

M E M O R A N D U M

To: Members, Subcommittee on Financial Institutions and Consumer Credit

From: Committee Majority Staff

Date: July 7, 2017

Subject: July 12, 2017, Financial Institutions and Consumer Credit Subcommittee Hearing entitled “Examining Legislative Proposals to Provide Targeted Regulatory Relief to Community Financial Institutions.”

The Subcommittee on Financial Institutions and Consumer Credit will hold a hearing entitled “Examining Legislative Proposals to Provide Targeted Regulatory Relief to Community Financial Institutions” on Wednesday, July 12, 2017, at 2:00 p.m. in room 2128 of the Rayburn House Office Building. This will be a one-panel hearing with the following witnesses:

- Robert Fisher, President & CEO, Tioga State Bank, on behalf of the Independent Community Bankers of America
- Rick Nichols, President & CEO, River Region Credit Union, on behalf of the Missouri Credit Union Association
- J.W. Verret, Senior Affiliated Scholar, Associate Professor, George Mason University School of Law

The hearing will examine the following legislative proposals.

H.R. 864 (Rep. Love), the “Stop Debt Collection Abuse Act of 2017”

Introduced by Representative Love, the Stop Debt Collection Abuse Act of 2017 amends the Fair Debt Collection Practices Act (FDCPA) to redefine “creditor,” “debt,” and “debt collector” to subject debt collectors, working on behalf of federal agencies, to the FDCPA. H.R. 864 would also classify debt buyers as debt collectors under the FDCPA and require that debt collectors, working on behalf of the federal government, cannot charge fees that are more than 10 percent of the amount collected from a consumer. H.R. 864 also requires the Government Accountability Office (GAO) to study debt collection practices at the federal, state and local levels.

H.R. 924 (Rep. Rothfus), the “Financial Institutions Due Process Act of 2017”

Introduced by Representative Rothfus, this bill amends the Federal Financial Institutions Examination Council Act of 1978 to establish a three-judge independent examination

review panel to mediate examination findings, compel timely completion of final examination reports, and compel timely completion of written determinations for permission, regulatory interpretation, or reporting guidance.

H.R. 1457 (Rep. Tipton), the “Making Online Banking Initiation Legal and Easy Act of 2017”

Introduced by Representative Tipton, this bill authorizes a financial institution, with an individual's consent, to record personal information from a swipe, copy, or image of such individual's driver's license or personal identification card and store the information electronically for the purpose of verifying the identity of a customer and preventing fraud or criminal activity.

H.R. 2133 (Rep. Luetkemeyer), the “Community Lending Enhancement and Regulatory Relief Act of 2017”

Introduced by Representative Luetkemeyer, H.R. 2133 contains fifteen sections to:

1. amend the Truth in Lending Act (TILA) to direct the Board of Governors of the Federal Reserve to exempt from certain escrow or impound requirements a loan secured by a first lien on a consumer's principal dwelling if the loan is held by a creditor with assets of \$50 billion or less. The Consumer Financial Protection Bureau must also provide either exemptions to or adjustments from the mortgage loan servicing and escrow account administration requirements of the Real Estate Settlement Procedures Act of 1974 for servicers of 30,000 or fewer mortgage loans;
2. amend TILA to exempt from property appraisal requirements a higher-risk mortgage loan of \$250,000 or less if it appears on the loan creditor's balance sheet for at least three years;
3. require the Federal Reserve to revise the Small Bank Holding Company Policy Statement on the Assessment of Financial and Managerial Factors to raise its consolidated asset threshold from \$1 billion to \$10 billion;
4. require the federal banking agencies are directed to repeal all Basel III capital requirements and National Credit Union Administration (NCUA) capital requirements for mortgage servicing assets. Before any final regulation is issued for capital requirements related to mortgage servicing assets, a federal banking agency is required to issue a new rule for public comment, and take into consideration the impact on access to mortgage credit and the mortgage servicing market;
5. amend the Consumer Financial Protection Act of 2010 to repeal the authority of the Consumer Financial Protection Bureau (CFPB) to take action to prevent a covered person or service provider from committing or engaging in an abusive act or practice under federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of one. The bill also prohibits the CFPB from taking any action against a covered person or service provider

without first consulting with such person's primary financial regulatory agency. The CFPB must comply with the same rules as govern the Federal Trade Commission (FTC) regarding unfair or deceptive acts or practices in or affecting commerce;

6. amend the Equal Credit Opportunity Act and the Fair Housing Act to require federal agencies to determine whether a financial institution intentionally discriminated as grounds for fair lending enforcement;
7. amend the Home Mortgage Disclosure Act of 1975 to from maintenance of mortgage loan records and disclosure requirements depository institutions that have originated—in each of the two preceding calendar years—fewer than 1,000 closed-end mortgage loans and fewer than 2,000 open-end mortgage loans;
8. amend the Equal Credit Opportunity Act to repeal requirements that financial institutions collect information from small businesses regarding their ownership;
9. prohibit a federal banking agency from formally or informally suggesting, requesting, or ordering a depository institution to terminate either a specific customer account, or group of customer accounts, or otherwise restrict or discourage it from entering into or maintaining a banking relationship with a specific customer or group of customers, unless: (1) the agency has a material reason to do so, and (2) the reason is not based solely on reputation risk;
10. amend the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to revise requirements for summoning witnesses and requiring production of books or other records the Attorney General deems relevant or material to a civil investigation in contemplation of a civil proceeding which may result in civil penalties for specified violations;
11. require the CFPB to issue regulations establishing a process to waive requirements that lenders ensure a borrower receives a Closing Disclosure no later than three business days before consummation of a loan;
12. amend the Consumer Financial Protection Act of 2010 to raise the examination threshold that brings an insured depository institution or insured credit union within its supervisory purview from assets of \$10 billion or more to assets of \$50 billion or more. The bill also increases from assets of \$10 billion or less to assets of \$50 billion or less the size of an insured depository institution or insured credit union that is subject to the Act's reporting requirements;
13. amend the Federal Deposit Insurance Act to change the definition of deposit broker, allowing for a limited exemption for reciprocal deposits held by and institution that: (1) was found, at its most recent examination, to have a composite condition of “good” or “outstanding;” or (2) does not hold reciprocal deposit exceeding the lesser of \$10 billion or 20 percent of total liabilities;

14. amend TILA to create a safe harbor from lawsuit for a depository institution that fails to comply with ability-to-repay requirements with respect to a residential mortgage loan made and held on its balance sheet; and
15. H.R. 2133 amends TILA to direct the Federal Housing Finance Agency (FHFA) to promulgate regulations defining qualified mortgage and the types of loans that are qualified mortgages. The FHFA is required to conduct a yearly review of its promulgated standards, and must publish and proposed changes in the Federal Register.

H.R. 2148, (Rep. Pittenger), the “Clarifying Commercial Real Estate Loans”

Introduced by Representative Pittenger, this bill amends the Federal Deposit Insurance Act to clarify capital requirements for certain acquisition, development, or construction loans.

H.R. 2396, (Rep. Trott), the “Privacy Notification Technical Correction Act”

Introduced by Representative Trott, this bill amends the Gramm-Leach-Bliley Act to exempt from its annual privacy policy notice requirement any financial institution which: (1) has not changed its policies and practices with regard to disclosing nonpublic personal information from those disclosed in the most recent disclosure sent to consumers, (2) makes its current policy available to consumers on its website and via request, (3) notifies customers of the availability on periodic billing statements or electronically, and (4) posts all notices if it maintains more than one policy.

H.R. ____, (Rep. Kustoff), the “Access to Affordable Mortgages Act of 2017”

To be introduced by Representative Kustoff, this bill amends the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the Truth in Lending Act to exempt from property appraisal requirements certain higher-risk mortgage loans of \$250,000 or less if such a loan appears on the balance sheet of the creditor of the loan for at least three years.

H.R. ____, (Rep. Hollingsworth), the “Ensuring Quality Unbiased Access to Loans Act of 2017”

To be introduced by Representative Hollingsworth, this bill would repeal the Office of the Comptroller of the Currency (OCC) “Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products” (78 Fed. Reg. 70624; November 26, 2013), and the Federal Deposit Insurance Corporation (FDIC) “Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products” (78 Fed. Reg. 70552; November 26, 2013). The bill would also require the OCC and FDIC to follow a transparent process when issuing any subsequent deposit guidance.

Members of the Subcommittee

July 7, 2017

Page 5

H.R. ____, (Rep. Tenney), to simplify the process for national banks to obtain deposit insurance, and for other purposes.

To be introduced by Representative Tenney, this bill amends the Federal Deposit Insurance Act to simplify the process for national banks and federal savings associations to obtain deposit insurance.