

116TH CONGRESS
1ST SESSION

H. R. 5318

To amend certain banking laws to establish requirements for bank mergers,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2019

Mr. GARCÍA of Illinois (for himself, Ms. SCHAKOWSKY, Ms. TLAIB, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend certain banking laws to establish requirements
for bank mergers, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Bank Merger Review Modernization Act of 2019”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Compliance with Federal consumer financial laws.
- Sec. 3. Cost-benefit analysis for merger transactions.
- Sec. 4. Community Reinvestment Act performance.
- Sec. 5. Financial stability considerations for merger transactions.
- Sec. 6. Financial criteria for certain merger transactions.

Sec. 7. Managerial criteria for certain merger transactions.

Sec. 8. Competitive effects.

Sec. 9. Transparency in merger review.

Sec. 10. Financial stability exception.

Sec. 11. Citizen standing.

1 **SEC. 2. COMPLIANCE WITH FEDERAL CONSUMER FINAN-**
 2 **CIAL LAWS.**

3 (a) APPLICATION FOR MERGERS OR ACQUISI-
 4 TIONS.—

5 (1) IN GENERAL.—Not later than 180 days
 6 after the date of the enactment of this Act, the Di-
 7 rector of the Bureau of Consumer Financial Protec-
 8 tion shall establish procedures for a covered appli-
 9 cant to submit an application to directly or indirectly
 10 merge with, or directly or indirectly acquire, a per-
 11 son that offers or provides consumer financial prod-
 12 ucts or services (as defined in section 1002 of the
 13 Consumer Financial Protection Act of 2010 (12
 14 U.S.C. 5481(14))).

15 (2) PUBLIC COMMENT.—The Director shall
 16 allow a period of at least 30 days for public com-
 17 ment on applications submitted under paragraph
 18 (1).

19 (b) PROHIBITION.—It shall be unlawful for a covered
 20 applicant to directly or indirectly merge with, or directly
 21 or indirectly acquire, a person that offers or provides con-
 22 sumer financial products or services (as defined in section
 23 1002 of the Consumer Financial Protection Act of 2010

1 (12 U.S.C. 5481(14))) without the prior written approval
2 of the Director.

3 (c) CONSIDERATIONS.—In considering an application
4 under subsection (a), the Director shall—

5 (1) consider the records of the covered appli-
6 cant and the person with respect to compliance with
7 the Federal consumer financial laws; and

8 (2) deny such application if the resulting insti-
9 tution would not have adequate systems in place to
10 ensure compliance with the Federal consumer finan-
11 cial laws.

12 (d) COVERED APPLICANT DEFINED.—In this section,
13 the term “covered applicant” means an insured depository
14 institution (as defined in section 3 of the Federal Deposit
15 Insurance Act (12 U.S.C. 1813)) or a depository institu-
16 tion holding company (as defined in such section) with
17 more than \$10,000,000,000 in total assets.

18 **SEC. 3. COST-BENEFIT ANALYSIS FOR MERGER TRANS-**
19 **ACTIONS.**

20 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
21 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
22 1828(c)) is amended by adding at the end the following
23 new paragraph:

24 “(14) ANALYSIS OF COSTS AND BENEFITS.—

1 “(A) IN GENERAL.—The responsible agen-
2 cy shall not approve any proposed merger
3 transaction under this subsection unless the re-
4 sponsible agency determines that the public
5 benefits of the merger transaction outweigh the
6 expected costs.

7 “(B) EVALUATION.—In evaluating the ex-
8 pected costs of the proposed merger transaction
9 under subparagraph (A), the responsible agency
10 shall consider—

11 “(i) the probable effect of the pro-
12 posed merger transaction on the cost and
13 availability of financial products and serv-
14 ices;

15 “(ii) the probable effect of branch clo-
16 sures on customers of each bank or savings
17 association involved in the proposed merger
18 transaction;

19 “(iii) the probable effect of the pro-
20 posed merger transaction on relevant local
21 economies, including employment losses re-
22 lating to branch closures and impacts on
23 job quality; and

24 “(iv) any other cost of the proposed
25 merger transaction that the responsible

1 agency considers pursuant to this sub-
2 section.”.

3 (b) BANK HOLDING COMPANIES.—

4 (1) PROPOSED ACQUISITIONS, MERGERS, OR
5 CONSOLIDATIONS.—Section 3(e) of the Bank Hold-
6 ing Company Act of 1956 (12 U.S.C. 1842(e)) is
7 amended by adding at the end the following new
8 paragraph:

9 “(8) ANALYSIS OF COSTS AND BENEFITS.—

10 “(A) IN GENERAL.—The Board may not
11 approve an application under this section unless
12 the Board determines that the public benefits of
13 the proposed transaction outweigh the expected
14 costs.

15 “(B) EVALUATION.—In evaluating the ex-
16 pected costs of the proposed transaction under
17 subparagraph (A), the Board shall consider—

18 “(i) the probable effect of the pro-
19 posed transaction on the cost and avail-
20 ability of financial products and services;

21 “(ii) the probable effect of branch clo-
22 sures on customers of each company in-
23 volved in the proposed transaction;

24 “(iii) the probable effect of the pro-
25 posed transaction on relevant local econo-

1 mies, including employment losses relating
2 to branch closures and impacts on job
3 quality; and

4 “(iv) any other cost of the proposed
5 transaction that the Board considers pur-
6 suant to this subsection.”.

7 (2) OTHER TRANSACTIONS OR ACTIVITIES.—

8 Section 4(j)(2) of the Bank Holding Company Act
9 of 1956 (12 U.S.C. 1843(j)(2)) is amended by add-
10 ing at the end the following new subparagraph:

11 “(D) ANALYSIS OF COSTS AND BENE-
12 FITS.—

13 “(i) IN GENERAL.—The Board shall
14 deny a notice filed pursuant to this sub-
15 section unless the Board determines that
16 the public benefits of the proposed trans-
17 action or activity described in the notice
18 outweigh the expected costs.

19 “(ii) EVALUATION.—In evaluating the
20 expected costs of the proposed transaction
21 under subparagraph (A), the Board shall
22 consider—

23 “(I) the probable effect of the
24 proposed transaction or activity on

1 the cost and availability of financial
2 products and services;

3 “(II) the probable effect of
4 branch closures on customers of each
5 company involved in the proposed
6 transaction or activity;

7 “(III) the probable effect of the
8 proposed transaction or activity on
9 relevant local economies, including
10 employment losses relating to branch
11 closures and impacts on job quality;
12 and

13 “(IV) any other cost of the pro-
14 posed transaction or activity that the
15 Board considers pursuant to this
16 paragraph.”.

17 **SEC. 4. COMMUNITY REINVESTMENT ACT PERFORMANCE.**

18 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
19 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
20 1828(c)), as amended by section 3, is further amended
21 by adding at the end the following new paragraphs:

22 “(15) COMMUNITY REINVESTMENT ACT PER-
23 FORMANCE.—The responsible agency shall not ap-
24 prove a proposed merger transaction under this sec-
25 tion if the largest insured depository institution that

1 is party to such transaction, based on a comparison
2 of the average total risk-weighted assets controlled
3 by each insured depository institution that is party
4 to such transaction during the previous 12-month
5 period, has received a rating lower than ‘outstanding
6 record of meeting community credit needs’ on—

7 “(A) two out of the three most recent writ-
8 ten evaluations required under section 807 of
9 the Community Reinvestment Act of 1977 (12
10 U.S.C. 2906); or

11 “(B) if three such evaluations are not
12 available, the most recent written evaluation re-
13 quired under such section.

14 “(16) COMMUNITY BENEFITS PLAN.—

15 “(A) IN GENERAL.—In reviewing any ap-
16 plication filed under this paragraph, the respon-
17 sible agency shall require—

18 “(i) submission to the appropriate
19 Federal financial supervisory agency of a
20 community benefits plan;

21 “(ii) that the insured depository insti-
22 tution consult with community-based orga-
23 nizations and other community stake-
24 holders in developing the community bene-
25 fits plan; and

1 “(iii) a public hearing to be held if
2 any insured depository institution involved
3 in the transaction has received a ‘substan-
4 tial noncompliance in meeting community
5 credit needs’ or ‘needs to improve record of
6 meeting community credit needs’ rating in
7 any assessment area during the last exam-
8 ination of such institution conducted pur-
9 suant to the Community Reinvestment Act
10 of 1977.

11 “(B) DEFINITION.—For purposes of this
12 paragraph, ‘community benefits plan’ means a
13 plan that provides measurable goals for future
14 amounts of safe and sound loans, investments,
15 services, and other financial products for low-
16 and moderate-income communities and other
17 distressed or underserved communities.”.

18 (b) BANK HOLDING COMPANIES.—

19 (1) PROPOSED ACQUISITIONS, MERGERS, OR
20 CONSOLIDATIONS.—Section 3(e) of the Bank Hold-
21 ing Company Act of 1956 (12 U.S.C. 1842(e)), as
22 amended by section 3, is further amended by adding
23 at the end the following new paragraphs:

24 “(9) COMMUNITY REINVESTMENT ACT PER-
25 FORMANCE.—The Board shall deny an application

1 under this section if either the lead insured deposi-
2 tory institution of the applicant or the insured de-
3 pository institution that would be the lead insured
4 depository institution of the resulting company fol-
5 lowing consummation of the proposed transaction
6 has received a rating lower than ‘outstanding record
7 of meeting community credit needs’ on—

8 “(A) two out of the three most recent writ-
9 ten evaluations required under section 807 of
10 the Community Reinvestment Act of 1977 (12
11 U.S.C. 2906); or

12 “(B) if three such evaluations are not
13 available, the most recent written evaluation re-
14 quired under such section.

15 “(10) COMMUNITY BENEFITS PLAN.—

16 “(A) IN GENERAL.—In reviewing any ap-
17 plication filed under this paragraph, the Board
18 shall require—

19 “(i) submission to the appropriate
20 Federal financial supervisory agency of a
21 community benefits plan;

22 “(ii) that the company consult with
23 community-based organizations and other
24 community stakeholders in developing the
25 community benefits plan; and

1 “(iii) a public hearing to be held if
2 any bank that would be controlled by the
3 resulting company has received a ‘substan-
4 tial noncompliance in meeting community
5 credit needs’ or ‘needs to improve record of
6 meeting community credit needs’ rating in
7 any assessment area during the last exam-
8 ination of such institution conducted pur-
9 suant to the Community Reinvestment Act
10 of 1977.

11 “(B) DEFINITION.—For purposes of this
12 paragraph, ‘community benefits plan’ means a
13 plan that provides measurable goals for future
14 amounts of safe and sound loans, investments,
15 services, and other financial products for low-
16 and moderate-income communities and other
17 distressed or underserved communities.”.

18 (2) OTHER TRANSACTIONS OR ACTIVITIES.—
19 Section 4(j)(2) of the Bank Holding Company Act
20 of 1956 (12 U.S.C. 1843(j)(2)), as amended by sec-
21 tion 3, is further amended by adding at the end the
22 following new subparagraphs:

23 “(E) COMMUNITY REINVESTMENT ACT
24 PERFORMANCE.—The Board shall deny a notice
25 filed pursuant to this subsection if the lead in-

1 sured depository institution of the applicant or
2 the insured depository institution that would be
3 the lead insured depository institution of the re-
4 sulting company following consummation of the
5 proposed transaction or activity has received a
6 rating lower than ‘outstanding record of meet-
7 ing community credit needs’ on—

8 “(i) two out of the three most recent
9 written evaluations required under section
10 807 of the Community Reinvestment Act
11 of 1977 (12 U.S.C. 2906); or

12 “(ii) if three such evaluations are not
13 available, the most recent written evalua-
14 tion required under such section.

15 “(F) COMMUNITY BENEFITS PLAN.—

16 “(i) IN GENERAL.—In reviewing any
17 notice filed under this paragraph, the
18 Board shall require—

19 “(I) submission to the appro-
20 priate Federal financial supervisory
21 agency of a community benefits plan;

22 “(II) that the company consult
23 with community-based organizations
24 and other community stakeholders in

1 developing the community benefits
2 plan; and

3 “(III) a public hearing to be held
4 if any bank that would be controlled
5 by the resulting company has received
6 a ‘substantial noncompliance in meet-
7 ing community credit needs’ or ‘needs
8 to improve record of meeting commu-
9 nity credit needs’ rating in any assess-
10 ment area during the last examination
11 of such institution conducted pursuant
12 to the Community Reinvestment Act
13 of 1977.

14 “(ii) DEFINITION.—For purposes of
15 this paragraph, ‘community benefits plan’
16 means a plan that provides measurable
17 goals for future amounts of safe and sound
18 loans, investments, services, and other fi-
19 nancial products for low- and moderate-in-
20 come communities and other distressed or
21 underserved communities.”.

22 (c) COMMUNITY REINVESTMENT ACT AMEND-
23 MENT.—Section 804 of the Community Reinvestment Act
24 of 1977 (12 U.S.C. 2903) is amended by adding at the
25 end the following new subsection:

1 “(e) COMMUNITY BENEFITS PLAN.—In assessing
2 and taking into account, under subsection (a), the record
3 of a financial institution, the appropriate Federal financial
4 supervisory agency shall consider as a factor the financial
5 institution’s record of compliance with any community
6 benefits plan pursuant to section 3(c)(10) or 4(j)(2)(F)
7 of the Bank Holding Company Act of 1956 or section
8 18(c)(16) of the Federal Deposit Insurance Act, as appli-
9 cable.”.

10 (d) FAIR LENDING ASSESSMENT.—Section 807(b)(1)
11 of the Community Reinvestment Act of 1977 (12 U.S.C.
12 2906(b)(1)) is amended—

13 (1) in subparagraph (A)—

14 (A) in clause (ii), by striking “and” at the
15 end;

16 (B) by redesignating clause (iii) as clause
17 (iv); and

18 (C) by inserting after clause (ii) the fol-
19 lowing new clause:

20 “(iii) contain statistical analyses of the in-
21 stitution’s fair lending performance using data
22 reported under the Home Mortgage Disclosure
23 Act; and”; and

1 (2) in subparagraph (B), by striking “clauses
2 (i) and (ii)” and inserting “clauses (i), (ii), and
3 (iii)”.

4 **SEC. 5. FINANCIAL STABILITY CONSIDERATIONS FOR**
5 **MERGER TRANSACTIONS.**

6 (a) **INSURED DEPOSITORY INSTITUTIONS.**—Section
7 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
8 1828(c)), as amended by section 4, is further amended—

9 (1) in paragraph (5)—

10 (A) in subparagraph (A), by striking “or”
11 at the end;

12 (B) in subparagraph (B), by striking the
13 period at the end and inserting “, or”; and

14 (C) by inserting after subparagraph (B)
15 the following new subparagraph:

16 “(C) any proposed merger transaction for which
17 the resulting insured depository institution would re-
18 ceive a score greater than 25 on the assessment de-
19 scribed in paragraph (17)(B).”; and

20 (2) by adding at the end the following new
21 paragraph:

22 “(17) **FINANCIAL STABILITY.**—In considering
23 the risk to the stability of the United States banking
24 or financial system under paragraph (5), the respon-
25 sible agency shall—

1 “(A) take into account—

2 “(i) the insured depository institutions
3 or bank holding companies that might ac-
4 quire the applicant insured depository in-
5 stitution if the resulting insured depository
6 institution were to fail after consummation
7 of the proposed merger; and

8 “(ii) whether such an acquisition
9 would result in greater or more con-
10 centrated risks to the stability of the
11 United States banking or financial system;
12 and

13 “(B) use the assessment methodology de-
14 veloped by the Basel Committee on Banking
15 Supervision for assessing global systemically
16 important banks.”.

17 (b) BANK HOLDING COMPANIES.—

18 (1) PROPOSED ACQUISITIONS, MERGERS, OR
19 CONSOLIDATIONS.—Section 3(c)(7) of the Bank
20 Holding Company Act of 1956 (12 U.S.C.
21 1842(c)(7)), as amended by section 4, is further
22 amended—

23 (A) by striking “In every case,” and in-
24 serting the following:

25 “(A) IN GENERAL.—In every case,”; and

1 (B) by adding at the end the following new
2 subparagraphs:

3 “(B) CONSIDERATIONS.—The Board shall
4 not approve an application under this section
5 for which the resulting company would receive
6 a score greater than 25 on the assessment de-
7 scribed in subparagraph (C)(ii).

8 “(C) FINANCIAL STABILITY.—In consid-
9 ering the risk to the stability of the United
10 States banking or financial system, the Board
11 shall—

12 “(i) take into account—

13 “(I) the insured depository insti-
14 tutions or bank holding companies
15 that might acquire the resulting com-
16 pany if it were to fail after con-
17 summation of the proposed trans-
18 action; and

19 “(II) whether such an acquisition
20 would result in greater or more con-
21 centrated risks to the stability of the
22 United States banking or financial
23 system; and

24 “(ii) use the assessment methodology
25 developed by the Basel Committee on

1 Banking Supervision for assessing global
2 systemically important banks.”.

3 (2) PROPOSED TRANSACTIONS OR ACTIVITIES.—Section 4(j)(2) of the Bank Holding Com-
4 pany Act of 1956 (12 U.S.C. 1843(j)(2)), as amend-
5 ed by section 4, is further amended by adding at the
6 end the following new subparagraphs:
7

8 “(G) CONSIDERATIONS.—The Board shall
9 deny a notice filed pursuant to this subsection
10 if the resulting company would receive a score
11 greater than 25 on the assessment described in
12 subparagraph (H)(ii).

13 “(H) ASSESSMENT OF FINANCIAL STA-
14 BILITY.—In considering the risk to the stability
15 of the United States banking or financial sys-
16 tem, the Board shall—

17 “(i) take into account—

18 “(I) the insured depository insti-
19 tutions or bank holding companies
20 that might acquire the applicant bank
21 holding company if the resulting com-
22 pany were to fail after consummation
23 of the proposed proposal; and

24 “(II) whether such an acquisition
25 would result in greater or more con-

1 centrated risks to the stability of the
2 United States banking or financial
3 system; and

4 “(ii) use the assessment methodology
5 developed by the Basel Committee on
6 Banking Supervision for assessing global
7 systemically important banks.”.

8 **SEC. 6. FINANCIAL CRITERIA FOR CERTAIN MERGER**
9 **TRANSACTIONS.**

10 (a) STRESS TESTS.—

11 (1) PROPOSED ACQUISITIONS, MERGERS, OR
12 CONSOLIDATIONS.—Section 3(c) of the Bank Hold-
13 ing Company Act of 1956 (12 U.S.C. 1842(c)), as
14 amended by section 5, is further amended by adding
15 at the end the following new paragraphs:

16 “(11) STRESS TESTS.—

17 “(A) IN GENERAL.—If a resulting com-
18 pany will have total consolidated assets greater
19 than or equal to \$100,000,000,000, the Board
20 shall evaluate the pro forma balance sheet of
21 the resulting company to assess whether such
22 resulting company would have the capital, on a
23 total consolidated basis, necessary to absorb
24 losses as a result of adverse economic condi-
25 tions.

1 “(B) CONSIDERATIONS.—The Board shall
2 not approve an application under this section
3 unless the resulting company would remain at
4 least adequately capitalized in severely adverse
5 economic conditions under the evaluation de-
6 scribed in subparagraph (A).”.

7 (2) PROPOSED TRANSACTIONS OR ACTIVI-
8 TIES.—Section 4(j)(2) of the Bank Holding Com-
9 pany Act of 1956 (12 U.S.C. 1843(j)(2)), as amend-
10 ed by section 5, is further amended by adding at the
11 end the following new subparagraph:

12 “(I) STRESS TESTS.—

13 “(i) IN GENERAL.—If a resulting
14 company will have total consolidated assets
15 greater than or equal to
16 \$100,000,000,000, the Board shall evalu-
17 ate the pro forma balance sheet of the re-
18 sulting company to determine whether
19 such resulting company would have the
20 capital, on a total consolidated basis, nec-
21 essary to absorb losses as a result of ad-
22 verse economic conditions.

23 “(ii) CONSIDERATIONS.—The Board
24 shall deny a notice submitted pursuant to
25 this subsection if the resulting company

1 would not remain at least adequately cap-
2 italized in severely adverse economic condi-
3 tions under the evaluation described in
4 clause (i).”.

5 (b) WELL CAPITALIZED THRESHOLDS.—

6 (1) DEFINITION OF WELL CAPITALIZED FOR
7 INTERSTATE BANK MERGERS.—Section 44(g) of the
8 Federal Deposit Insurance Act (12 U.S.C.
9 1831u(g)) is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(12) WELL CAPITALIZED.—The term ‘well
12 capitalized’ means, with respect to an insured depos-
13 itory institution with total consolidated assets of
14 \$10,000,000,000 or more, that such institution ex-
15 ceeds the required minimum level for each relevant
16 capital measure to be considered adequately capital-
17 ized (as determined under section 38) by at least 50
18 percent of such minimum.”.

19 (2) BANK HOLDING COMPANIES.—Section
20 2(o)(B)(ii) of the Bank Holding Company Act of
21 1956 (12 U.S.C. 1841(o)(B)(ii)) is amended to read
22 as follows:

23 “(ii) WELL CAPITALIZED.—A bank
24 holding company is ‘well capitalized’ if—

1 “(I) with respect to a company
2 that has total consolidated assets of
3 \$10,000,000,000 or more, it exceeds
4 the required minimum level for each
5 relevant capital measure (as deter-
6 mined by the Board) by at least 50
7 percent of such minimum; and

8 “(II) with respect to a company
9 that has total consolidated assets of
10 less than \$10,000,000,000, it meets
11 the required capital levels for well
12 capitalized bank holding companies
13 established by the Board.”.

14 **SEC. 7. MANAGERIAL CRITERIA FOR CERTAIN MERGER**
15 **TRANSACTIONS.**

16 (a) **INSURED DEPOSITORY INSTITUTIONS.**—Section
17 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
18 1828(c)), as amended by section 5, is further amended
19 by adding at the end the following new paragraph:

20 “(18) **COVERED TRANSACTIONS.**—

21 “(A) **DEFINITION.**—In this paragraph, the
22 term ‘covered transaction’ means a merger
23 transaction in which the resulting company
24 would have more than \$100,000,000,000 in
25 total assets.

1 “(B) APPLICATION.—An application for
2 approval of a covered transaction shall include
3 the name of each individual who will serve on
4 the board of directors or serve as a senior execu-
5 tive officer of the resulting company.

6 “(C) WRITTEN EVALUATION.—The respon-
7 sible agency shall make a written evaluation of
8 the competence, experience, character, and in-
9 tegrity of each individual described in subpara-
10 graph (B).

11 “(D) BEST INTERESTS.—The responsible
12 agency shall not approve a covered transaction
13 if the responsible agency determines that the
14 competence, experience, character, or integrity
15 of any individual described in subparagraph (B)
16 indicates that it would not be in the best inter-
17 ests of the depositors of the depository institu-
18 tion or in the best interests of the public to per-
19 mit the individual to be employed by, or associ-
20 ated with, the resulting company.

21 “(E) PUBLICLY AVAILABLE.—The respon-
22 sible agency shall make any written evaluation
23 described in subparagraph (C) publicly available
24 after the date on which the responsible agency
25 approves or denies a covered transaction.”.

1 (b) BANK HOLDING COMPANIES.—

2 (1) ACQUISITION OF BANK SHARES OR AS-
3 SETS.—Section 3(c) of the Bank Holding Company
4 Act of 1956 (12 U.S.C. 1842(c)), as amended by
5 section 6, is further amended by adding at the end
6 the following new paragraph:

7 “(12) COVERED TRANSACTIONS.—

8 “(A) DEFINITION.—In this paragraph, the
9 term ‘covered transaction’ means a merger
10 transaction in which the resulting company
11 would have more than \$100,000,000,000 in
12 total assets.

13 “(B) LISTING OF MEMBERS OF THE
14 BOARD OF DIRECTORS AND SENIOR EXECUTIVE
15 OFFICERS.—

16 “(i) IN GENERAL.—An application for
17 approval of a covered transaction shall in-
18 clude the name of each individual who will
19 serve on the board of directors or serve as
20 a senior executive officer of the resulting
21 company.

22 “(ii) WRITTEN EVALUATION.—The
23 Board shall make a written evaluation of
24 the competence, experience, character, and

1 integrity of each individual described in
2 clause (i).

3 “(iii) BEST INTERESTS.—The Board
4 shall not approve a covered transaction if
5 the Board determines that the competence,
6 experience, character, or integrity of any
7 individual described in clause (i) indicates
8 that it would not be in the best interests
9 of the shareholders of the bank holding
10 company or in the best interests of the
11 public to permit the individual to be em-
12 ployed by, or associated with, the resulting
13 company.

14 “(iv) PUBLICLY AVAILABLE.—The
15 Board shall make any written evaluation
16 described in clause (ii) publicly available
17 after the date on which the Board ap-
18 proves or denies a covered transaction.”.

19 (2) INTERESTS IN NONBANKING ORGANIZA-
20 TIONS.—Section 4(j)(2) of the Bank Holding Com-
21 pany Act of 1956 (12 U.S.C. 1843(j)(2)) as amend-
22 ed by section 6, is further amended by adding at the
23 end the following new subparagraph:

24 “(J) COVERED TRANSACTIONS.—

1 “(i) DEFINITION.—In this paragraph,
2 the term ‘covered transaction’ means a
3 merger transaction in which the resulting
4 company would have more than
5 \$100,000,000,000 in total assets.

6 “(ii) LISTING OF MEMBERS OF THE
7 BOARD OF DIRECTORS AND SENIOR EXEC-
8 UTIVE OFFICERS.—

9 “(I) IN GENERAL.—An applica-
10 tion for approval of a covered trans-
11 action shall include the name of each
12 individual who will serve on the board
13 of directors or serve as a senior execu-
14 tive officer of the resulting company.

15 “(II) WRITTEN EVALUATION.—
16 The Board shall make a written eval-
17 uation of the competence, experience,
18 character, and integrity of each indi-
19 vidual described in subclause (I).

20 “(III) BEST INTERESTS.—The
21 Board shall not approve a covered
22 transaction if the Board determines
23 that the competence, experience, char-
24 acter, or integrity of any individual
25 described in subclause (I) indicates

1 that it would not be in the best inter-
2 ests of the shareholders of the bank
3 holding company or in the best inter-
4 ests of the public to permit the indi-
5 vidual to be employed by, or associ-
6 ated with, the resulting company.

7 “(IV) PUBLICLY AVAILABLE.—
8 The Board shall make any written
9 evaluation described in subclause (II)
10 publicly available after the date on
11 which the Board approves or denies a
12 covered transaction.”.

13 **SEC. 8. COMPETITIVE EFFECTS.**

14 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
15 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
16 1828(c)), as amended by section 7, is further amended
17 by adding at the end the following new paragraph:

18 “(19) COMPETITIVE EFFECTS.—

19 “(A) PRODUCT MARKETS.—In every case,
20 the responsible agency shall consider the com-
21 petitive effects of the proposed transaction on
22 the market for—

23 “(i) commercial deposits;

24 “(ii) loans to small businesses, using
25 data reported under the Community Rein-

1 vestment Act of 1977 for loans to small
2 businesses with less than \$1,000,000 in
3 gross annual revenue, and any other data
4 the responsible agency deems appropriate
5 to collect for this purpose;

6 “(iii) home mortgage loans, using
7 data reported under the Home Mortgage
8 Disclosure Act of 1975 for first-lien mort-
9 gage loans for single family homes, and
10 any other data the responsible agency
11 deems appropriate to collect for this pur-
12 pose; and

13 “(iv) any other financial product that
14 comprises a substantial portion of the ac-
15 tivities of each bank or savings association
16 involved in the proposed merger trans-
17 action, as determined by the responsible
18 agency.

19 “(B) GEOGRAPHIC MARKETS.—The re-
20 sponsible agency shall consider the competitive
21 effects of the proposed transaction on the prod-
22 uct markets identified in subparagraph (A) with
23 respect to each of the following geographic mar-
24 kets as defined by the United States Census
25 Bureau:

1 “(i) Each State in which the resulting
2 company would operate.

3 “(ii) Each core-based statistical area
4 in which the resulting company would op-
5 erate.

6 “(iii) Each county in which the result-
7 ing company would operate.

8 “(iv) Any other geographic area the
9 responsible agency deems appropriate.”.

10 (b) BANK HOLDING COMPANIES.—

11 (1) PROPOSED ACQUISITIONS, MERGERS, OR
12 CONSOLIDATIONS.—Section 3(c) of the Bank Hold-
13 ing Company Act of 1956 (12 U.S.C. 1842(c)), as
14 amended by section 7, is further amended by adding
15 at the end the following new paragraph:

16 “(13) COMPETITIVE EFFECTS.—

17 “(A) PRODUCT MARKETS.—In every case,
18 the Board shall consider the competitive effects
19 of the proposed transaction on the market for—

20 “(i) commercial deposits;

21 “(ii) loans to small businesses, using
22 data reported under the Community Rein-
23 vestment Act of 1977 for loans to small
24 businesses with less than \$1,000,000 in
25 gross annual revenue, and any other data

1 the Board deems appropriate to collect for
2 this purpose;

3 “(iii) home mortgage loans, using
4 data reported under the Home Mortgage
5 Disclosure Act of 1975 for first-lien mort-
6 gage loans for single family homes, and
7 any other data the Board deems appro-
8 priate to collect for this purpose; and

9 “(iv) any other financial product that
10 comprises a substantial portion of the ac-
11 tivities of each company involved in the
12 proposed merger transaction, as deter-
13 mined by the Board.

14 “(B) GEOGRAPHIC MARKETS.—The Board
15 shall consider the competitive effects of the pro-
16 posed transaction on the product markets iden-
17 tified in subparagraph (A) with respect to each
18 of the following geographic markets:

19 “(i) Each State in which the resulting
20 company would operate.

21 “(ii) Each core-based statistical area
22 in which the resulting company would op-
23 erate.

24 “(iii) Each county in which the result-
25 ing company would operate.

1 “(iv) Any other geographic area the
2 Board deems appropriate.”.

3 (2) PROPOSED TRANSACTIONS OR ACTIVI-
4 TIES.—Section 4(j)(2) of the Bank Holding Com-
5 pany Act of 1956 (12 U.S.C. 1843(j)(2)) as amend-
6 ed by section 7, is further amended by adding at the
7 end the following new subparagraph:

8 “(K) COMPETITIVE EFFECTS.—

9 “(i) PRODUCT MARKETS.—In every
10 case, the Board shall consider the competi-
11 tive effects of the proposed transaction on
12 the market for—

13 “(I) commercial deposits;

14 “(II) loans to small businesses,
15 using data reported under the Com-
16 munity Reinvestment Act of 1977 for
17 loans to small businesses with less
18 than \$1,000,000 in gross annual rev-
19 enue, and any other data the Board
20 deems appropriate to collect for this
21 purpose;

22 “(III) home mortgage loans,
23 using data reported under the Home
24 Mortgage Disclosure Act of 1975 for
25 first-lien mortgage loans for single

1 family homes, and any other data the
2 Board deems appropriate to collect for
3 this purpose; and

4 “(IV) any other financial product
5 that comprises a substantial portion
6 of the activities of each company in-
7 volved in the proposed merger trans-
8 action, as determined by the Board.

9 “(ii) GEOGRAPHIC MARKETS.—The
10 Board shall consider the competitive ef-
11 fects of the proposed transaction on the
12 product markets identified in clause (i)
13 with respect to each of the following geo-
14 graphic markets:

15 “(I) Each State in which the re-
16 sulting company would operate.

17 “(II) Each core-based statistical
18 area in which the resulting company
19 would operate.

20 “(III) Each county in which the
21 resulting company would operate.

22 “(IV) Any other geographic area
23 the Board deems appropriate.”.

1 **SEC. 9. TRANSPARENCY IN MERGER REVIEW.**

2 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
3 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
4 1828(c)), as amended by section 8, is further amended
5 by adding at the end the following new paragraph:

6 “(20) TRANSPARENCY.—

7 “(A) IN GENERAL.—In any application
8 under this section—

9 “(i) an insured depository institution
10 shall—

11 “(I) disclose whether any persons
12 employed by, representing, or acting
13 on behalf of the depository institution
14 have had verbal or written commu-
15 nications with the responsible agency,
16 a Federal reserve bank, or any other
17 Federal regulatory agency regarding
18 the proposed merger transaction; and

19 “(II) identify the dates and the
20 names of individuals involved in, and
21 the content of, all communications in
22 described in subclause (I); and

23 “(ii) the chief executive officer and
24 chief legal officer of an insured depository
25 institution shall certify that no persons em-
26 ployed by, representing, or acting on behalf

1 of the depository institution asked for or
2 received assurances from the responsible
3 agency, a Federal reserve bank, or any
4 other Federal regulatory agency that the
5 proposed merger transaction would be ap-
6 proved of that there would be no barriers
7 to such approval.

8 “(B) UPDATES.—An insured depository in-
9 stitution shall update the disclosure and certifi-
10 cation described in subparagraph (A) as needed
11 within 2 business days of any communication
12 that occurs before the responsible agency makes
13 a final decision on a proposed merger trans-
14 action.

15 “(C) PUBLICATION.—The responsible
16 agency shall publish on the website of such
17 agency the disclosure, certification, and any up-
18 dates required under this paragraph within 1
19 business day of receipt.”.

20 (b) BANK HOLDING COMPANIES.—

21 (1) PROPOSED ACQUISITIONS, MERGERS, OR
22 CONSOLIDATIONS.—Section 3(e) of the Bank Hold-
23 ing Company Act of 1956 (12 U.S.C. 1842(c)), as
24 amended by section 8, is further amended by adding
25 at the end the following new paragraph:

1 “(14) TRANSPARENCY.—

2 “(A) IN GENERAL.—In any application
3 under this section—

4 “(i) a bank holding company shall—

5 “(I) disclose whether any persons
6 employed by, representing, or acting
7 on behalf of the bank holding com-
8 pany have had verbal or written com-
9 munications with the Board, a Fed-
10 eral reserve bank, or any other Fed-
11 eral regulatory agency regarding the
12 proposal; and

13 “(II) identify the dates and the
14 names of individuals involved in, and
15 the content of, all communications in
16 described in subclause (I); and

17 “(ii) the chief executive officer and
18 chief legal officer of a bank holding com-
19 pany shall certify that no persons em-
20 ployed by, representing, or acting on behalf
21 of the bank holding company asked for or
22 received assurances from the Board, a
23 Federal reserve bank, or any other Federal
24 regulatory agency that the proposal would

1 be approved of and that there would be no
2 barriers to such approval.

3 “(B) UPDATES.—A bank holding company
4 shall update the disclosure and certification de-
5 scribed in subparagraph (A) as needed within 2
6 business days of any communication that occurs
7 before the Board makes a final decision on a
8 proposal.

9 “(C) PUBLICATION.—The Board shall pub-
10 lish on the website of the Board the disclosure,
11 certification, and any updates required under
12 this paragraph within 1 business day of re-
13 ceipt.”.

14 (2) PROPOSED TRANSACTIONS OR ACTIVI-
15 TIES.—Section 4(j) of the Bank Holding Company
16 Act of 1956 (12 U.S.C. 1843(j)) as amended by sec-
17 tion 8, is further amended is amended by adding at
18 the end the following new paragraph:

19 “(8) TRANSPARENCY.—

20 “(A) IN GENERAL.—In any notice under
21 this section—

22 “(i) a bank holding company shall—

23 “(I) disclose whether any persons
24 employed by, representing, or acting
25 on behalf of the bank holding com-

1 pany have had verbal or written com-
2 munications with the Board, a Fed-
3 eral reserve bank, or any other Fed-
4 eral regulatory agency regarding the
5 proposal; and

6 “(II) identify the dates and the
7 names of individuals involved in, and
8 the content of, all communications in
9 described in subclause (I); and

10 “(ii) the chief executive officer and
11 chief legal officer of a bank holding com-
12 pany shall certify that no persons em-
13 ployed by, representing, or acting on behalf
14 of the bank holding company asked for or
15 received assurances from the Board, a
16 Federal reserve bank, or any other Federal
17 regulatory agency that the proposal would
18 be approved of and that there would be no
19 barriers to such approval.

20 “(B) UPDATES.—A bank holding company
21 shall update the disclosure and certification de-
22 scribed in subparagraph (A) as needed within 2
23 business days of any communication that occurs
24 before the Board makes a final decision on a
25 proposal.

1 “(C) PUBLICATION.—The Board shall pub-
2 lish on the website of the Board the disclosure,
3 certification, and any updates required under
4 this paragraph within 1 business day of re-
5 ceipt.”.

6 **SEC. 10. FINANCIAL STABILITY EXCEPTION.**

7 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
8 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
9 1828(c)), as amended by section 9, is further amended
10 by adding at the end the following new paragraph:

11 “(21) FSOC DETERMINATION.—Notwith-
12 standing paragraphs (5)(c), (14), (15), (16), (17),
13 and (18) of this subsection, if the Financial Stability
14 Oversight Council determines by a $\frac{2}{3}$ vote that a
15 proposed merger transaction under this subsection is
16 necessary to preserve the stability of the United
17 States banking or financial system, the responsible
18 agency may approve such transaction.”.

19 (b) BANK HOLDING COMPANIES.—

20 (1) PROPOSED ACQUISITIONS, MERGERS, OR
21 CONSOLIDATIONS.—Section 3(c) of the Bank Hold-
22 ing Company Act of 1956 (12 U.S.C. 1842(c)), as
23 amended by section 9, is further amended by adding
24 at the end the following new paragraph:

1 “(15) FSOC DETERMINATION.—Notwith-
2 standing paragraphs (7)(B), (8), (9), (10), (11), and
3 (12) of this subsection, if the Financial Stability
4 Oversight Council determines by a $\frac{2}{3}$ vote that a
5 proposed acquisition, merger, or consolidation under
6 this subsection is necessary to preserve the stability
7 of the United States banking or financial system,
8 the Board may approve such acquisition, merger, or
9 consolidation.”.

10 (2) PROPOSED TRANSACTIONS OR ACTIVI-
11 TIES.—Section 4(j)(2) of the Bank Holding Com-
12 pany Act of 1956 (12 U.S.C. 1843(j)(2)), as amend-
13 ed by section 8, is amended by adding at the end the
14 following new subparagraph:

15 “(L) FSOC DETERMINATION.—Notwith-
16 standing paragraphs (2)(D), (2)(E), (2)(F),
17 (2)(G), (2)(I), and (2)(J) of this subsection, if
18 the Financial Stability Oversight Council deter-
19 mines by a $\frac{2}{3}$ vote that a proposed transaction
20 or activity under this subsection is necessary to
21 preserve the stability of the United States
22 banking or financial system, the Board may ap-
23 prove such transaction or activity.”.

1 **SEC. 11. CITIZEN STANDING.**

2 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
3 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
4 1828(c)), as amended by section 10, is further amended
5 by adding at the end the following new paragraph:

6 “(22) CITIZEN STANDING.—

7 “(A) IN GENERAL.—Not later than 10
8 days after the approval of a merger transaction
9 by the responsible agency under this subsection
10 or the denial of a request for reconsideration of
11 an application for a merger transaction, an in-
12 dividual may file a civil action in the appro-
13 priate United States district court to review
14 such approval, regardless of whether the indi-
15 vidual submitted a comment or otherwise par-
16 ticipated in the application process for approval
17 of the merger transaction.

18 “(B) CONSIDERATION.—In any such ac-
19 tion, the court shall review de novo the issues
20 presented, consider the matter on an expedited
21 basis, and issue a decision within 30 days.

22 “(C) COSTS.—An individual who files a
23 civil action under this paragraph may not be re-
24 quired to pay the costs of the responsible agen-
25 cy or any party to the merger transaction that
26 is the subject of the civil action.

1 “(D) EFFECT ON MERGER TRANS-
2 ACTION.—The proposed merger transaction
3 that is the subject of a civil action under this
4 paragraph may not be consummated until the
5 court issues a final decision in such action.”.

6 (b) BANK HOLDING COMPANIES.—

7 (1) PROPOSED ACQUISITIONS, MERGERS, OR
8 CONSOLIDATIONS.—Section 3(e) of the Bank Hold-
9 ing Company Act of 1956 (12 U.S.C. 1842(e)), as
10 amended by section 10, is further amended by add-
11 ing at the end the following new paragraph:

12 “(16) CITIZEN STANDING.—

13 “(A) IN GENERAL.—Not later than 10
14 days after the approval of an application under
15 this section by the Board, or the denial of a re-
16 quest for reconsideration of such an application
17 by the Board, an individual may file a civil ac-
18 tion in the appropriate United States district
19 court to review such approval, regardless of
20 whether the individual submitted a comment or
21 otherwise participated in the application proc-
22 ess.

23 “(B) CONSIDERATION.—In any such ac-
24 tion, the court shall review de novo the issues

1 presented, consider the matter on an expedited
2 basis, and issue a decision within 30 days.

3 “(C) COSTS.—An individual who files a
4 civil action under this paragraph may not be re-
5 quired to pay the costs of the Board or any
6 party to the application that is the subject of
7 the civil action.

8 “(D) EFFECT ON APPLICATION.—The pro-
9 posed acquisition, merger, or consolidation that
10 is the subject of a civil action under this para-
11 graph may not be consummated until the court
12 issues a final decision in such action.”.

13 (2) OTHER TRANSACTIONS OR ACTIVITIES.—
14 Section 4(j)(2) of the Bank Holding Company Act
15 of 1956 (12 U.S.C. 1843(j)(2)), as amended by sec-
16 tion 10, is further amended by adding at the end the
17 following new subparagraph:

18 “(M) CITIZEN STANDING.—

19 “(i) IN GENERAL.—Not later than 10
20 days after the approval of a notice under
21 this subsection by the Board, or the denial
22 of a request for reconsideration of such no-
23 tice by the Board, an individual may file a
24 civil action in the appropriate United
25 States district court to review such ap-

1 proval, regardless of whether the individual
2 submitted a comment or otherwise partici-
3 pated in the notice process.

4 “(ii) CONSIDERATION.—In any such
5 action, the court shall review de novo the
6 issues presented, consider the matter on an
7 expedited basis, and issue a decision within
8 30 days.

9 “(iii) COSTS.—An individual who files
10 a civil action under this subparagraph may
11 not be required to pay the costs of the
12 Board or any party to the notice that is
13 the subject of the civil action.

14 “(iv) EFFECT ON NOTICE.—The pro-
15 posed transaction or activity that is the
16 subject of a civil action under this sub-
17 paragraph may not be commenced or con-
18 summated until the court issues a final de-
19 cision in such action.”.

○