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112TH CONGRESS
1ST SESSION

H. R. 2056

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 31, 2011

Mr. WESTMORELAND (for himself, Mr. DAVID SCOTT of Georgia, Mr. BROUN of Georgia, Mr. GARY G. MILLER of California, Mr. POSEY, Mr. MARCHANT, and Mr. MACK) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INSPECTOR GENERAL STUDY.

(a) STUDY.—The Inspector General of the Federal Deposit Insurance Corporation (FDIC) shall conduct a comprehensive study on the impact of the failure of insured depository institutions.

(b) DEFINITIONS.—For purposes of this Act—

(1) the term “insured depository institution” has the meaning given such term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(2) the term “private equity company” has the meaning given the terms “hedge fund” and “private equity fund” in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)); and

(3) the term “paper-loss” means any write down on an asset held by an insured depository institution that causes such institution to raise more capital in order to cover the write down.

(c) MATTERS TO BE STUDIED.—In conducting the study under this section, the Inspector General shall address the following:

(1) LOSS-SHARING AGREEMENTS.—The effect of loss-sharing agreements (LSAs), including—

(A) The impact of loss-sharing on the insured depository institutions that survive and the borrowers of insured depository institutions that fail, including—

(i) the impact on the rate of loan modifications and adjustments;

(ii) whether more types of loans (such as commercial, residential, or small business loans) could be modified with fewer LSAs, or if LSAs could be phased out altogether;

(iii) the impact on current borrowers seeking loan modification from an acquiring institution with an LSA;

(iv) the impact on the availability of credit; and

(v) the impact on loans with participation agreements outstanding with other insured depository institutions;

(B) The effect of FDIC policies and procedures regarding maturing LSAs, including—

(i) any impact LSAs may have on continuing weakness in the real estate market; and

(ii) the likelihood that banks will sell off assets to take advantage of LSAs before such agreements are no longer available; and

(C) Methods of ensuring the orderly end of expiring LSAs to prevent any adverse impact on borrowing, real estate industry and the Depositors Insurance Fund.

(2) PAPER LOSSES.—The significance of paper losses, including—

(A) the number of insured depository institutions that have been placed into receivership or conservatorship due to paper losses;

(B) the impact on paper losses of raising more capital;

(C) the effect of changes in the application of the fair value of real estate accounting rules and other accounting standards;

(D) whether field examiners are using proper appraisal procedures with respect to paper losses; and

(E) methods of stopping the vicious downward spiral of losses and write downs.

(3) WORKOUTS.—The success of FDIC field examiners in implementing FDIC guidelines titled ''Policy Statement on Prudent Commercial Real Estate Loan Workouts'' (October 31, 2009) regarding workouts of commercial real estate, including—

(A) whether field examiners are using the correct appraisals; and

(B) whether there is any difference in implementation between residential workouts and commercial workouts.

(4) ORDERS.—The application and impact of consent orders and cease and desist orders, including—

(A) whether such orders have been applied uniformly and fairly across all insured depository institutions;

(B) the reasons for failing to apply such orders uniformly and fairly when such failure occurs;

(C) the impact of such orders on the ability of insured depository institutions to raise capital;

(D) the impact of such orders on the ability of insured depository institutions to extend credit to existing and new borrowers;

(E) whether individual insured depository institutions have improved enough to have such orders removed; and

(F) the reasons for failure where insured depository institutions have not so improved.

(5) FDIC POLICY.—The application and impact of FDIC policies, including—

(A) the impact of FDIC policies on the private capitalization of insured depository institutions, especially in States where more than 10 such insitutions have failed since 2008;

(B) whether the FDIC fairly and consistently applies capital standards when an insured depository institution is successful in raising private capital; and

(C) whether the FDIC steers potential investors away from insured depository institutions that may be in danger of being placed in receivership or conservatorship.

(6) PRIVATE EQUITY COMPANIES.—The FDIC's handling of potential investment from private equity companies in insured depository institutions, including—

(A) the number of insured depository institutions that have been approved to receive private equity investment by the FDIC;

(B) the number of insured depository institutions that have been rejected from receiving private equity investment by the FDIC; and

(C) the reasons for rejection of private equity investment when such rejection occurs.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Inspector General shall submit to Congress a report—

(1) on the results of the study conducted pursuant to this section; and

(2) any recommendations based on such study.

SEC. 2. FUNDING.

The FDIC shall make available from the portion of the FDIC budget allocated to management expenses, sums allowing the FDIC Inspector General to complete this study.

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