

116TH CONGRESS
2D SESSION

S. 3962

To amend the Federal Deposit Insurance Act to remove restrictions on brokered deposits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 15, 2020

Mr. MORAN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Federal Deposit Insurance Act to remove restrictions on brokered deposits, 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 “Asset Growth Restric-
5 tion Act of 2020”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) restrictions on the acceptance of brokered
9 deposits were enacted in 1989 in order to prevent

1 the abuse of the deposit insurance system by trou-
 2 bled depository institutions;

3 (2) since the enactment of the restrictions de-
 4 scribed in paragraph (1), technological and demo-
 5 graphic developments have changed the way in which
 6 depository institutions seek and source deposits, and,
 7 as a result, many deposits that are classified as bro-
 8 kered pose little, if any, risk to the deposit insurance
 9 system; and

10 (3) in today's economy, the greatest risk to the
 11 deposit insurance system is asset growth by deposi-
 12 tory institutions that are less than well capitalized.

13 (b) PURPOSE.—The purpose of this Act is to remove
 14 the current restrictions on brokered deposits and to au-
 15 thorize the Federal Deposit Insurance Corporation to
 16 issue regulations that restrict asset growth by depository
 17 institutions that are less than well capitalized.

18 **SEC. 3. ASSET GROWTH RESTRICTION.**

19 (a) ASSET GROWTH RESTRICTION.—Section 29 of
 20 the Federal Deposit Insurance Act (12 U.S.C. 1831f) is
 21 amended—

22 (1) in the section heading, by striking “**BRO-**
 23 **KERED DEPOSITS**” and inserting “**ASSET**
 24 **GROWTH RESTRICTIONS**”; and

1 (2) by striking subsections (a) through (i), and
2 inserting the following:

3 “(a) DEFINITIONS.—In this section, the terms ‘aver-
4 age’, ‘critically undercapitalized’, and ‘well capitalized’
5 have the meanings given the terms in section 38(b).

6 “(b) REGULATIONS REQUIRED.—Not later than 18
7 months after enactment of the Asset Growth Restriction
8 Act of 2020, the Corporation, in consultation with the
9 Board of Governors of the Federal Reserve System and
10 the Comptroller of the Currency, shall promulgate regula-
11 tions imposing a restriction on average total asset growth
12 for insured depository institutions that are less than well
13 capitalized to maintain safety and soundness and minimize
14 risk to the Deposit Insurance Fund.

15 “(c) MAXIMUM LEVEL OF GROWTH.—As part of the
16 regulations described in subsection (b), the Corporation
17 shall—

18 “(1) establish a framework to impose one or
19 more maximum levels of growth in average total as-
20 sets that an insured depository institution that is
21 less than well capitalized may not exceed, and pro-
22 vide appropriate adjustments for growth resulting
23 from corporate restructuring such as acquisitions or
24 mergers; and

1 “(2) establish a waiver process to enable the
 2 Corporation to waive the maximum level established
 3 in paragraph (1) upon application by an insured de-
 4 pository institution that is not critically under-
 5 capitalized, based on conditions set by the Corpora-
 6 tion.

7 “(d) EXEMPTIONS AND ADDITIONAL RESTRIC-
 8 TIONS.—As part of the regulations described in subsection
 9 (b), the Corporation may—

10 “(1) exempt specified classes of assets from the
 11 asset growth restriction if the Corporation, in its
 12 discretion, determines that growth in such assets
 13 does not present risks to the safety and soundness
 14 of an insured depository institution; and

15 “(2) impose additional restrictions on insured
 16 depository institutions to prevent circumvention or
 17 evasion of this section by an insured depository in-
 18 stitution resulting from actions taken by the insured
 19 depository institution by, or through, its affiliates.

20 “(e) ORDERS.—The Corporation may, by order—

21 “(1) establish a less restrictive level of growth
 22 restriction for a particular insured depository insti-
 23 tution that is less than well capitalized, or a group
 24 of insured depository institutions that are less than
 25 well capitalized, if the Corporation finds that such a

1 level will not pose an undue risk to the Deposit In-
2 surance Fund; and

3 “(2) establish a more restrictive level of growth
4 restriction for a particular insured depository insti-
5 tution that is less than well capitalized, or a group
6 of insured depository institutions that are less than
7 well capitalized, if the Corporation finds that such a
8 level is necessary to protect the Deposit Insurance
9 Fund.

10 “(f) CONFORMING REGULATIONS.—The Corporation
11 shall revise its existing regulations to ensure that they con-
12 form to this section.”.

13 (b) RULE OF CONSTRUCTION.—An insured deposi-
14 tory institution that is in compliance with the regulations
15 or orders issued pursuant to section 29 of the Federal De-
16 posit Insurance Act (12 U.S.C. 1831f), as amended by
17 subsection (a) of this section, shall be deemed to be in
18 compliance with the asset growth standard established
19 pursuant to section 39 of that Act (12 U.S.C. 1831p–1).

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