

## [DISCUSSION DRAFT]

119TH CONGRESS  
1ST SESSION

# H. R. \_\_\_\_\_

To amend the Federal Deposit Insurance Act, the Bank Holding Company Act of 1956, and the Home Owners' Loan Act to require the consideration of certain entities and factors when evaluating proposed acquisitions, mergers, and consolidations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. FITZGERALD introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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## A BILL

To amend the Federal Deposit Insurance Act, the Bank Holding Company Act of 1956, and the Home Owners' Loan Act to require the consideration of certain entities and factors when evaluating proposed acquisitions, mergers, and consolidations, 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 “Bank Competition  
5       Modernization Act”.

1 **SEC. 2. COMPETITIVE FACTOR CONSIDERATIONS.**

2 (a) IN GENERAL.—Section 18(c) of the Federal De-  
3 posit Insurance Act (12 U.S.C. 1828(c)) is amended—

4 (1) in paragraph (4)—

5 (A) in subparagraph (C)—

6 (i) in clause (i), by striking “or” at  
7 the end’;

8 (ii) in clause (ii), by striking the pe-  
9 riod at the end and inserting “; or”; and

10 (iii) by adding at the end the fol-  
11 lowing:

12 “(iii) if the proposed acquisition,  
13 merger or consolidation under this section  
14 would result in an entity with less than  
15 **[\$10,000,000,000]** in assets.”; and

16 (B) by adding at the end the following:

17 “(D) CONSIDERATIONS.—When compiling  
18 a report on competitive factors relative to in-  
19 sured depository institutions under this para-  
20 graph at the request of the responsible agency,  
21 the Attorney General shall consider the banking  
22 products and services offered by the following  
23 types of entities, including loans and deposits:

24 “(i) Depository institutions, as such  
25 term is defined in section 3(c) of the Fed-

1                   eral Deposit Insurance Act (12 U.S.C.  
2                   1813(c)).

3                   “(ii) Depository institution holding  
4                   companies, as such term is defined in sec-  
5                   tion 3(w) of the Federal Deposit Insurance  
6                   Act (12 U.S.C. 1813(w)).

7                   “(iii) Industrial loan companies, in-  
8                   dustrial banks, or other similar institu-  
9                   tions, as such term is defined in section  
10                  2(c) of the Bank Holding Company Act  
11                  (12 U.S.C. 1841(c)).

12                  “(iv) Entities chartered and operating  
13                  under the Farm Credit Act of 1971.

14                  “(v) Nonbank financial companies, as  
15                  such term is defined in section 102 of the  
16                  Financial Stability Act of 2010.

17                  “(vi) Insured credit unions and non-  
18                  insured credit unions, as such terms are  
19                  defined in section 101 of the Federal Cred-  
20                  it Union Act.”; and

21                  (2) by adding at the end the following:

22                  “(14) FOR PROPOSED RESULTING ENTITIES  
23                  WITH THAN **【\$10,000,000,000】** IN ASSETS.—If a pro-  
24                  posed acquisition, merger or consolidation under this  
25                  section would result in an entity with less than

1       **【\$10,000,000,000】** in assets, then the responsible  
2       agency shall find that such acquisition, merger, or  
3       consolidation would not—

4               “(A) result in a monopoly, or be in fur-  
5       therance of any combination or conspiracy to  
6       monopolize or to attempt to monopolize the  
7       business of banking in any part of the United  
8       States; and

9               “(B) have the effect in any section of the  
10      country of substantially to lessening competi-  
11      tion, tending to create a monopoly, or in any  
12      other manner restraining trade.”.

13      (b) FOR BANK HOLDING COMPANIES.—Section 3(c)  
14      of the Bank Holding Company Act of 1956 (12 U.S.C.  
15      1842(c)) is amended by adding at the end the following:

16              “(8) CONSIDERATIONS WITH RESPECT TO COM-  
17      PETITIVE FACTORS.—When evaluating competitive  
18      factors relative to a proposed acquisition, merger, or  
19      consolidation, under paragraph (1), the Board shall  
20      consider the banking products and services offered  
21      by the following types of entities, including loans  
22      and deposits:

23              “(A) Depository institutions, as such term  
24      is defined in section 3(c) of the Federal Deposit  
25      Insurance Act (12 U.S.C. 1813(c)).

1           “(B) Depository institution holding compa-  
2           nies, as such term is defined in section 3(w) of  
3           the Federal Deposit Insurance Act (12 U.S.C.  
4           1813(w)).

5           “(C) Industrial loan companies, industrial  
6           banks, or other similar institutions, as such  
7           term is defined in section 2(c) of the Bank  
8           Holding Company Act (12 U.S.C. 1841(c)).

9           “(D) Entities chartered and operating  
10          under the Farm Credit Act of 1971.

11          “(E) Nonbank financial companies, as  
12          such term is defined in section 102 of the Fi-  
13          nancial Stability Act of 2010.

14          “(F) Insured credit unions and noninsured  
15          credit unions, as such terms are defined in sec-  
16          tion 101 of the Federal Credit Union Act.

17          “(9) FOR PROPOSED RESULTING ENTITIES  
18          WITH THAN **【\$10,000,000,000】** IN ASSETS.—If a pro-  
19          posed acquisition, merger or consolidation under this  
20          section would result in an entity with less than  
21          **【\$10,000,000,000】** in assets, then the Board shall  
22          find that such acquisition, merger, or consolidation  
23          would not—

24          “(A) result in a monopoly, or be in fur-  
25          therance of any combination or conspiracy to

1 monopolize or to attempt to monopolize the  
2 business of banking in any part of the United  
3 States; and

4 “(B) have the effect in any section of the  
5 country of substantially to lessening competi-  
6 tion, tending to create a monopoly, or in any  
7 other manner restraining trade.”.

8 (c) FOR SAVINGS ASSOCIATIONS.—Section 10(e)(2)  
9 of the Home Owners’ Loan Act is amended by adding at  
10 the end the following:

11 “(8) CONSIDERATIONS WITH RESPECT TO COM-  
12 PETITIVE FACTORS.—When evaluating competitive  
13 factors relative to a proposed acquisition, merger, or  
14 consolidation, under paragraph (1), the Board shall  
15 consider the banking products and services offered  
16 by the following types of entities, including loans  
17 and deposits:

18 “A) Depository institutions, as such term  
19 is defined in section 3(c) of the Federal Deposit  
20 Insurance Act (12 U.S.C. 1813(c)).

21 “(B) Depository institution holding compa-  
22 nies, as such term is defined in section 3(w) of  
23 the Federal Deposit Insurance Act (12 U.S.C.  
24 1813(w)).

1           “(C) Industrial loan companies, industrial  
2           banks, or other similar institutions, as such  
3           term is defined in section 2(c) of the Bank  
4           Holding Company Act (12 U.S.C. 1841(c)).

5           “(D) Entities chartered and operating  
6           under the Farm Credit Act of 1971.

7           “(E) Nonbank financial companies, as  
8           such term is defined in section 102 of the Fi-  
9           nancial Stability Act of 2010.

10           “(F) Insured credit unions and noninsured  
11           credit unions, as such terms are defined in sec-  
12           tion 101 of the Federal Credit Union Act.

13           “(9) FOR PROPOSED RESULTING ENTITIES  
14           WITH THAN **【\$10,000,000,000】** IN ASSETS.—If a pro-  
15           posed acquisition, merger or consolidation under this  
16           section would result in an entity with less than  
17           **【\$10,000,000,000】** in assets, then the Board shall  
18           find that such acquisition, merger, or consolidation  
19           would not—

20           “(A) result in a monopoly, or be in fur-  
21           therance of any combination or conspiracy to  
22           monopolize or to attempt to monopolize the  
23           business of banking in any part of the United  
24           States; and

1                   “(B) have the effect in any section of the  
2                   country of substantially to lessening competi-  
3                   tion, tending to create a monopoly, or in any  
4                   other manner restraining trade.”.