

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4296

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2018

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

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## AN ACT

To place requirements on operational risk capital requirements for banking organizations established by an appropriate Federal banking agency.

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

1 **SECTION 1. OPERATIONAL RISK CAPITAL REQUIREMENTS**  
2 **FOR BANKING ORGANIZATIONS.**

3 (a) IN GENERAL.—An appropriate Federal banking  
4 agency may not establish an operational risk capital re-  
5 quirement for banking organizations, unless such require-  
6 ment—

7 (1) is based primarily on the risks posed by a  
8 banking organization’s current activities and busi-  
9 nesses;

10 (2) is appropriately sensitive to the risks posed  
11 by such current activities and businesses;

12 (3) is determined under a forward-looking as-  
13 sessment of potential losses that may arise out of a  
14 banking organization’s current activities, businesses,  
15 and exposures, which is not solely based on a bank-  
16 ing organization’s historical losses; and

17 (4) permits adjustments based on qualifying  
18 operational risk mitigants.

19 (b) DEFINITIONS.—For purposes of this section:

20 (1) APPROPRIATE FEDERAL BANKING AGEN-  
21 CY.—The term “appropriate Federal banking agen-  
22 cy”—

23 (A) has the meaning given such term  
24 under section 3 of the Federal Deposit Insur-  
25 ance Act; and

1 (B) means the National Credit Union Ad-  
2 ministration, in the case of an insured credit  
3 union.

4 (2) BANKING ORGANIZATION.—The term  
5 “banking organization” means—

6 (A) an insured depository institution (as  
7 defined under section 3 of the Federal Deposit  
8 Insurance Act);

9 (B) an insured credit union (as defined  
10 under section 101 of the Federal Credit Union  
11 Act);

12 (C) a depository institution holding com-  
13 pany (as defined under section 3 of the Federal  
14 Deposit Insurance Act);

15 (D) a company that is treated as a bank  
16 holding company for purposes of section 8 of  
17 the International Banking Act; and

18 (E) a U.S. intermediate holding company  
19 established by a foreign banking organization  
20 pursuant to section 252.153 of title 12, Code of  
21 Federal Regulations.

22 **SEC. 2. REDUCTION OF SURPLUS FUNDS OF FEDERAL RE-**  
23 **SERVE BANKS.**

24 (a) IN GENERAL.—Section 7(a)(3)(A) of the Federal  
25 Reserve Act (12 U.S.C. 289(a)(3)(A)) is amended by

1 striking “\$7,500,000,000” and inserting  
2 “\$7,468,571,428”.

3 (b) EFFECTIVE DATE.—Subsection (a) shall take ef-  
4 fect on May 1, 2018.

Passed the House of Representatives February 27,  
2018.

Attest:

KAREN L. HAAS,  
*Clerk.*