

Bipartisan Senate Bill Would Provide Welcome Relief to Regional and Community Banks

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The bipartisan Senate bill would open the door to welcome relief for regional and community bank holding companies (BHCs) by raising the statutory threshold for enhanced prudential standards from \$50 billion to \$250 billion in total consolidated assets. The bill, titled the [Economic Growth, Regulatory Relief and Consumer Protection Act](#), has significant support from both sides of the aisle, with 10 Republican, 1 Independent and 9 Democratic sponsors, including Senate Banking Committee Chairman Mike Crapo.

In addition to raising the threshold from \$50 billion to \$250 billion for the general applicability of enhanced prudential standards such as resolution planning, stress testing and concentration limits, the bill also authorizes the Federal Reserve to raise or lower the threshold in certain circumstances:

- **Raised Threshold.** The Federal Reserve may establish asset thresholds “above the applicable threshold”—i.e., above \$250 billion or such higher threshold as the Federal Reserve may set in differentiating among firms—for standards relating to contingent capital, resolution plans, credit exposure reports, concentration limits, enhanced public disclosures and short-term debt limits, and
- **Lowered Threshold.** The Federal Reserve may apply any of the enhanced prudential standards to any BHC with \$100 billion or more in total consolidated assets, provided that the Federal Reserve has determined that applying the standards is appropriate to address financial stability risks or safety and soundness concerns and has taken into consideration the firm’s capital structure, riskiness, complexity and other factors.

The bill contains staggered effective dates for relief from the enhanced prudential standards:

- **For BHCs with total consolidated assets of less than \$100 billion**—immediately upon enactment of the bill;
- **For all other BHCs**—18 months from enactment of the bill;
- **For any BHC with total consolidated assets of \$100 billion or more and less than \$250 billion**—the Federal Reserve may by order exempt any such BHC from any enhanced prudential standard before the 18-month general effective date of the bill.

The bill would also provide other targeted relief that would benefit regional BHCs as follows:

- **Thresholds and Frequency of Dodd-Frank Act Company-Run Stress Tests.** The statutory thresholds for Dodd-Frank Act company-run stress tests for BHCs would increase to \$250 billion from their current levels—\$10 billion for annual company-run stress tests and \$50 billion for mid-year company-run stress tests. In addition, the bill would eliminate the statutory requirement that company-run stress tests be conducted at an annual or semi-annual frequency, depending on the size of the company—adopting instead a more flexible standard of periodic stress tests.
- **Thresholds and Frequency of Dodd-Frank Act Supervisory Stress Tests.** For BHCs with total consolidated assets of \$100 billion or more and \$250 billion or less (which we assume was intended to read “less than \$250 billion”), the Federal Reserve is required to conduct “periodic,” rather than annual, supervisory stress tests.

- **Number of Dodd-Frank Act Stress Test Economic Scenarios.** The bill would also reduce the required number of economic scenarios from three to two, eliminating the middle-of-the-road adverse scenario from the Dodd-Frank Act stress testing framework and leaving the baseline and severely adverse scenarios. (We assume that the bill's failure to delete the reference to an adverse scenario from the company-run stress testing provisions was an inadvertent omission.)
- **Impact on CCAR?** While the changes above technically apply to the Dodd-Frank Act stress testing requirements rather than the Federal Reserve's CCAR capital planning framework, it is difficult to imagine the Federal Reserve taking a different approach in terms of making corresponding changes to its capital planning regulations.
- **Treatment of Municipal Securities under the Liquidity Coverage Ratio.** The U.S. banking agencies would be required to consider certain investment grade municipal securities as Level 2B high quality liquid assets for purposes of the liquidity coverage ratio. These changes to the liquidity coverage ratio are consistent with H.R. 1624, which passed the House on October 3, as discussed in [a recent Davis Polk blog post](#).
- **Increased Threshold for BHC Risk Committee.** The threshold at which a publicly traded BHC must form a risk committee of the board of directors is raised from \$10 billion to \$50 billion, which aligns the threshold with that of the OCC for its risk governance guidelines applicable to national banks and federal savings associations. The Federal Reserve may, however, require a publicly traded BHC to establish a risk committee at a lower threshold if it determines it is necessary or appropriate to do so to promote sound risk management practices.
- **FDIC IDI Plan Unaffected.** The bill would affect neither the applicability nor the substance of the FDIC's IDI plan rule.

In addition, the bill would provide the following relief to certain community banks:

- **Community Bank Leverage Ratio.** The U.S. banking agencies would be directed to establish via rulemaking a community bank leverage ratio—of tangible equity capital to average total consolidated assets—of between 8% and 10% for qualified depository institutions and depository institution holding companies with total consolidated assets of less than \$10 billion. An institution or holding company complying with the community bank leverage ratio would be deemed to meet its applicable leverage ratios, risk-based capital ratios, well capitalized minimums for prompt corrective action, and any other applicable capital or leverage requirements.
- **Community Bank Volcker Exemption.** Community banking organizations with \$10 billion or less in total consolidated assets and total trading assets and trading liabilities of 5% or less of total consolidated assets would be entirely exempt from the Volcker Rule.
- **Threshold for Small Holding Company Policy Statement.** Certain BHCs and savings and loan holding companies of up to \$3 billion in total assets (up from the current \$1 billion threshold) would be eligible for relief under the Federal Reserve's Small Bank Holding Company and Savings and Loan Holding Company Policy Statement—pursuant to which the Federal Reserve allows the acquisition of a holding company to be financed by a greater proportion of debt than the agency otherwise typically permits. Companies subject to the policy statement are also exempt from the U.S. Basel III capital requirements.
- **Threshold for Extended Examination Cycles.** The asset threshold under which eligible well capitalized and well managed insured depository institutions may qualify for an 18-month examination cycle would be raised to \$3 billion from \$1 billion.
- **Short Form Call Reports.** The U.S. banking agencies would be required to reduce the reporting requirements for the first and third quarter call reports of certain insured depository institutions with less than \$5 billion in total consolidated assets.

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