

114TH CONGRESS  
1ST SESSION

# H. R. 1408

To require certain Federal banking agencies to conduct a study of the appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2015

Mr. PERLMUTTER (for himself and Mr. LUETKEMEYER) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To require certain Federal banking agencies to conduct a study of the appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mortgage Servicing  
5 Asset Capital Requirements Act of 2015”.

1 **SEC. 2. COMMUNITY FINANCIAL INSTITUTION MORTGAGE**  
2 **SERVICING ASSET CAPITAL REQUIREMENTS**  
3 **STUDY.**

4 (a) DEFINITIONS.—For purposes of this section:

5 (1) BANKING INSTITUTION.—The term “bank-  
6 ing institution” means an insured depository institu-  
7 tion, Federal credit union, State credit union, bank  
8 holding company, or savings and loan holding com-  
9 pany.

10 (2) BASEL III CAPITAL REQUIREMENTS.—The  
11 term “Basel III capital requirements” means the  
12 Global Regulatory Framework for More Resilient  
13 Banks and Banking Systems issued by the Basel  
14 Committee on Banking Supervision on December 16,  
15 2010, as revised on June 1, 2011.

16 (3) FEDERAL BANKING AGENCIES.—The term  
17 “Federal banking agencies” means the Board of  
18 Governors of the Federal Reserve System, the Office  
19 of the Comptroller of the Currency, the Federal De-  
20 posit Insurance Corporation, and the National Cred-  
21 it Union Administration.

22 (4) MORTGAGE SERVICING ASSET.—The term  
23 “mortgage servicing asset” means those assets that  
24 result from contracts to service loans secured by real  
25 estate, where such loans are owned by third parties.

1           (5) NCUA CAPITAL REQUIREMENTS.—The  
2 term “NCUA capital requirements” means the pro-  
3 posed rule of the National Credit Union Administra-  
4 tion titled “Risk-Based Capital” (80 Fed. Reg.  
5 4340; January 27, 2015).

6           (6) NONSYSTEMIC BANKING INSTITUTION.—  
7 The term “nonsystemic banking institution” means  
8 any banking institution other than an institution  
9 identified by the Financial Stability Board as a  
10 “global systemically important bank”.

11           (7) OTHER DEFINITIONS.—

12           (A) BANKING DEFINITIONS.—The terms  
13 “bank holding company”, “insured depository  
14 institution”, and “savings and loan holding  
15 company” have the meanings given such terms,  
16 respectively, under section 3 of the Federal De-  
17 posit Insurance Act (12 U.S.C. 1813).

18           (B) CREDIT UNION DEFINITIONS.—The  
19 terms “Federal credit union” and “State credit  
20 union” have the meanings given such terms, re-  
21 spectively, under section 101 of the Federal  
22 Credit Union Act (12 U.S.C. 1752).

23           (b) STUDY OF THE APPROPRIATE CAPITAL FOR  
24 MORTGAGE SERVICING ASSETS.—

1           (1) IN GENERAL.—The Federal banking agen-  
2           cies shall, jointly, conduct a study of the appropriate  
3           capital requirements for mortgage servicing assets  
4           for nonsystemic banking institutions.

5           (2) ISSUES TO BE STUDIED.—The study re-  
6           quired by this subsection shall include, with a spe-  
7           cific focus on nonsystemic banking institutions—

8                   (A) the risk to banking institutions of  
9                   holding mortgage servicing assets;

10                   (B) the history of the market for mortgage  
11                   servicing assets, including particularly the mar-  
12                   ket for such assets in the period of the financial  
13                   crisis;

14                   (C) the ability of banking institutions to  
15                   establish a value for their mortgage servicing  
16                   assets through periodic sales or other means;

17                   (D) regulatory approaches to mortgage  
18                   servicing assets in addition to capital require-  
19                   ments that could be used to address concerns  
20                   about the value of and ability to sell mortgage  
21                   servicing assets;

22                   (E) the impact of imposing the Basel III  
23                   capital requirements and the NCUA capital re-  
24                   quirements on nonsystemic banking institutions  
25                   on their ability to compete in the mortgage

1 servicing business, including the need for econo-  
2 mies of scale to compete in that business, and  
3 on their ability to provide service to consumers  
4 to whom they have made a mortgage loan;

5 (F) an analysis of what the mortgage serv-  
6 icing marketplace would look like if the Basel  
7 III capital requirements and the NCUA capital  
8 requirements on mortgage servicing assets—

9 (i) were fully implemented; and

10 (ii) applied to both banking institu-  
11 tions and nondepository residential mort-  
12 gage loan servicers;

13 (G) the significance of problems with mort-  
14 gage servicing assets, if any, in banking institu-  
15 tion failures and problem banking institutions,  
16 including specifically identifying failed banking  
17 institutions where mortgage servicing assets  
18 contributed to the failure; and

19 (H) an analysis of the relevance of the  
20 Basel III capital requirements and the NCUA  
21 capital requirements on mortgage servicing as-  
22 sets to the banking systems of other significant  
23 developed countries.

24 (3) REPORT TO CONGRESS.—Not later than the  
25 end of the 6-month period beginning on the date of

1 the enactment of this Act, the Federal banking  
2 agencies shall issue a report to the Committee on  
3 Banking, Housing, and Urban Affairs of the Senate  
4 and the Committee on Financial Services of the  
5 House of Representatives containing—

6 (A) the results of the study required under  
7 paragraph (1); and

8 (B) any analysis on the specific issue of  
9 mortgage servicing assets undertaken by the  
10 Federal banking agencies prior to finalizing  
11 regulations implementing the Basel III capital  
12 requirements and the NCUA capital require-  
13 ments.

14 (c) DELAY OF RULEMAKING.—

15 (1) RULES ON MORTGAGE SERVICING ASSETS.—

16 Notwithstanding any other provision of law, no regu-  
17 lation to implement the Basel III capital require-  
18 ments or the NCUA capital requirements with re-  
19 spect to mortgage servicing assets for nonsystemic  
20 banking institutions shall take effect before the end  
21 of the 3-month period beginning on the date the re-  
22 port is issued under subsection (b)(3).

23 (2) FINAL RULE REQUIREMENTS.—Before any  
24 final rule is issued by a Federal banking agency with  
25 respect to capital requirements on mortgage serv-

1       icing assets for nonsystemic banking institutions, the  
2       Federal banking agency shall—

3               (A) if the related proposed rule was issued  
4               before the date on which the report is issued  
5               under subsection (b)(3), issue a new proposed  
6               rule for public comment; and

7               (B) consider regulatory approaches to  
8               mortgage servicing assets that could address  
9               concerns about the value of and ability to sell  
10              mortgage servicing assets.

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