

# **SUMMARY OF THE DEMOCRATIC ALTERNATIVE TO THE “FINANCIAL REGULATORY IMPROVEMENT ACT OF 2015”**

## **TITLE I. HELPING COMMUNITY LENDERS**

### **Section 101. Community Bank and Credit Union Portfolio Lending**

- This section provides qualified mortgage (QM) liability protection for certain loans, as long as they are held in portfolio by depository institutions under \$10 billion in total consolidated assets.
- Products that do not maintain consumer protections, such as no-doc loans and loans with excessive fees or interest rates – all of which played a role in the financial crisis – would be ineligible.
- It would provide more flexibility for relationship lending by community banks and credit unions by removing the 43 percent debt-to-income cap for loans held on portfolio.

### **Section 102. Streamlining Privacy Notifications**

- Financial institutions – including banks and credit unions – must send consumers an annual privacy notice.
- Unfortunately, these annual privacy notices have become so routine that most consumers are either confused by them, or simply do not read them at all.
- The requirement is costly for small institutions like community banks and credit unions.
- Under this provision, a financial institution will be required to send a consumer an annual privacy notice only when there has been a change in the bank’s privacy policy. This will make the notices more meaningful to consumers and reduce the unnecessary red tape on community banks and credit unions. An institution’s privacy policy will still be available to consumers through other means.
- The provision mirrors legislation Sens. Jerry Moran (R-KS) and Heidi Heitkamp (D-N.D.) introduced this Congress. The bill had 75 cosponsors last Congress.

### **Section 103. Tailored Exam Cycles**

- This provision lengthens the exam cycle to 18 months for well-capitalized banks under \$1 billion in total assets. Regulators may continue to examine more frequently under certain circumstances, such as potential or actual deterioration or a change in control.
- Current law requires a full-scope exam every 12 months for banks above \$500 million in total assets.
- Approximately 600 institutions would benefit from this change.
- This section mirrors legislation Sens. Pat Toomey (R-PA) and Joe Donnelly (D-IN) introduced this Congress.

### **Section 104. Parity for Credit Unions**

- The Federal Home Loan Bank System’s (FHLB) approximately 7,600 member institutions are commercial banks, thrifts, credit unions, and insurance companies. The membership definition currently excludes privately-insured credit unions from joining the FHLB system.
- There are currently about 150 privately insured credit unions in nine states -- California, Idaho, Illinois, Indiana, Maryland, Mississippi, Nevada, Ohio, and Texas -- most of which are under \$70 million in assets. By contrast, there are 6,429 federally insured credit unions, about 1,100 of which are FHLB members. Total assets of privately insured credit unions are about \$11 billion.
- This provision allows privately-insured credit unions to become members of the FHLB if a state regulator determines that the privately-insured credit union meets all eligibility requirements of the FHLBs, and that the private insurer has sufficient reserves for losses, and has adequate capital.

### **Section 105. Parity for Thrifts**

- This provision changes the Securities and Exchange Commission's registration and deregistration thresholds for Savings and Loan Holding Companies to provide them parity with Bank Holding Companies.
- The JOBS Act raised the 500-shareholder of record threshold to 2,000 for Bank Holding Companies before they are required to register with the SEC, and raised the threshold at which a bank holding company can deregister to 1,200 shareholders of record from 300.
- Savings and loan holding companies were not included in the JOBS Act provision.
- This section mirrors legislation Sens. Moran and Jon Tester (D-MT) introduced this Congress.

### **Section 106. Transitional Licenses**

- This section amends the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) to make it easier for mortgage loan originators who work for banks to transition to jobs with non-bank firms. It allows a 120-day transitional period for mortgage loan originators who works at banks to comply with the education and testing requirements under the SAFE Act that apply to non-bank firms.
- Similar legislation was introduced by Rep. Spencer Bachus (R-AL) last Congress and cosponsored by Senators Shelly Moore Capito (R-WV) and Gary Peters (D-MI) when they served in the House.

## **TITLE II. PROTECTING CONSUMERS**

### **Section 201. Enhanced Consumer Protections for Servicemembers**

- This section allows the CFPB to ensure that members of the armed forces are protected under certain existing provisions of the Servicemember Civil Relief Act (SCRA). The SCRA protects servicemembers in the event that their military service impedes their ability to meet financial obligations incurred before entry into active military service.
- The CFPB's Office of Servicemember Affairs has been very active: nearly 30,000 servicemembers have submitted complaints since the CFPB opened its doors and recovered more than \$1.6 million.
- Servicemembers continue to be vulnerable to financial abuse: Since 2012, lenders have been fined over \$150 million for SCRA violations related to student loans, credit cards, foreclosures, and vehicle repossessions, as well as \$100 million for other violations including deceptive marketing and abusive debt collection. Earlier record settlements stemming from the financial crisis revealed that a significant number of servicemembers were illegally foreclosed upon while serving their country overseas.
- This section does not change the SCRA statute itself. It simply enables the CFPB, already active through its Office of Servicemember Affairs, to enforce the SCRA.

### **Section 202. Tenant Fairness**

- This section permanently extends the provisions of the Protecting Tenants at Foreclosure Act that expired at the end of 2014.
- In the case of a foreclosure on a property being rented, the new landlord would be required to abide by the terms of any lease and provide a notice to vacate the property 90 days before a tenant was required to vacate the property.

### **Section 203. Regulatory Access**

- This section amends the SAFE Act to allow federal and state financial services regulators access to the Nationwide Mortgage Licensing System database while maintaining the confidentiality of information shared between the regulators.
- This provision mirrors legislation, introduced by then-Sen. Kay Hagan (D-NC), that the Senate passed in the last Congress. Also in the last Congress, Sen. Capito introduced the bill while she served in the House, where it also passed. Unfortunately, the bill did not become law.