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Financial Regulation: The Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155)

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The Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155) was passed by the Senate on March 14, 2018. The bill generally aims to provide regulatory relief to banks, relax mortgage lending rules, relax capital formation regulations, and provide additional consumer protections related to credit reporting and other areas. This Insight briefly highlights major policy proposals. For a more detailed examination, see CRS Report R45073, *Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155) and Selected Policy Issues*, coordinated by David W. Perkins.

Some observers assert the financial crisis of 2007-2009 revealed excessive risk had built up in the financial system, and that weaknesses in regulation contributed to that buildup and the resultant instability. In response, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203; Dodd-Frank). In addition, regulators strengthened rules under existing authorities, such as by implementing regulations adhering to the Basel III Accords—the international agreement setting standards for bank regulation. Following this broad overhaul of financial regulation, some observers argue the changes are an overcorrection and certain regulations are unduly burdensome. In general, S. 2155 aims to address these concerns by providing regulatory relief to segments of the financial system.

Proponents of the bill assert it would provide targeted financial regulatory relief, foster economic growth, and provide increased consumer protections. Opponents of the bill argue it would needlessly pare back important Dodd-Frank protections to the benefit of large and profitable banks.

Many proposals in S. 2155 can be grouped into one of five categories: (1) regulatory changes for "community" banks, (2) regulatory changes for large banks, (3) amendments to mortgage lending regulations, (4) new consumer protections in credit reporting, and (5) regulatory changes in capital markets.

Small Banks

Certain bank regulations are tailored to banks of different sizes. Typically, banks falling below a set asset size threshold are exempt from a regulation or face a less burdensome version of it. Whether current regulation appropriately balances the benefits and costs of regulation for small banks is subject to debate. S. 2155 would create new exemptions from certain regulations, raise some existing thresholds, and provide regulatory relief to banks of all sizes.

For example, banks with less than $10 billion in assets would be exempt from the "Volcker Rule" (a ban on proprietary trading and the sponsorship of hedge funds and private equity funds). These banks would also be exempt from certain existing risk-based capital and leverage ratio requirements provided they meet a higher *community bank leverage ratio*. Banks with less than $5 billion would face reduced reporting requirements. The asset-size threshold at which banks become subject to less frequent examinations and at which bank holding companies become exempt from the same capital requirements as depository institutions would be raised from $1 billion to $3 billion. Other provisions provide relief to thrifts or credit unions.

Large Banks

In an effort to increase systemic stability, the Dodd-Frank Act subjected all banks with more than $50 billion in assets to *enhanced prudential regulation* (heightened safety and soundness standards compared with other banks). Some critics have argued the $50 billion threshold is set too low, subjecting banks that are not systemically important to unduly burdensome regulation.

Under S. 2155, the criteria used to determine which banks are subject to enhanced prudential regulation would be changed, releasing certain banks from the regime. Banks that had been designated as *globally systemically important banks* and banks with more than $250 billion in assets would still be automatically subjected to enhanced regulation. Banks with between $100 billion and $250 billion in assets would be subject to only supervisory stress tests, and the Federal Reserve would have discretion to apply other individual enhanced prudential provisions to these banks. Banks with assets between $50 billion and $100 billion would no longer be subject to enhanced regulation, except for the risk committee requirement. In addition, leverage requirements would be relaxed for large custody banks, and certain municipal bonds could be used by large banks to meet their liquidity requirements.

Mortgage Lending

During the crisis, mortgage delinquencies and foreclosures spread instability throughout the financial system. In response, a number of mortgage lending rules were introduced or strengthened by the Dodd-Frank Act and by existing regulatory authorities. In recent years, critics of some of these rules have argued that they are unduly burdensome, needlessly restricting the availability of mortgage credit. S. 2155 would relax or provide exemptions to some mortgage rules.

For example, certain mortgages originated and held by banks and credit unions with less than $10 billion in assets would be considered *qualified mortgages* for the purposes of the Ability-to-Repay Rule. In addition, depositories that originated few mortgages would be exempt from certain reporting requirements. Furthermore, certain mortgages under $400,000 would be exempt from certain appraisal requirements.

Credit Reporting

Inaccurate or incomplete credit reporting can affect consumers' access to financial products or employment opportunities and is a long-standing congressional policy issue. Congressional interest in consumer data protection and security measures has increased following a data breach at Equifax—a major credit reporting agency.

Under S. 2155, credit reporting agencies (CRAs) would face additional requirements designed to increase consumer protections and improve the accuracy of credit reporting. For example, CRAs would be required to provide fraud alerts for consumer files for at least one year under certain circumstances; provide consumers one free freeze alert and one free unfreeze alert per year; and provide further protections for minors. In addition, CRAs would provide additional consumer protections to veterans, service members, and students.

Capital Markets

Access to capital allows businesses to fund their growth, innovate, and create jobs. Capital formation also involves investor protection challenges, including ensuring that investors understand the risks of their investments. Policymakers frequently debate how well regulations appropriately balance between these two potentially conflicting objectives.

Under S. 2155, certain regulations related to capital formation would be relaxed. For example, more securities exchanges would be exempt from state securities regulation, and certain investment pools would be subject to fewer registration and disclosure requirements.