

115TH CONGRESS
1ST SESSION

H. R. 2133

To provide regulatory relief to community financial institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2017

Mr. LUETKEMEYER introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To provide regulatory relief to community financial 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 “Community Lending
5 Enhancement and Regulatory Relief Act of 2017” or the
6 “CLEARRR Act of 2017”.

7 **SEC. 2. COMMUNITY INSTITUTION MORTGAGE RELIEF.**

8 (a) EXEMPTION FROM ESCROW REQUIREMENTS FOR
9 LOANS HELD BY SMALL CREDITORS.—Section 129D(c)
10 of the Truth in Lending Act (15 U.S.C. 1639d(c)), as

1 added by section 1461(a) of the Dodd-Frank Wall Street
2 Reform and Consumer Protection Act, is amended—

3 (1) by redesignating paragraphs (1), (2), (3),
4 and (4) as subparagraphs (A), (B), (C), and (D)
5 (and conforming the margins accordingly);

6 (2) by striking “The Board” and inserting the
7 following:

8 “(1) IN GENERAL.—The Bureau”; and

9 (3) by adding at the end the following new
10 paragraph:

11 “(2) TREATMENT OF LOANS HELD BY SMALLER
12 CREDITORS.—The Bureau shall, by regulation, exempt
13 from the requirements of subsection (a) any loan secured
14 by a first lien on a consumer’s principal dwelling, if such
15 loan is held by a creditor with assets of \$50,000,000,000
16 or less.”.

17 (b) MODIFICATION TO EXEMPTION FOR SMALL
18 SERVICERS OF MORTGAGE LOANS.—Section 6 of the Real
19 Estate Settlement Procedures Act of 1974 (12 U.S.C.
20 2605) is amended by adding at the end the following:

21 “(n) SMALL SERVICER EXEMPTION.—The Bureau
22 shall, by regulation, provide exemptions to, or adjustments
23 for, the provisions of this section for servicers that annu-
24 ally service 30,000 or fewer mortgage loans, in order to

1 reduce regulatory burdens while appropriately balancing
2 consumer protections.”.

3 **SEC. 3. ACCESS TO AFFORDABLE MORTGAGES.**

4 (a) EXEMPTION FROM PROPERTY APPRAISAL RE-
5 QUIREMENTS FOR LOWER-COST DWELLINGS.—Section
6 129H of the Truth in Lending Act (15 U.S.C. 1639h) is
7 amended by adding at the end the following new sub-
8 section:

9 “(g) EXEMPTION FOR CERTAIN MORTGAGES.—The
10 Bureau, the Comptroller of the Currency, the Federal De-
11 posit Insurance Corporation, the National Credit Union
12 Administration Board, and the Federal Housing Finance
13 Agency shall exempt, by rule, a mortgage loan of \$250,000
14 or less from the requirements of this section if such loan
15 appears on the balance sheet of the creditor of such loan
16 for a period of not less than 3 years.”.

17 (b) EXEMPTION FROM PENALTIES FOR FAILURE TO
18 REPORT APPRAISERS.—Paragraph (1) of section 129E(k)
19 of the Truth in Lending Act (15 U.S.C. 1639e(k)(1)) is
20 amended by inserting after “this section” the following:
21 “, other than subsection (e),”.

22 (c) EXEMPTION FROM APPRAISAL STANDARD RE-
23 QUIREMENTS FOR LOWER-COST DWELLINGS.—Section
24 1110 of the Financial Institutions Reform, Recovery, and
25 Enforcement Act of 1989 (12 U.S.C. 3339) is amended—

1 (1) by striking “Each Federal financial institu-
2 tions regulatory agency and the Resolution Trust
3 Corporation” and inserting the following:

4 “(a) REAL ESTATE APPRAISALS IN CONNECTION
5 WITH FEDERALLY RELATED TRANSACTIONS.—Each
6 Federal financial institutions regulatory agency”;

7 (2) by striking “each such agency or instrumen-
8 tality” and inserting “each such agency”;

9 (3) in the flush left matter following paragraph
10 (3), by striking “Each such agency or instrumen-
11 tality” and inserting the following:

12 “(b) ADDITIONAL STANDARDS.—Each such agency
13 described under subsection (a)”;

14 (4) by adding at the end the following new sub-
15 section:

16 “(c) EXEMPTION FOR CERTAIN MORTGAGE
17 LOANS.—Each such agency described under subsection
18 (a) shall exempt, by rule, a real estate appraisal or evalua-
19 tion conducted in connection with a mortgage loan of
20 \$250,000 or less from the standards prescribed under this
21 section, if such loan appears on the balance sheet of the
22 creditor of such loan for a period of not less than 3
23 years.”.

1 **SEC. 4. CHANGES REQUIRED TO SMALL BANK HOLDING**
2 **COMPANY POLICY STATEMENT ON ASSESS-**
3 **MENT OF FINANCIAL AND MANAGERIAL FAC-**
4 **TORS.**

5 Before the end of the 6-month period beginning on
6 the date of the enactment of this Act, the Board of Gov-
7 ernors of the Federal Reserve System shall revise the
8 Small Bank Holding Company Policy Statement on As-
9 sessment of Financial and Managerial Factors (12 C.F.R.
10 part 225—appendix C) to raise the consolidated asset
11 threshold under such policy statement from
12 \$1,000,000,000 (as adjusted by Public Law 113–250) to
13 \$10,000,000,000.

14 **SEC. 5. CAPITAL REQUIREMENTS FOR MORTGAGE SERV-**
15 **ICING ASSETS.**

16 (a) **REPEAL OF BASEL III REGULATIONS.**—Not later
17 than the end of the 60-day period beginning on the date
18 of the enactment of this Act, each Federal banking agency
19 shall—

20 (1) repeal all regulations issued by the agency
21 to implement the Basel III capital requirements or
22 the NCUA capital requirements, as applicable, on
23 mortgage servicing assets; and

24 (2) revive or restore any regulation repealed or
25 revised by a regulation described under paragraph
26 (1).

1 (b) NEW REGULATIONS.—Before any final regulation
2 is issued by a Federal banking agency with respect to cap-
3 ital requirements on mortgage servicing assets, the Fed-
4 eral banking agency shall—

5 (1) issue a new proposed rule for public com-
6 ment;

7 (2) submit to Congress a notification of the
8 proposed rule and an explanation for the proposed
9 rule; and

10 (3) consider—

11 (A) the history of the market for mortgage
12 servicing assets, including particularly the mar-
13 ket for such assets in the period of the financial
14 crisis;

15 (B) the impact on consumer access to
16 mortgage lending and mortgage servicing; and

17 (C) competition in the mortgage servicing
18 market, including analysis of the role commu-
19 nity and mid-sized financial institutions play in
20 the mortgage servicing market.

21 (c) DEFINITIONS.—For purposes of this section:

22 (1) BASEL III CAPITAL REQUIREMENTS.—The
23 term “Basel III capital requirements” means the
24 Global Regulatory Framework for More Resilient
25 Banks and Banking Systems issued by the Basel

1 Committee on Banking Supervision on December 16,
2 2010, as revised on June 1, 2011.

3 (2) FEDERAL BANKING AGENCY.—The term
4 “Federal banking agency” means the Board of Gov-
5 ernors of the Federal Reserve System, the Office of
6 the Comptroller of the Currency, the Federal De-
7 posit Insurance Corporation, or the National Credit
8 Union Administration.

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

13 (4) NCUA CAPITAL REQUIREMENTS.—The
14 term “NCUA capital requirements” means the final
15 rule of the National Credit Union Administration
16 entitled “Risk-Based Capital” (80 Fed. Reg. 66626
17 (Oct. 29, 2015)).

18 **SEC. 6. BUREAU AUTHORITY OVER UNFAIR AND DECEP-**
19 **TIVE ACTS OR PRACTICES.**

20 (a) IN GENERAL.—Section 1031 of the Consumer Fi-
21 nancial Protection Act of 2010 (12 U.S.C. 5531) is
22 amended—

23 (1) in the heading of such section, by striking
24 “, **DECEPTIVE, OR ABUSIVE**” and inserting “**OR**
25 **DECEPTIVE**”;

1 (2) in subsection (a)—

2 (A) by striking “, deceptive, or abusive”
3 and inserting “or deceptive”; and

4 (B) by adding at the end the following:
5 “The Bureau may not take any action described
6 under this subsection against a covered person
7 or service provider unless the Bureau first
8 consults the covered person or service provider’s
9 primary financial regulatory agency, if any.”;

10 (3) in subsection (b)—

11 (A) by striking “, deceptive, or abusive”
12 and inserting “or deceptive”; and

13 (B) by inserting at the end the following:
14 “In prescribing any rule under this subsection,
15 the Bureau shall comply with the requirements
16 of section 18 of the Federal Trade Commission
17 Act (15 U.S.C. 57a) applicable to the Federal
18 Trade Commission when the Commission pre-
19 scribes rules and general statements of policy
20 under that section with respect to unfair or de-
21 ceptive acts or practices in or affecting com-
22 merce.”;

23 (4) by striking subsection (d); and

24 (5) by redesignating subsections (e) and (f) as
25 subsections (d) and (e), respectively.

1 (b) CONFORMING AMENDMENTS.—

2 (1) CONSUMER FINANCIAL PROTECTION ACT OF
3 2010.—The Consumer Financial Protection Act of
4 2010 (12 U.S.C. 5481 et seq.) is amended—

5 (A) by striking “, deceptive, and abusive”
6 each place such term appears and inserting
7 “and deceptive”; and

8 (B) by striking “, deceptive, or abusive”
9 each place such term appears and inserting “or
10 deceptive”.

11 (2) DODD-FRANK WALL STREET REFORM AND
12 CONSUMER PROTECTION ACT.—The table of contents
13 in section 1(b) of the Dodd-Frank Wall Street Re-
14 form and Consumer Protection Act is amended, in
15 the item relating to section 1031, by striking “, **DE-**
16 **CEPTIVE, OR ABUSIVE**” and inserting “**OR DE-**
17 **CEPTIVE**”.

18 (3) OMNIBUS APPROPRIATIONS ACT, 2009.—Sec-
19 tion 626(a)(1) of the Omnibus Appropriations Act,
20 2009 (15 U.S.C. 1638 note) is amended by striking
21 “, deceptive, or abusive” and inserting “or decep-
22 tive”.

1 **SEC. 7. AMENDMENTS TO THE EQUAL CREDIT OPPOR-**
2 **TUNITY ACT AND THE FAIR HOUSING ACT TO**
3 **REQUIRE INTENT TO DISCRIMINATE.**

4 (a) AMENDMENT TO EQUAL CREDIT OPPORTUNITY
5 ACT.—Subsection (a) of section 701 of the Equal Credit
6 Opportunity Act (15 U.S.C. 1691(a)) is amended by in-
7 serting “intentionally” before “discriminate”.

8 (b) AMENDMENT TO FAIR HOUSING ACT.—The Fair
9 Housing Act (42 U.S.C. 3601 et seq.) is amended—

10 (1) in section 804—

11 (A) by inserting “intentionally” before
12 “discriminate” each place such term appears;

13 (B) in subsection (a), by inserting “inten-
14 tionally” before “refuse”;

15 (C) in subsection (c)—

16 (i) by inserting “intentionally” before
17 “make”; and

18 (ii) by inserting “intentionally” before
19 “cause”;

20 (D) in subsection (d), by inserting “inten-
21 tionally” before “represent”; and

22 (E) in subsection (e), by striking “induce
23 or attempt” and inserting “intentionally induce
24 or intentionally attempt”;

25 (2) in section 805, by inserting “intentionally”
26 before “discriminate”; and

1 (3) in section 806, by inserting “intentionally”
2 before “discriminate”.

3 **SEC. 8. AMENDMENTS TO THE HOME MORTGAGE DISCLO-**
4 **SURE ACT OF 1975.**

5 (a) **LOAN VOLUME THRESHOLD.**—Section 304(i) of
6 the Home Mortgage Disclosure Act of 1975 (12 U.S.C.
7 2803(i)) is amended to read as follows:

8 “(i) **EXEMPTION FROM CERTAIN DISCLOSURE RE-**
9 **QUIREMENTS.**—

10 “(1) **IN GENERAL.**—The requirements of sub-
11 sections (b)(4), (b)(5), and (b)(6) shall not apply
12 with respect to any depository institution described
13 in section 303(2)(A).

14 “(2) **CLOSED-END MORTGAGE LOANS.**—With
15 respect to a depository institution, the requirements
16 of subsections (a) and (b) shall not apply with re-
17 spect to closed-end mortgage loans if the depository
18 institution originated less than 1,000 closed-end
19 mortgage loans in each of the 2 preceding calendar
20 years.

21 “(3) **OPEN-END LINES OF CREDIT.**—With re-
22 spect to a depository institution, the requirements of
23 subsections (a) and (b) shall not apply with respect
24 to open-end lines of credit if the depository institu-

1 tion originated less than 2,000 open-end lines of
2 credit in each of the 2 preceding calendar years.”.

3 (b) DATA POINTS.—Section 304(b) of the Home
4 Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is
5 amended—

6 (1) by striking paragraphs (5) and (6);

7 (2) in paragraph (3), by inserting “and” at the
8 end; and

9 (3) in paragraph (4), by striking “age.”.

10 **SEC. 9. REPEAL OF SMALL BUSINESS LOAN COLLECTION**

11 **DATA.**

12 (a) REPEAL.—Section 704B of the Equal Credit Op-
13 portunity Act (15 U.S.C. 1691c–2) is repealed.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for title VII of the Consumer Credit Protection Act is
16 amended by striking the item relating to section 704B.

17 **SEC. 10. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMI-**

18 **NATION REQUESTS AND ORDERS.**

19 (a) TERMINATION REQUESTS OR ORDERS MUST BE
20 MATERIAL.—

21 (1) IN GENERAL.—An appropriate Federal
22 banking agency may not formally or informally re-
23 quest or order a depository institution to terminate
24 a specific customer account or group of customer ac-
25 counts or to otherwise restrict or discourage a de-

1 pository institution from entering into or maintain-
2 ing a banking relationship with a specific customer
3 or group of customers unless—

4 (A) the agency has a material reason for
5 such request or order; and

6 (B) such reason is not based solely on rep-
7 utation risk.

8 (2) TREATMENT OF NATIONAL SECURITY
9 THREATS.—If an appropriate Federal banking agen-
10 cy believes a specific customer or group of customers
11 is, or is acting as a conduit for, an entity which—

12 (A) poses a threat to national security;

13 (B) is involved in terrorist financing;

14 (C) is an agency of the government of
15 Iran, North Korea, Syria, or any country listed
16 from time to time on the State Sponsors of
17 Terrorism list;

18 (D) is located in, or is subject to the juris-
19 diction of, any country specified in subpara-
20 graph (C); or

21 (E) does business with any entity described
22 in subparagraph (C) or (D), unless the appro-
23 priate Federal banking agency determines that
24 the customer or group of customers has used

1 due diligence to avoid doing business with any
2 entity described in subparagraph (C) or (D),
3 such belief shall satisfy the requirement under para-
4 graph (1).

5 (b) NOTICE REQUIREMENT.—

6 (1) IN GENERAL.—If an appropriate Federal
7 banking agency formally or informally requests or
8 orders a depository institution to terminate a spe-
9 cific customer account or a group of customer ac-
10 counts, the agency shall—

11 (A) provide such request or order to the
12 institution in writing; and

13 (B) accompany such request or order with
14 a written justification for why such termination
15 is needed, including any specific laws or regula-
16 tions the agency believes are being violated by
17 the customer or group of customers, if any.

18 (2) JUSTIFICATION REQUIREMENT.—A jus-
19 tification described under paragraph (1)(B) may not
20 be based solely on the reputation risk to the deposi-
21 tory institution.

22 (c) CUSTOMER NOTICE.—

23 (1) NOTICE NOT REQUIRED.—Nothing in this
24 section shall be construed as requiring a depository
25 institution or an appropriate Federal banking agen-

1 cy to inform a customer or customers of the jus-
2 tification for the customer's account termination de-
3 scribed under subsection (b).

4 (2) NOTICE PROHIBITED IN CASES OF NA-
5 TIONAL SECURITY.—If an appropriate Federal bank-
6 ing agency requests or orders a depository institu-
7 tion to terminate a specific customer account or a
8 group of customer accounts based on a belief that
9 the customer or customers pose a threat to national
10 security, neither the depository institution nor the
11 appropriate Federal banking agency may inform the
12 customer or customers of the justification for the
13 customer's account termination.

14 (d) REPORTING REQUIREMENT.—Each appropriate
15 Federal banking agency shall issue an annual report to
16 the Congress stating—

17 (1) the aggregate number of specific customer
18 accounts that the agency requested or ordered a de-
19 pository institution to terminate during the previous
20 year; and

21 (2) the legal authority on which the agency re-
22 lied in making such requests and orders and the fre-
23 quency on which the agency relied on each such au-
24 thority.

25 (e) DEFINITIONS.—For purposes of this section:

1 (1) APPROPRIATE FEDERAL BANKING AGEN-
2 CY.—The term “appropriate Federal banking agen-
3 cy” means—

4 (A) the appropriate Federal banking agen-
5 cy, as defined under section 3 of the Federal
6 Deposit Insurance Act (12 U.S.C. 1813); and

7 (B) the National Credit Union Administra-
8 tion, in the case of an insured credit union.

9 (2) DEPOSITORY INSTITUTION.—The term “de-
10 pository institution” means—

11 (A) a depository institution, as defined
12 under section 3 of the Federal Deposit Insur-
13 ance Act (12 U.S.C. 1813); and

14 (B) an insured credit union.

15 **SEC. 11. AMENDMENTS TO CIVIL PENALTIES UNDER**
16 **FIRREA.**

17 Section 951 of the Financial Institutions Reform, Re-
18 covery, and Enforcement Act of 1989 (12 U.S.C. 1833a)
19 is amended—

20 (1) in subsection (c)(2), by striking “affecting
21 a federally insured financial institution” and insert-
22 ing “against a federally insured financial institution
23 or by a federally insured financial institution against
24 an unaffiliated third person”; and

25 (2) in subsection (g)—

1 (A) in the header, by striking “Subpoenas”
2 and inserting “Investigations”; and

3 (B) by amending paragraph (1)(C) to read
4 as follows:

5 “(C) summon witnesses and require the
6 production of any books, papers, correspond-
7 ence, memoranda, or other records which the
8 Attorney General deems relevant or material to
9 the inquiry, if the Attorney General—

10 “(i) requests a court order from a
11 court of competent jurisdiction for such ac-
12 tions and offers specific and articulable
13 facts showing that there are reasonable
14 grounds to believe that the information or
15 testimony sought is relevant and material
16 for conducting an investigation under this
17 section; or

18 “(ii) either personally or through dele-
19 gation no lower than the Deputy Attorney
20 General, issues and signs a subpoena for
21 such actions and such subpoena is sup-
22 ported by specific and articulable facts
23 showing that there are reasonable grounds
24 to believe that the information or testi-

1 mony sought is relevant for conducting an
2 investigation under this section.”.

3 **SEC. 12. WAIVER OF WAITING PERIOD.**

4 Not later than 120 days after the date of the enact-
5 ment of this Act, the Bureau of Consumer Financial Pro-
6 tection shall issue regulations establishing a process to
7 waive the requirement relating to the timing of providing
8 closing disclosures for mortgage loans described under sec-
9 tion 1026.19(f)(1)(ii) of title 12, Code of Federal Regula-
10 tions.

11 **SEC. 13. LIMIT ON BUREAU SUPERVISION.**

12 The Consumer Financial Protection Act of 2010 (12
13 U.S.C. 5481 et seq.) is amended—

14 (1) in section 1025(a), by striking
15 “\$10,000,000,000” each place such term appears
16 and inserting “\$50,000,000,000”; and

17 (2) in section 1026(a), by striking
18 “\$10,000,000,000” each place such term appears
19 and inserting “\$50,000,000,000”.

20 **SEC. 14. LIMITED EXCEPTION FOR RECIPROCAL DEPOSITS.**

21 (a) IN GENERAL.—Section 29 of the Federal Deposit
22 Insurance Act (12 U.S.C. 1831f) is amended by adding
23 at the end the following new subsection:

24 “(a) LIMITED EXCEPTION FOR RECIPROCAL DEPOS-
25 ITS.—

1 “(1) IN GENERAL.—Reciprocal deposits of an
2 insured depository institution shall not be considered
3 to be funds obtained, directly or indirectly, by or
4 through a deposit broker if—

5 “(A) when the institution was most re-
6 cently examined, its composite condition was
7 found to be outstanding or good; or

8 “(B) the total amount of such reciprocal
9 deposits does not exceed the lesser of—

10 “(i) \$10,000,000,000; or

11 “(ii) an amount equal to 20 percent of
12 the total liabilities of the insured depository
13 institution.

14 “(2) RULE OF CONSTRUCTION.—Nothing in
15 this subsection shall be construed to limit the au-
16 thority of the Corporation to require, on a case-by-
17 case basis, that an agent institution that is less than
18 adequately capitalized (as defined in section
19 38(b)(1)(B)) not accept particular types of deposits
20 upon finding that the acceptance of such deposits
21 constitutes an unsafe or unsound practice with re-
22 spect to such institution.

23 “(3) DEFINITIONS.—In this subsection:

24 “(A) AGENT INSTITUTION.—The term
25 ‘agent institution’ means an insured depository

1 institution that places a covered deposit
2 through a deposit placement network at other
3 insured depository institutions in amounts that
4 are less than or equal to the standard maximum deposit insurance amount, specifying the
5 interest rate to be paid for such amounts,
6 where the agent institution—
7

8 “(i) is well capitalized (as defined in
9 section 38(b)(1)(A)) or has obtained a
10 waiver pursuant to subsection (c) of this
11 section; or

12 “(ii) does not receive an amount of re-
13 ciprocal deposits that causes the total
14 amount of reciprocal deposits held by the
15 agent institution to be greater than the average of the total amount of reciprocal de-
16 posits held by the agent institution on the
17 last day of each of the 4 calendar quarters
18 preceding the calendar quarter in which
19 the agent institution was determined to be
20 not well capitalized.
21

22 “(B) COVERED DEPOSIT.—The term ‘covered deposit’ means a deposit that—
23

1 “(i) is submitted for placement
2 through a deposit placement network by an
3 agent institution; and

4 “(ii) does not consist of funds that
5 were obtained for the agent institution, di-
6 rectly or indirectly, by or through a deposit
7 broker before submission for placement
8 through a deposit placement network.

9 “(C) DEPOSIT PLACEMENT NETWORK.—
10 The term ‘deposit placement network’ means a
11 network in which an insured depository institu-
12 tion participates, together with other insured
13 depository institutions, for the processing and
14 receipt of reciprocal deposits.

15 “(D) NETWORK MEMBER BANK.—The
16 term ‘network member bank’ means an insured
17 depository institution that is a member of a de-
18 posit placement network.

19 “(E) RECIPROCAL DEPOSITS.—The term
20 ‘reciprocal deposits’ means deposits received by
21 an agent institution through a deposit place-
22 ment network with the same maturity (if any)
23 and in the same aggregate amount as covered
24 deposits placed by the agent institution in other
25 network member banks.”.

1 (b) APPLICABILITY.—Nothing in this Act shall be
 2 construed to limit the application of any provision of the
 3 Federal Deposit Insurance Act, other than section 29 of
 4 such Act (12 U.S.C. 1831f), to an insured depository in-
 5 stitution (as defined in section 3(c) of such Act (12 U.S.C.
 6 1813(c))).

7 **SEC. 15. SAFE HARBOR FOR CERTAIN LOANS HELD ON**
 8 **PORTFOLIO.**

9 (a) IN GENERAL.—Section 129C of the Truth in
 10 Lending Act (15 U.S.C. 1639c) is amended by adding at
 11 the end the following:

12 “(j) SAFE HARBOR FOR CERTAIN LOANS HELD ON
 13 PORTFOLIO.—

14 “(1) SAFE HARBOR FOR CREDITORS THAT ARE
 15 DEPOSITORY INSTITUTIONS.—

16 “(A) IN GENERAL.—A creditor that is a
 17 depository institution shall not be subject to
 18 suit for failure to comply with subsection (a),
 19 (c)(1), or (f)(2) of this section or section 129H
 20 with respect to a residential mortgage loan, and
 21 the banking regulators shall treat such loan as
 22 a qualified mortgage, if—

23 “(i) the creditor has, since the origi-
 24 nation of the loan, held the loan on the
 25 balance sheet of the creditor; and

1 “(ii) all prepayment penalties with re-
2 spect to the loan comply with the limita-
3 tions described under subsection (c)(3).

4 “(B) EXCEPTION FOR CERTAIN TRANS-
5 FERS.—In the case of a depository institution
6 that transfers a loan originated by that institu-
7 tion to another depository institution by reason
8 of the bankruptcy or failure of the originating
9 depository institution or the purchase of the
10 originating depository institution, the depository
11 institution transferring such loan shall be
12 deemed to have complied with the requirement
13 under subparagraph (A)(i).

14 “(2) SAFE HARBOR FOR MORTGAGE ORIGINA-
15 TORS.—A mortgage originator shall not be subject
16 to suit for a violation of section 129B(c)(3)(B) for
17 steering a consumer to a residential mortgage loan
18 if—

19 “(A) the creditor of such loan is a deposi-
20 tory institution and has informed the mortgage
21 originator that the creditor intends to hold the
22 loan on the balance sheet of the creditor for the
23 life of the loan; and

24 “(B) the mortgage originator informs the
25 consumer that the creditor intends to hold the

1 loan on the balance sheet of the creditor for the
2 life of the loan.

3 “(3) DEFINITIONS.—For purposes of this sub-
4 section:

5 “(A) BANKING REGULATORS.—The term
6 ‘banking regulators’ means the Federal banking
7 agencies, the Bureau, and the National Credit
8 Union Administration.

9 “(B) DEPOSITORY INSTITUTION.—The
10 term ‘depository institution’ has the meaning
11 given that term under section 19(b)(1) of the
12 Federal Reserve Act (12 U.S.C. 505(b)(1)).

13 “(C) FEDERAL BANKING AGENCIES.—The
14 term ‘Federal banking agencies’ has the mean-
15 ing given that term under section 3 of the Fed-
16 eral Deposit Insurance Act.”.

17 (b) RULE OF CONSTRUCTION.—Nothing in the
18 amendment made by this Act may be construed as pre-
19 venting a balloon loan from qualifying for the safe harbor
20 provided under section 129C(j) of the Truth in Lending
21 Act if the balloon loan otherwise meets all of the require-
22 ments under such subsection (j), regardless of whether the
23 balloon loan meets the requirements described under
24 clauses (i) through (iv) of section 129C(b)(2)(E) of such
25 Act.

1 **SEC. 16. AMENDMENTS TO ABILITY TO PAY REQUIREMENTS**
2 **FOR MORTGAGE LOANS.**

3 Section 129C(b)(3) of the Truth in Lending Act (15
4 U.S.C. 1639C(b)(3)) is amended—

5 (1) by amending subparagraph (A) to read as
6 follows:

7 “(A) IN GENERAL.—

8 “(i) BUREAU REGULATIONS.—The
9 Bureau shall prescribe regulations to carry
10 out the purposes of this subsection, except
11 that the Bureau may not prescribe any
12 regulation that addresses modifies any pro-
13 vision of paragraph (2)(A)(iii), or that ad-
14 dresses modifies any rule promulgated by
15 the Federal Housing Finance Agency pur-
16 suant to subparagraph (B)(i). Any existing
17 regulation of the Bureau that addresses
18 modifies paragraph (2)(A)(iii) shall have
19 no force or effect as of the date the Fed-
20 eral Housing Finance Agency prescribes a
21 rule pursuant to subparagraph (B)(i)(II).

22 “(ii) FEDERAL HOUSING FINANCE
23 AGENCY REGULATIONS.—The Federal
24 Housing Finance Agency shall only pre-
25 scribe regulations to carry out the pur-
26 poses of paragraph (2)(A)(iii). The Federal

1 Housing Finance Agency may not pre-
2 scribe any regulation that addresses modi-
3 fies any requirement under clause (i), (ii),
4 (iv), (v), (vi), (vii), (viii), or (ix) of para-
5 graph (2)(A), or that addresses modifies
6 any rule promulgated by the Bureau pur-
7 suant to clause (i) or subparagraph
8 (B)(i)(I).”;

9 (2) in subparagraph (B)—

10 (A) by striking “The Board may” and in-
11 serting

12 “(I) BUREAU REGULATIONS.—

13 The Bureau may”.

14 (B) in subclause (I), as designated by sub-
15 paragraph (A), by striking “compliance with
16 such actions” and inserting “, except that the
17 Bureau may not prescribe any regulation that
18 violates the provisions of subparagraph (A).
19 The Bureau may not eliminate any requirement
20 or add any new requirement under clause (i),
21 (ii), (iv), (v), (vi), (vii), (viii), or (ix) of para-
22 graph (2)(A) unless it does so by prescribing a
23 rule enacted pursuant to the procedures set
24 forth in section 553 of title 5, United States
25 Code”;

1 (C) in clause (i), by adding at the end the
2 following new subclause:

3 “(II) FEDERAL HOUSING FI-
4 NANCE AGENCY REGULATIONS.—Not
5 later than 180 days after the date of
6 the enactment of this subclause, the
7 Federal Housing Finance Agency
8 shall prescribe regulations to carry
9 out the requirements of paragraph
10 (2)(A)(iii). Notwithstanding the proce-
11 dures set forth in section 553 of title
12 5, United States Code, the Federal
13 Housing Finance Agency shall review
14 its promulgated standards under such
15 paragraph at least annually, and shall
16 publish any proposed adjustments to
17 such standards in the Federal Reg-
18 ister. The Federal Housing Finance
19 Agency may not eliminate any re-
20 quirement or add any new require-
21 ment under paragraph (2)(A)(iii) un-
22 less it does so by prescribing a rule
23 enacted pursuant to the procedures
24 set forth in section 553 of title 5,
25 United States Code.”; and

1 (D) in clause (ii), by striking “with the
2 Board” and inserting “with the Bureau with re-
3 spect to the requirements under clauses (i), (ii),
4 (iv), (v), (vi), (vii), (viii), and (ix) of paragraph
5 (2)(A), and in consultation with the Federal
6 Housing Finance Agency with respect to the re-
7 quirement under paragraph (2)(A)(iii)”.

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