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H. R. 1408

[Report No. 114-]

To require certain Federal banking agencies to conduct a study of the appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2015

Mr. PERLMUTTER (for himself and Mr. LUETKEMEYER) introduced the following bill; which was referred to the Committee on Financial Services

APRIL --, 2015

Committed to the Committee of the Whole House on the State of the Union,
and ordered to be printed

A BILL

To require certain Federal banking agencies to conduct a study of the appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mortgage Servicing
5 Asset Capital Requirements Act of 2015”.

6 **SEC. 2. COMMUNITY FINANCIAL INSTITUTION MORTGAGE**

7 **SERVICING ASSET CAPITAL REQUIREMENTS**

8 **STUDY.**

9 (a) DEFINITIONS.—For purposes of this section:

10 (1) BANKING INSTITUTION.—The term “bank-
11 ing institution” means an insured depository institu-
12 tion, Federal credit union, State credit union, bank
13 holding company, or savings and loan holding com-
14 pany.

15 (2) BASEL III CAPITAL REQUIREMENTS.—The
16 term “Basel III capital requirements” means the
17 Global Regulatory Framework for More Resilient
18 Banks and Banking Systems issued by the Basel
19 Committee on Banking Supervision on December 16,
20 2010, as revised on June 1, 2011.

21 (3) FEDERAL BANKING AGENCIES.—The term
22 “Federal banking agencies” means the Board of
23 Governors of the Federal Reserve System, the Office
24 of the Comptroller of the Currency, the Federal De-

1 posit Insurance Corporation, and the National Cred-
2 it Union Administration.

3 (4) MORTGAGE SERVICING ASSET.—The term
4 “mortgage servicing asset” means those assets that
5 result from contracts to service loans secured by real
6 estate, where such loans are owned by third parties.

7 (5) NCUA CAPITAL REQUIREMENTS.—The
8 term “NCUA capital requirements” means the pro-
9 posed rule of the National Credit Union Administra-
10 tion titled “Risk-Based Capital” (80 Fed. Reg.
11 4340; January 27, 2015).

12 (6) NONSYSTEMIC BANKING INSTITUTION.—
13 The term “nonsystemic banking institution” means
14 any banking institution other than an institution
15 identified by the Financial Stability Board as a
16 “global systemically important bank”.

17 (7) OTHER DEFINITIONS.—

18 (A) BANKING DEFINITIONS.—The terms
19 “bank holding company”, “insured depository
20 institution”, and “savings and loan holding
21 company” have the meanings given such terms,
22 respectively, under section 3 of the Federal De-
23 posit Insurance Act (12 U.S.C. 1813).

24 (B) CREDIT UNION DEFINITIONS.—The
25 terms “Federal credit union” and “State credit

1 union” have the meanings given such terms, re-
2 spectively, under section 101 of the Federal
3 Credit Union Act (12 U.S.C. 1752).

4 (b) STUDY OF THE APPROPRIATE CAPITAL FOR
5 MORTGAGE SERVICING ASSETS.—

6 (1) IN GENERAL.—The Federal banking agen-
7 cies shall, jointly, conduct a study of the appropriate
8 capital requirements for mortgage servicing assets
9 for nonsystemic banking institutions.

10 (2) ISSUES TO BE STUDIED.—The study re-
11 quired by this subsection shall include, with a spe-
12 cific focus on nonsystemic banking institutions—

13 (A) the risk to banking institutions of
14 holding mortgage servicing assets;

15 (B) the history of the market for mortgage
16 servicing assets, including particularly the mar-
17 ket for such assets in the period of the financial
18 crisis;

19 (C) the ability of banking institutions to
20 establish a value for their mortgage servicing
21 assets through periodic sales or other means;

22 (D) regulatory approaches to mortgage
23 servicing assets in addition to capital require-
24 ments that could be used to address concerns

1 about the value of and ability to sell mortgage
2 servicing assets;

3 (E) the impact of imposing the Basel III
4 capital requirements and the NCUA capital re-
5 quirements on nonsystemic banking institutions
6 on their ability to compete in the mortgage
7 servicing business, including the need for econo-
8 mies of scale to compete in that business, and
9 on their ability to provide service to consumers
10 to whom they have made a mortgage loan;

11 (F) an analysis of what the mortgage serv-
12 icing marketplace would look like if the Basel
13 III capital requirements and the NCUA capital
14 requirements on mortgage servicing assets—

15 (i) were fully implemented; and

16 (ii) applied to both banking institu-
17 tions and nondepository residential mort-
18 gage loan servicers;

19 (G) the significance of problems with mort-
20 gage servicing assets, if any, in banking institu-
21 tion failures and problem banking institutions,
22 including specifically identifying failed banking
23 institutions where mortgage servicing assets
24 contributed to the failure; and

1 (H) an analysis of the relevance of the
2 Basel III capital requirements and the NCUA
3 capital requirements on mortgage servicing as-
4 sets to the banking systems of other significant
5 developed countries.

6 (3) REPORT TO CONGRESS.—Not later than the
7 end of the 6-month period beginning on the date of
8 the enactment of this Act, the Federal banking
9 agencies shall issue a report to the Committee on
10 Banking, Housing, and Urban Affairs of the Senate
11 and the Committee on Financial Services of the
12 House of Representatives containing—

13 (A) the results of the study required under
14 paragraph (1); and

15 (B) any analysis on the specific issue of
16 mortgage servicing assets undertaken by the
17 Federal banking agencies prior to finalizing
18 regulations implementing the Basel III capital
19 requirements and the NCUA capital require-
20 ments.

21 (c) DELAY OF RULEMAKING.—

22 (1) RULES ON MORTGAGE SERVICING ASSETS.—
23 Notwithstanding any other provision of law, no regu-
24 lation to implement the Basel III capital require-
25 ments or the NCUA capital requirements with re-

1 spect to mortgage servicing assets for nonsystemic
2 banking institutions shall take effect before the end
3 of the 3-month period beginning on the date the re-
4 port is issued under subsection (b)(3).

5 (2) FINAL RULE REQUIREMENTS.—Before any
6 final rule is issued by a Federal banking agency with
7 respect to capital requirements on mortgage serv-
8 icing assets for nonsystemic banking institutions, the
9 Federal banking agency shall—

10 (A) if the related proposed rule was issued
11 before the date on which the report is issued
12 under subsection (b)(3), issue a new proposed
13 rule for public comment; and

14 (B) consider regulatory approaches to
15 mortgage servicing assets that could address
16 concerns about the value of and ability to sell
17 mortgage servicing assets.