



Legislative Bulletin.....July 8, 2013

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H.R. 1341 — Financial Competitive Act of 2013 (Fincher, R-TN)

Order of Business: [H.R. 1341](#) is [scheduled](#) to be considered on Monday, July 8, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: [H.R. 1341](#) requires the Financial Stability Oversight Council (FSOC)¹ to conduct a study of the consequences of implementing different derivatives² credit valuation adjustment (“CVA”) capital requirements in the United States and foreign jurisdictions under Basel III. The report must include an assessment of the negative consequences that different standards between U.S. and foreign jurisdictions could have on U.S. financial institutions, the effect that the different CVA standards could have on the competitiveness of U.S. financial institutions, the potential for driving derivatives business to foreign jurisdictions, and recommendations that FSOC could take to minimize negative consequences to U.S. financial institutions. The FSOC is required to submit a report with the results of the study by 90 days after enactment of the bill.

Additional Background: As part of Basel III implementation, the European Union announced the Capital Requirements Directive IV Package (“CRD IV”) on February 28, 2013, which sets standards for liquidity and capital requirements. CRD IV exempts certain derivatives transactions with European corporate counterparties, pension funds, and sovereign funds from the derivatives credit valuation adjustment capital requirements (“CVA”). U.S. financial regulators have not proposed similar exemptions for U.S. financial institutions. This capital

¹ The [Financial Stability Oversight Council](#) was established as part of Dodd-Frank Wall Street Reform and Consumer Protection Act and is housed within the United States Department of the Treasury.

² According to the [U.S. Department of the Treasury](#), “A derivative is a financial instrument whose price is derived from the value of one or more underlying assets, liabilities, or indices. Two general types of derivatives are privately negotiated contracts, called over-the-counter derivatives, and standardized derivatives that are often exchange-traded.”

requirement imbalance has caused concern that U.S. financial institutions will be harmed and European financial institutions will receive a competitive advantage.

“Basel III” is a set of regulations developed by the [Basel Committee on Banking Supervision](#) (“the Basel Committee”) that according to the Basel Committee “is a comprehensive set of reform measures, developed . . . to strengthen the regulation, supervision and risk management of the banking sector.” The Basel Committee is comprised of the financial supervisory institutions of [several countries](#) including the United States. The Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation represent the United States on the Basel Committee. For additional information, the Committee Report prepared by the House Committee on Financial Services can be viewed [here](#). Basel III is the third series of international financial regulatory agreements.

RSC Bonus Fact: The Basel Committee does not have formal international authority and its decisions do not have legal force. Instead, the Basel Committee relies on the member institutions’ commitment to implement and enforce the provisions under their domestic authority. For more information see [Basel Committee Charter](#), Sections 3 and 5.

Committee Action: H.R. 1341 was introduced on March 21, 2013, and subsequently referred to the House Committee on Financial Services and the House Committee on Agriculture. On April 11, 2013, the House Committee on Financial Services Subcommittee on Capital Markets and Government Sponsored Entities held a [hearing](#) on the bill. On May 7, 2013, the House Committee on Financial Services held a [markup](#) on the bill where it was reported favorably by a vote of [59-0](#). On June 28, 2013, the House Committee on Agriculture discharged the bill.

Administration Position: No Statement of Administration Position was available at time of press.

Cost to Taxpayers: According the Congressional Budget Office (CBO) [cost estimate](#), implementation of the bill would cost \$1 million from 2014-2023 that the CBO expects the Financial Stability Oversight Council to offset by increasing fees to financial institutions. The House Committee on Financial Services has cast doubt on this estimate.

Does the Bill Expand the Size and Scope of the Federal Government?: No. The [CBO](#) expects that “the FSOC could use the expertise of staff from the regulatory agencies that make up the Council (the Federal Reserve System or the Securities and Exchange Commission, for example) to complete the study.”

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. However, according to the [CBO](#), H.R. 1341 “would impose a private-sector mandate by increasing the cost of an existing mandate on financial institutions required to pay those fees. Based on information from the FSOC, CBO estimates that the cost of the mandate would total about \$1 million over the next 10 years, and thus fall well below the annual threshold for private-sector mandates established in UMRA (\$150 million in 2013, adjusted annually for inflation).”

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8.” Representative Fincher’s statement in the Congressional Record can be viewed [here](#).

Note: RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.

RSC Staff Contact: W. Scott Herndon, Scott.Herndon@mail.house.gov, 202-226-2076

H.R. 1564 — Audit Integrity and Job Protection Act (Hurt, R-VA)

Order of Business: [H.R. 1564](#) is [scheduled](#) to be considered on Monday, July 8, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: H.R. 1564 amends the Sarbanes-Oxley Act of 2002 to prohibit the Public Company Accounting Oversight Board from requiring that public companies use different auditors on a rotating basis or from requiring that companies use specific auditors. This bill also requires the United States Government Accountability Office (GAO) to update the November 2003 report entitled “[Study on the Potential Effects of Mandatory Audit Firm Rotation](#)”. The updated study must include a cost benefit analysis of requiring mandatory audit firm rotation and an analysis of whether additional independence reforms are needed for public accounting firms after the passage of the Sarbanes-Oxley Act of 2002.

Additional Background: According to the Financial Services Committee Memorandum, H.R. 1564 “was drafted in response to the PCAOB’s August 16, 2011, *Concept Release on Auditor Independence and Audit Firm Rotation*, which sought public comment on ‘whether mandatory auditor rotation would significantly enhance auditors’ objectivity and ability and willingness to resist management pressure.’” PCAOB Release No. 2011-006, *Concept Release on Auditor Independence and Audit Firm Rotation*, Aug. 16, 2011, available at http://pcaobus.org/Rules/Rulemaking/Docket037/Release_2011-006.pdf.” In response to PCAOB Release No. 2011-006, the GAO issued a [Comment letter](#) stating that “[e]ven if the PCAOB could clearly establish that a lack of independence or objectivity is causing audit quality problems, it is unclear that such a problem would be prevented or mitigated by a mandatory audit firm rotation requirement.”

Mandatory audit firm rotation for emerging growth companies has already been banned under

the Jumpstart our Business Startups Act (“Jobs Act”), Public Law No: 112-106, which was signed into law by President Obama on April 5, 2012. This bill expands that prohibition to all public companies under the purview of the Public Company Accounting Oversight Board.

Committee Action: The bill was introduced on April 15, 2013, and referred to the House Committee on Financial Services. The Financial Services Subcommittee on Capital Markets and Government Sponsored Entities held a [hearing](#) on May 23, 2013. On June 19, 2013, the full Committee on Financial Services held a [markup](#) on the bill. Representative Waters introduced an [amendment](#) that added the Government Accountability Office study that was adopted by voice vote. The amended bill was favorably reported by a [vote](#) of 52-0.

Outside Organizations in Support of a Prohibition Against Mandatory Audit Firm

Rotation:

- Chamber of Commerce of the United States of America (**The Chamber may consider votes on, or in relation to, this bill in their *How They Voted* scorecard**).
- American Institute of CPAs
- American Council of Life Insurers
- American Insurance Corporation
- Barnert Associates, Inc.
- Building Owners and Managers Association (BOMA) International
- Business Roundtable
- Competitive Enterprise Institute
- CRE Finance Council
- Investment Company Institute
- National Association of Home Builders
- National Association of Real Estate Investment Trusts
- National Parking Association
- National Restaurant Association
- Property Casualty Insurers Association of America (PCI)
- RAI-Reynolds American, Inc.
- Retail Industry Leaders Association (RILA)
- RPM International Inc.
- The Financial Services Roundtable
- Biotechnology Industry Organization (BIO)
- Financial Executives International
- Independent Community Bankers of America
- Investment Company Institute
- Independent Directors Council
- Virginia Society of Certified Public Accountants

Administration Position: No Statement of Administrative Position was available at time of press.

Cost to Taxpayers: According to the Congressional Budget Office (CBO) [cost estimate](#), “implementing H.R. 1564 would have a discretionary cost of about \$1 million for the GAO to complete the required study and report.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3.” Representative Hurt’s statement in the Congressional Record can be viewed [here](#).

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RSC Staff Contact: W. Scott Herndon, Scott.Herndon@mail.house.gov, 202-226-2076

H.R. 1171 - FOR VETS Act of 2013 (Benishek, R-MI)

Order of Business: H.R. 1171 is scheduled to be considered on July 8, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: H.R. 1171 adds criteria under the U.S. Code that allows certain organizations that serve veterans the ability to receive excess and surplus federal property. This legislation applies to personal property (office supplies, furniture, etc), and not real property (land).

Additional Background: The following information has been provided by [House Report 113-126](#):

When federal agencies no longer need personal property such as office supplies, furniture and motor vehicles, the items are eligible to be donated to private agencies that serve the public.

Current law stipulates that veterans' service organizations can only receive personal property for a narrow set of services; veterans' service organizations, however, provide a broad range of services. H.R. 1171 would make our nation's veterans' service organizations eligible to receive property to utilize for the full breadth of services that they provide.

In 2010, S. 3794 became public law, allowing veterans' service organizations to receive personal property for public health and educational purposes. Also made eligible were medical institutions, homeless service providers, and child care centers, among others.

The RSC Legislative Bulletin for S. 3794 can be [found here](#).

Committee Action: H.R. 1171 was introduced on March 14, 2013, and was referred to the House Oversight and Government Reform Committee. On May 22, 2013, the full committee [held a markup](#) and approved the legislation by voice vote.

Administration Position: No Statement of Administration Policy (SAP) was available at time of press.

Cost to Taxpayers: CBO estimates that implementing the legislation would have no significant impact on the federal budget. CBO's report can be [viewed here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, clause 2 "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." Rep. Benishek's statement in the Congressional Record can be [viewed here](#).

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, 202-226-8576.

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