H. R. 41

To provide regulatory relief for Black and community banks, to codify the Minority Bank Deposit Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. RUSH introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To provide regulatory relief for Black and community banks, to codify the Minority Bank Deposit Program, 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 “Reenergized Economic
5 Sustainability for Community and Urban Entities Act for
6 Black and Community Banks” or the “RESCUE Act for
7 Black and Community Banks”.
SEC. 2. REGULATION OF BLACK AND COMMUNITY BANKS.

(a) Office of Black and Community Banks.—

(1) Establishment.—There is established within the Office of the Comptroller of the Currency an office to be known as the “Office of Black and Community Banks”.

(2) Supervision and Examination of Black Banks and Community Banks.—The Comptroller of the Currency, acting through the Office of Black and Community Banks, shall supervise and examine Black banks and community banks.

(3) Regulatory Relief.—

(A) In general.—The Comptroller shall issue regulations to partially or completely exempt Black banks and community banks from Federal banking statutes and regulations, to the extent the Comptroller determines it appropriate without endangering the safety and soundness of such banks.

(B) Treatment of Manual Underwriting.—For purposes of risk-based capital requirements for Black banks and community banks, the Comptroller shall issue regulations to assign a lower level of risk to loans that are issued by such banks using manual under-
writing, in recognition of the individualized scrutiny provided by manual underwriting.

(C) ENCOURAGING SMALL-DOLLAR LENDING.—The Comptroller shall issue regulations to encourage affordable small-dollar lending by Black banks and community banks by providing regulatory flexibility with respect to such lending.

(b) REGULATORY RELIEF UNDER THE SECURITIES LAWS.—

(1) INVESTMENT PRODUCTS.—With respect to investment products sold by a Black bank or a community bank (or an affiliate of such bank) to individuals in the community in which such bank is located, the Securities and Exchange Commission shall issue regulations to partially or completely exempt the bank from the securities laws and regulations issued under the securities laws, to the extent the Commission determines it appropriate without endangering the protection of investors.

(2) SECURITIES.—

(A) IN GENERAL.—The Securities and Exchange Commission shall issue regulations to reduce the regulatory burden applicable to Black banks and community banks—
(i) under the amendments made by the Jumpstart Our Business Startups Act;
(ii) issuing mortgage-backed securities; and
(iii) issuing securities backed by loans guaranteed by the Small Business Act.

(B) CROWDFUNDING EXEMPTION.—Section 4A of the Securities Act of 1933 (15 U.S.C. 77d–1) shall not apply to Black banks or community banks.

(c) CONFORMING CHANGE TO DEFINITION OF APPROPRIATE FEDERAL BANKING AGENCY.—Section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(1)) is amended—

(1) in subparagraph (B), by striking “and” at the end;
(2) in subparagraph (C), by adding “and” at the end; and
(3) by adding at the end the following:

“(D) notwithstanding paragraphs (2) and (3), any Black bank or community bank (as such terms are defined under section 5 of the RESCUE Act for Black and Community Banks);”. 

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SEC. 3. CODIFICATION OF THE MINORITY BANK DEPOSIT PROGRAM.

(a) IN GENERAL.—

(1) IN GENERAL.—Section 1204 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

“SEC. 1204. EXPANSION OF USE OF MINORITY BANKS, WOMEN’S BANKS, AND LOW-INCOME CREDIT UNIONS.

“(a) MINORITY BANK DEPOSIT PROGRAM.—

“(1) ESTABLISHMENT.—There is established a program to be known as the ‘Minority Bank Deposit Program’ to expand the use of minority banks, women’s banks, and low-income credit unions.

“(2) ADMINISTRATION.—The Secretary of the Treasury, acting through the Fiscal Service, shall—

“(A) on application by a depository institution or credit union, certify whether such depository institution or credit union is a minority bank, women’s bank, or low-income credit union;

“(B) maintain and publish a list of all depository institutions and credit unions that have been certified pursuant to subparagraph (A);
“(C) periodically distribute the list described in subparagraph (B) to—

“(i) all Federal departments and agencies;

“(ii) interested State and local governments; and

“(iii) interested private sector companies; and

“(D) support the creation of ratings, on-line Black bank resources, and database products, including online lending and investment facilities.

“(3) INCLUSION OF CERTAIN ENTITIES ON LIST.—A depository institution or credit union that, on the date of the enactment of this section, has a current certification from the Secretary of the Treasury stating that such depository institution or credit union is a minority bank, women’s bank, or low-income credit union shall be included on the list described under paragraph (2)(B).

“(b) EXPANDED USE AMONG FEDERAL DEPARTMENTS AND AGENCIES.—

“(1) IN GENERAL.—Not later than 1 year after the establishment of the program described in subsection (a), the head of each Federal department or
agency shall develop and implement standards and procedures to ensure, to the maximum extent possible as permitted by law, the use of minority banks, women’s banks, and low-income credit unions to serve the financial needs of each such department or agency.

“(2) Minimum Requirement.—Notwithstanding paragraph (1), the head of each Federal department or agency shall ensure that at least 10 percent of the financial needs of each such department or agency are met by the use of minority banks, women’s banks, and low-income credit unions.

“(3) Report to Congress.—Not later than 2 years after the establishment of the program described in subsection (a), and annually thereafter, the head of each Federal department or agency shall submit to Congress a report on the actions taken to increase the use of minority banks, women’s banks, and low-income credit unions to serve the financial needs of each such department or agency.

“(c) Definitions.—For purposes of this section:

“(1) Credit Union.—The term ‘credit union’ has the meaning given the term ‘insured credit

“(2) DEPOSITORY INSTITUTION.—The term ‘depository institution’ has the meaning given the term ‘insured depository institution’ in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

“(3) LOW-INCOME CREDIT UNION.—The term ‘low-income credit union’ means any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act.

“(4) MINORITY.—The term ‘minority’ means any Black American, Native American, Hispanic American, or Asian American.

“(5) MINORITY BANK.—The term ‘minority bank’ means any bank described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act for which—

“(A) more than 50 percent of the outstanding shares of which are held by 1 or more minority individuals;

“(B) the majority of the directors on the board of directors of which are minority individuals; and
“(C) a significant percentage of senior management positions of which are held by minority individuals.

“(6) WOMEN’S BANK.—The term ‘women’s bank’ means any bank described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act for which—

“(A) more than 50 percent of the outstanding shares of which are held by 1 or more women;

“(B) the majority of the directors on the board of directors of which are women; and

“(C) a significant percentage of senior management positions of which are held by women.”.

(2) CONFORMING AMENDMENTS.—The following provisions are amended by striking “1204(c)(3)” and inserting “1204(c)”:

(A) Section 808(b)(3) of the Community Reinvestment Act of 1977 (12 U.S.C. 2907(b)(3)).

(B) Section 40(g)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(g)(1)(B)).
(C) Section 704B(h)(4) of the Equal Credit Opportunity Act (15 U.S.C. 1691e–2(h)(4)).

(b) Amendments to the Community Reinvestment Act.—Section 804(b) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(b)) is amended to read as follows:

“(b) Cooperation With Minority Banks, Women’s Banks, and Low-Income Credit Unions Considered.—

“(1) In general.—In assessing and taking into account, under subsection (a), the record of a financial institution, the appropriate Federal financial supervisory agency shall consider as a factor capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority banks, women’s banks, community development financial institutions, and low-income credit unions provided that these activities help meet the credit needs of local communities in which such institutions and credit unions are chartered.

“(2) Definitions.—

“(A) FIRREA definitions.—The terms ‘low-income credit union’, ‘minority bank’, and ‘women’s bank’ have the meanings given such terms, respectively, in section 1204(c) of the Fi-
nancial Institutions Reform, Recovery, and En-

“(B) COMMUNITY DEVELOPMENT FINAN-
CIAL INSTITUTION.—The term ‘community de-
velopment financial institution’ has the meaning
given in section 103(5) of the Riegle Commu-
nity Development and Regulatory Improvement

(e) CONSIDERATIONS WHEN ASSESSING FINANCIAL
INCLUSION FOR FEDERALLY CHARTERED FINANCIAL IN-
STITUTIONS.—

(1) IN GENERAL.—In assessing and taking into
account the record of a federally chartered financial
institution under any financial inclusion assessment
process created by the Comptroller of the Currency
in any rule relating to the chartering of a financial
institution, the Comptroller shall consider as a fac-
tor capital investment, loan participation, and other
ventures undertaken by the bank in cooperation with
Black banks, women’s banks, community develop-
ment financial institutions, and low-income credit
unions, provided that these activities help meet the
financial needs of local communities in which the
federally chartered financial institution provides fi-
nancial products or services.
(2) Definitions.—For purposes of this section:

(A) Community development financial institution.—The term “community development financial institution” has the meaning given in section 103(5) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702(5)).

(B) Financial inclusion assessment process.—The term “financial inclusion assessment process” means any process relating to the chartering of a financial institution whereby the Comptroller of the Currency assesses and takes into account the financial institution’s record of meeting the financial needs of the bank’s entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such bank.

(C) Financial product or service.—The term “financial product or service” has the meaning given such term in section 1002 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5481).

(D) FIRREA definitions.—The terms “low-income credit union” and “women’s bank”
have the meanings given such terms, respec-
tively, in section 1204(e) of the Financial Insti-
tutions Reform, Recovery, and Enforcement Act

SEC. 4. GAO STUDIES.

(a) NEW MARKETS TAX CREDIT STUDY.—The
Comptroller General of the United States shall carry out
a study on the award of the new markets tax credit by—

(1) surveying communities and specifically talk-
ing to Black banks, community banks, and CDFIs
that wish to receive the tax credit about why they
are not receiving the tax credit;

(2) determining where the tax credit money ac-
tually went and what it was used for; and

(3) to the extent possible, using a case study
approach.

(b) LOWER-VALUE HOME MORTGAGE LOAN
STUDY.—The Comptroller General of the United States
shall carry out a study on mortgage loans with a principal
amount of $100,000 or less, including—

(1) who is making such loans currently;

(2) how communities are encouraging such
loans;

(3) what changes could encourage banks and
other persons to provide more such loans; and
(4) any statutory or regulatory changes that the Comptroller believes may be needed to encourage more such loans.

(c) BLOCKCHAIN STUDY.—The Comptroller General of the United States shall carry out a study on blockchain technology and whether such technology could be used to increase investment by lower-income individuals in start-ups and other crowd-funded companies.

SEC. 5. DEFINITIONS.

For purposes of this Act:

(1) BLACK BANK.—The term “Black bank” means an insured depository institution—

(A) more than 50 percent of the ownership or control of which is held by 1 or more Black individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more Black individuals.

(2) CDFI.—The term “CDFI” has the meaning given the term “community development financial institution” under section 103 of the Community Development Banking and Financial Institutions Act of 1994.
(3) Community Bank.—The term “community bank” means an insured depository institution with less than $100,000,000 in consolidated assets.

(4) Comptroller.—The term “Comptroller” means the Comptroller of the Currency, except when used in the context of the Comptroller General of the United States.

(5) Insured Credit Union.—The term “insured credit union” has the meaning given such term under section 101 of the Federal Credit Union Act.

(6) Insured Depository Institution.—The term “insured depository institution”—

(A) has the meaning given such term under section 3 of the Federal Deposit Insurance Act; and

(B) includes an insured credit union.