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Landmark Regulatory Reform Bill Alleviating Burden on Banks Signed into Law

FINANCIAL SERVICES
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On May 24th, President Trump signed into law S. 2155, the Economic Growth, Regulatory Relief and Consumer Protection Act. The law intends to right size the provisions placed on financial services organizations as part of Dodd-Frank Act by reducing administrative and compliance-related costs.

Three key areas addressed in the Act are mortgage lending rules, regulatory relief to financial institutions and consumer protections related to credit reporting. The Act aims to foster economic growth and eliminate many of the administrative hardships placed on institutions, which is expected to enable them to offer more loans to qualified customers and be positioned to best serve their communities.

Key features from the Act include:

- **Providing Qualified Mortgage Designation for most mortgages held by banks with less than $10 Billion in Assets**: The Act expands the designation of “qualified mortgages” for insured depository institutions and insured credit unions with less than $10 billion in assets, and amends the Truth in Lending Act (TILA) requirements for these institutions to waive the ability-to-repay requirements. This gives a greater number of borrowers access to qualified mortgages (based on the rules defined by the Consumer Financial Protection Bureau), which lowers their borrowing costs compared to a nonqualified loan. This is important for borrowers with sufficient assets and other sources of funds that may not have consistent year-to-year income to meet the qualified mortgage requirements, thus forcing them to acquire a higher-cost qualified mortgage. A loan that satisfies the revised qualified mortgage requirements would also comply with the ability-to-repay requirements of the Truth in Lending Act (TILA). To qualify, the loan cannot have an interest-only or negative amortization feature and must comply with prepayment penalty limitations under the TILA ability-to-repay requirements.

- **Raising the Threshold for Systematically Important Financial Institutions**: The Act raises the threshold for designating an institution as “systemically important” from $50 billion in total assets to $250 billion in total assets, thereby reducing the number of institutions subject to the enhanced standards for capital planning, liquidity and regulatory reporting requirements. The Act also decreases, from three to two, the number of scenarios that must be included in the Federal Reserve-conducted and company-conducted stress tests.

- **Ending Mandated Stress Tests for Financial Institutions Under $100 billion in Assets:** The Act ends stress testing requirements for all financial institutions under $100 billion in assets (previously $50 billion), internal stress tests for financial institutions under $250 billion in assets, and allows federal regulators to design tailored supervisory stress tests for financial institutions between $100 billion and $250 billion rather than a one-size fits all approach. These changes will result in significant compliance cost reductions for many large financial institutions;

- **Simplifying Capital Requirements for Qualifying Community Banks**: The Act simplifies the treatment of assets subject to Basel III capital framework requirements. Financial institutions that meet the definition of a Qualified Community Bank, which is any insured depository institution or depository institution holding company with total consolidated assets of less than $10 billion, would be exempt from existing risk-based capital ratio and leverage ratio requirements. Instead, these banks would be required to establish a Community Bank Leverage Ratio (the tangible equity capital as a percentage of the average total consolidated assets) of not less than 8% and not more than 10%. A Qualifying Community Bank that meets the new Community Bank Leverage Ratio would also be considered to have met generally applicable leverage capital requirements, thereby exempting it from having to comply with the complexities of the Basel III capital framework requirements;
- **Appraisal Exemptions for Loans in Rural Areas**: The Act provides relief from appraisal requirements for mortgages of properties in rural areas under $400,000 in estimated value where appraisers are scarce, allowing for a timely and cost-effective loan approval process. The loan must remain in the mortgage originator's loan portfolio. In addition, not later than three days after the Closing Disclosure is given to the consumer, the mortgage originator or its agent must have contacted at least three state-certified appraisers and documented that no such appraiser was available within five business days beyond customary and reasonable fee and timeliness standards for comparable appraisal assignments.
- **Instituting Longer Examination Cycles**: The Act raises the threshold for small institutions eligible for 18-month examinations from $1 billion to $3 billion of total consolidated assets, thereby providing smaller institutions more time and resources to support economic growth within their communities rather than constant focus on supporting regulator review requests. Previously, these institutions were on a 12-month onsite examination cycle.
- **HMDA Reporting Exemptions**: The Act exempts financial institutions from the expanded set of Home Mortgage Disclosure Act (HMDA) data reporting requirements for those institutions that originated 500 or fewer mortgages or Home Equity Lines of Credit combined in the preceding two calendar years and have not received a rating of "needs to improve record of meeting community credit needs" in each of its two most recent Community Reinvestment Act (CRA) examinations nor "substantial noncompliance in meeting community credit needs" on its most recent CRA examination. This exemption should greatly reduce the time and effort required by qualifying institutions to capture and report HMDA data.
- **Community Bank Relief on Volcker Rule Requirements**: The Act amends the Bank Holding Company Act of 1956 to exempt banks with assets valued at less than $10 billion from the "Volcker Rule," which prohibits banking agencies from engaging in proprietary trading or entering into certain relationships with hedge funds and private equity funds. These banks are also exempted from specified federal banking agencies' capital and leverage ratio requirements. A bank will be exempt as long as the trading assets and trading liabilities of the bank and any company that controls the bank are less than 5% of total consolidated assets.
- **Charters for Federal Thrifts**: The Act provides charter flexibility for federal thrifts with less than $20 billion in assets to operate with the same powers and duties as national banks without being required to convert charters, thereby allowing them to

offer commercial loans to qualified customers that they otherwise would be restricted from making based on existing rules restrictions.

- **Credit Reporting Freeze Alerts**: The Act amends the Fair Credit Reporting Act (FCRA) to require credit reporting agencies (e.g., Equifax, Experian and TransUnion) to increase consumer protections and improve the accuracy of credit reporting. Credit reporting agencies will be required to provide fraud alerts for consumer files for at least one year, provide consumers with one free credit-freeze alert and one free unfreeze alert per year, and permit a consumer to place or remove a freeze on the consumer's credit report at no cost.

This law, in summary, is intended to redefine systemically important financial institutions, reduce compliance requirements and associated costs on financial institutions and enable them to better serve their customers and communities without impairment to safety and soundness.

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