

**AMENDMENT TO H.R. 4871**  
**OFFERED BY MR. GARY G. MILLER OF**  
**CALIFORNIA AND MRS. MCCARTHY OF NEW YORK**

At the end of the bill, add the following new section:

1 **SEC. \_\_\_\_ . CLARIFICATION OF APPLICATION OF LEVERAGE**  
2 **AND RISK-BASED CAPITAL REQUIREMENTS.**

3 Section 171 of the Dodd-Frank Wall Street Reform  
4 and Consumer Protection Act (12 U.S.C. 5371) is amend-  
5 ed—

6 (1) in subsection (a), by adding at the end the  
7 following:

8 “(4) BUSINESS OF INSURANCE.—The term  
9 ‘business of insurance’ has the same meaning as in  
10 section 1002(3).

11 “(5) PERSON REGULATED BY A STATE INSUR-  
12 ANCE REGULATOR.—The term ‘person regulated by  
13 a State insurance regulator’ has the same meaning  
14 as in section 1002(22).

15 “(6) REGULATED FOREIGN SUBSIDIARY AND  
16 REGULATED FOREIGN AFFILIATE.—The terms ‘regu-  
17 lated foreign subsidiary’ and ‘regulated foreign affil-  
18 iate’ mean a person engaged in the business of in-  
19 surance in a foreign country that is regulated by a

1 foreign insurance regulatory authority that is a  
2 member of the International Association of Insur-  
3 ance Supervisors or other comparable foreign insur-  
4 ance regulatory authority as determined by the  
5 Board of Governors following consultation with the  
6 State insurance regulators, including the lead State  
7 insurance commissioner (or similar State official) of  
8 the insurance holding company system as deter-  
9 mined by the procedures within the Financial Anal-  
10 ysis Handbook adopted by the National Association  
11 of Insurance Commissioners, where the person, or  
12 its principal United States insurance affiliate, has  
13 its principal place of business or is domiciled, but  
14 only to the extent that—

15 “(A) such person acts in its capacity as a  
16 regulated insurance entity; and

17 “(B) the Board of Governors does not de-  
18 termine that the capital requirements in a spe-  
19 cific foreign jurisdiction are inadequate.

20 “(7) CAPACITY AS A REGULATED INSURANCE  
21 ENTITY.—The term ‘capacity as a regulated insur-  
22 ance entity’—

23 “(A) includes any action or activity under-  
24 taken by a person regulated by a State insur-  
25 ance regulator or a regulated foreign subsidiary

1 or regulated foreign affiliate of such person, as  
2 those actions relate to the provision of insur-  
3 ance, or other activities necessary to engage in  
4 the business of insurance; and

5 “(B) does not include any action or activ-  
6 ity, including any financial activity, that is not  
7 regulated by a State insurance regulator or a  
8 foreign agency or authority and subject to State  
9 insurance capital requirements or, in the case of  
10 a regulated foreign subsidiary or regulated for-  
11 eign affiliate, capital requirements imposed by a  
12 foreign insurance regulatory authority.”; and

13 (2) by adding at the end the following new sub-  
14 section:

15 “(c) CLARIFICATION.—

16 “(1) IN GENERAL.—In establishing the min-  
17 imum leverage capital requirements and minimum  
18 risk-based capital requirements on a consolidated  
19 basis for a depository institution holding company or  
20 a nonbank financial company supervised by the  
21 Board of Governors as required under paragraphs  
22 (1) and (2) of subsection (b), the appropriate Fed-  
23 eral banking agencies shall not be required to in-  
24 clude, for any purpose of this section (including in  
25 any determination of consolidation), a person regu-

1       lated by a State insurance regulator or a regulated  
2       foreign subsidiary or a regulated foreign affiliate of  
3       such person engaged in the business of insurance, to  
4       the extent that such person acts in its capacity as  
5       a regulated insurance entity.

6           “(2) RULE OF CONSTRUCTION ON BOARD’S AU-  
7       THORITY.—This subsection shall not be construed to  
8       prohibit, modify, limit, or otherwise supersede any  
9       other provision of Federal law that provides the  
10      Board of Governors authority to issue regulations  
11      and orders relating to capital requirements for de-  
12      pository institution holding companies or nonbank fi-  
13      nancial companies supervised by the Board of Gov-  
14      ernors.

15           “(3) RULE OF CONSTRUCTION ON ACCOUNTING  
16      PRINCIPLES.—

17           “(A) IN GENERAL.—A depository institu-  
18      tion holding company or nonbank financial com-  
19      pany supervised by the Board of Governors of  
20      the Federal Reserve that is also a person regu-  
21      lated by a State insurance regulator that is en-  
22      gaged in the business of insurance that files fi-  
23      nancial statements with a State insurance regu-  
24      lator or the National Association of Insurance  
25      Commissioners utilizing only Statutory Ac-

1           counting Principles in accordance with State  
2           law, shall not be required by the Board under  
3           the authority of this section or the authority of  
4           the Home Owners' Loan Act to prepare such fi-  
5           nancial statements in accordance with Generally  
6           Accepted Accounting Principles.

7           “(B) PRESERVATION OF AUTHORITY.—  
8           Nothing in subparagraph (A) shall limit the au-  
9           thority of the Board under any other applicable  
10          provision of law to conduct any regulatory or  
11          supervisory activity of a depository institution  
12          holding company or non-bank financial com-  
13          pany supervised by the Board of Governors, in-  
14          cluding the collection or reporting of any infor-  
15          mation on an entity or group-wide basis. Noth-  
16          ing in this paragraph shall excuse the Board  
17          from its obligations to comply with section  
18          161(a) of the Dodd-Frank Wall Street Reform  
19          and Consumer Protection Act (12 U.S.C.  
20          5361(a)) and section 10(b)(2) of the Home  
21          Owners' Loan Act (12 U.S.C. 1467a(b)(2)), as  
22          appropriate.”.

