000 shall be transferred to the Financial Stability Oversight Council to pay for any administrative costs resulting from this Act and the amendments made by this Act, of which the Financial Stability Oversight Council shall distribute \$20,000,000 to the Board of Governors of the Federal Reserve System, \$20,000,000 to the Federal Deposit Insurance Corporation, and \$20,000,000 to the general fund of the Treasury; and

(2) \$55,000,000 shall be transferred to the Federal Deposit Insurance Corporation to pay for any resolution costs resulting from this Act and the amendments made by this Act.

(c) TREATMENT UPON DETERMINATION.—A bank holding company assessed under this section shall no longer be subject to such assessments in the event it is subject to a final determination under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323). Any prior payments made by such a banking holding company pursuant to an assessment under this section shall be nonrefundable.

(d) RULE OF CONSTRUCTION.—A bank holding company deemed to have been the subject of a final determination under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323) under section 5(b) shall not be subject to assessments under subsection (a) solely by operation of section 5(b).

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act may be construed as broadly applying international standards except as specifically provided under paragraphs (2) and (3) of section 113(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as added by section 3.

We appreciate the opportunity to provide these policy perspectives and look forward to working together to ensure that regulatory requirements are thoughtfully tailored to ensure our institutions can continue to play their vital role in enabling economic growth and job creation.

Sincerely,

The Regional Bank Coalition