

116TH CONGRESS
2D SESSION

S. 3213

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

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2020

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

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 4, 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:

20 “(18)(A) In this paragraph, the term ‘covered trans-
21 action’ means a merger transaction in which the resulting
22 company would have more than \$100,000,000,000 in total
23 assets.

24 “(B) An application for approval of a covered trans-
25 action shall include the name of each individual who will

1 serve on the board of directors or serve as a senior execu-
2 tive officer of the resulting company.

3 “(C) The responsible agency shall make a written
4 evaluation of the competence, experience, character, and
5 integrity of each individual described in subparagraph (B).

6 “(D) The responsible agency shall not approve a cov-
7 ered transaction if the responsible agency determines that
8 the competence, experience, character, or integrity of any
9 individual described in subparagraph (B) indicates that it
10 would not be in the best interests of the depositors of the
11 depository institution or in the best interests of the public
12 to permit the individual to be employed by, or associated
13 with, the resulting company.

14 “(E) The responsible agency shall make any written
15 evaluation described in subparagraph (C) publicly avail-
16 able after the date on which the responsible agency ap-
17 proves or denies a covered transaction.”.

18 (b) BANK HOLDING COMPANIES.—

19 (1) ACQUISITION OF BANK SHARES OR AS-
20 SETS.—Section 3(e) of the Bank Holding Company
21 Act of 1956 (12 U.S.C. 1842(e)), as amended by
22 section 6, is further amended by adding at the end
23 the following:

24 “(12) COVERED TRANSACTIONS.—

1 “(A) DEFINITION.—In this paragraph, the
2 term ‘covered transaction’ means an acquisi-
3 tion, merger, or consolidation under this section
4 in which the resulting company would have
5 more than \$100,000,000,000 in total assets.

6 “(B) LISTING OF MEMBERS OF THE
7 BOARD OF DIRECTORS AND SENIOR EXECUTIVE
8 OFFICERS.—

9 “(i) IN GENERAL.—An application for
10 approval of a covered transaction shall in-
11 clude the name of each individual who will
12 serve on the board of directors or serve as
13 a senior executive officer of the resulting
14 company.

15 “(ii) WRITTEN EVALUATION.—The
16 Board shall make a written evaluation of
17 the competence, experience, character, and
18 integrity of each individual described in
19 clause (i).

20 “(iii) BEST INTERESTS.—The Board
21 shall not approve a covered transaction if
22 the Board determines that the competence,
23 experience, character, or integrity of any
24 individual described in clause (i) indicates
25 that it would not be in the best interests

1 of the shareholders of the bank holding
 2 company or in the best interests of the
 3 public to permit the individual to be em-
 4 ployed by, or associated with, the resulting
 5 company.

6 “(iv) PUBLICLY AVAILABLE.—The
 7 Board shall make any written evaluation
 8 described in clause (ii) publicly available
 9 after the date on which the Board ap-
 10 proves or denies a covered transaction.”.

11 (2) INTERESTS IN NONBANKING ORGANIZA-
 12 TIONS.—Section 4(j)(2) of the Bank Holding Com-
 13 pany Act of 1956 (12 U.S.C. 1843(j)(2)), as amend-
 14 ed by section 6(a)(2) of this Act, is amended by add-
 15 ing at the end the following:

16 “(J) COVERED TRANSACTIONS.—

17 “(i) DEFINITION.—In this paragraph,
 18 the term ‘covered transaction’ means a
 19 transaction under this subsection in which
 20 the resulting company would have more
 21 than \$100,000,000,000 in total assets.

22 “(ii) LISTING OF MEMBERS OF THE
 23 BOARD OF DIRECTORS AND SENIOR EXEC-
 24 UTIVE OFFICERS.—

1 “(I) IN GENERAL.—Notice for
2 approval of a covered transaction shall
3 include the name of each individual
4 who will serve on the board of direc-
5 tors or serve as a senior executive offi-
6 cer of the resulting company.

7 “(II) WRITTEN EVALUATION.—
8 The Board shall make a written eval-
9 uation of the competence, experience,
10 character, and integrity of each indi-
11 vidual described in clause (i).

12 “(III) BEST INTERESTS.—The
13 Board shall deny a proposed covered
14 transaction if the Board determines
15 that the competence, experience, char-
16 acter, or integrity of any individual
17 described in clause (i) indicates that it
18 would not be in the best interests of
19 the shareholders of the bank holding
20 company or in the best interests of
21 the public to permit the individual to
22 be employed by, or associated with,
23 the resulting company.

24 “(IV) PUBLICLY AVAILABLE.—
25 The Board shall make any written

1 evaluation described in clause (ii) pub-
2 licly available after the date on which
3 the Board approves or denies a cov-
4 ered transaction.”.

5 **SEC. 8. COMPETITIVE EFFECTS.**

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 7, is further amended
9 by adding at the end the following new paragraph:

10 “(19) COMPETITIVE EFFECTS.—

11 “(A) PRODUCT MARKETS.—In every case,
12 the responsible agency shall consider the com-
13 petitive effects of the proposed transaction on
14 the market for—

15 “(i) commercial deposits;

16 “(ii) loans to small businesses, using
17 data reported under the Community Rein-
18 vestment Act of 1977 for loans to small
19 businesses with less than \$1,000,000 in
20 gross annual revenue, and any other data
21 the responsible agency deems appropriate
22 to collect for this purpose;

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

1 gage loans for single family homes, and
2 any other data the responsible agency
3 deems appropriate to collect for this pur-
4 pose; and

5 “(iv) any other financial product that
6 comprises a substantial portion of the ac-
7 tivities of each bank or savings association
8 involved in the proposed merger trans-
9 action, as determined by the responsible
10 agency.

11 “(B) GEOGRAPHIC MARKETS.—The re-
12 sponsible agency shall consider the competitive
13 effects of the proposed transaction on the prod-
14 uct markets identified in subparagraph (A) with
15 respect to each of the following geographic mar-
16 kets as defined by the United States Census
17 Bureau:

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

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

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

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

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)), as
7 amended by section 7, is further amended by adding
8 at the end the following new paragraph:

9 “(13) COMPETITIVE EFFECTS.—

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

13 “(i) commercial deposits;

14 “(ii) loans to small businesses, using
15 data reported under the Community Rein-
16 vestment Act of 1977 for loans to small
17 businesses with less than \$1,000,000 in
18 gross annual revenue, and any other data
19 the Board deems appropriate to collect for
20 this purpose;

21 “(iii) home mortgage loans, using
22 data reported under the Home Mortgage
23 Disclosure Act of 1975 for first-lien mort-
24 gage loans for single family homes, and

1 any other data the Board deems appro-
2 priate to collect for this purpose; and

3 “(iv) any other financial product that
4 comprises a substantial portion of the ac-
5 tivities of each company involved in the
6 proposed merger transaction, as deter-
7 mined by the Board.

8 “(B) GEOGRAPHIC MARKETS.—The Board
9 shall consider the competitive effects of the pro-
10 posed transaction on the product markets iden-
11 tified in subparagraph (A) with respect to each
12 of the following geographic markets:

13 “(i) Each State in which the resulting
14 company would operate.

15 “(ii) Each core-based statistical area
16 in which the resulting company would op-
17 erate.

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

20 “(iv) Any other geographic area the
21 Board deems appropriate.”.

22 (2) PROPOSED TRANSACTIONS OR ACTIVI-
23 TIES.—Section 4(j)(2) of the Bank Holding Com-
24 pany Act of 1956 (12 U.S.C. 1843(j)(2)) as amend-

1 ed by section 7, is further amended by adding at the
2 end the following new paragraph:

3 “(K) COMPETITIVE EFFECTS.—

4 “(i) PRODUCT MARKETS.—In every
5 case, the Board shall consider the competi-
6 tive effects of the proposed transaction on
7 the market for—

8 “(I) commercial deposits;

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

17 “(III) home mortgage loans,
18 using data reported under the Home
19 Mortgage Disclosure Act of 1975 for
20 first-lien mortgage loans for single
21 family homes, and any other data the
22 Board deems appropriate to collect for
23 this purpose; and

24 “(IV) any other financial product
25 that comprises a substantial portion

1 of the activities of each company in-
2 volved in the proposed merger trans-
3 action, as determined by the Board.

4 “(ii) GEOGRAPHIC MARKETS.—The
5 Board shall consider the competitive ef-
6 fects of the proposed transaction on the
7 product markets identified in clause (i)
8 with respect to each of the following geo-
9 graphic markets:

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

12 “(II) Each core-based statistical
13 area in which the resulting company
14 would operate.

15 “(III) Each county in which the
16 resulting company would operate.

17 “(IV) Any other geographic area
18 the Board deems appropriate.”.

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

20 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
21 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
22 1828(c)), as amended by section 8, is further amended
23 by adding at the end the following new paragraph:

24 “(20) TRANSPARENCY.—

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

3 “(i) an insured depository institution
4 shall—

5 “(I) disclose whether any persons
6 employed by, representing, or acting
7 on behalf of the depository institution
8 have had verbal or written commu-
9 nications with the responsible agency,
10 a Federal reserve bank, or any other
11 Federal regulatory agency regarding
12 the proposed merger transaction; and

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

17 “(ii) the chief executive officer and
18 chief legal officer of an insured depository
19 institution shall certify that no persons em-
20 ployed by, representing, or acting on behalf
21 of the depository institution asked for or
22 received assurances from the responsible
23 agency, a Federal reserve bank, or any
24 other Federal regulatory agency that the
25 proposed merger transaction would be ap-

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

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

10 “(C) PUBLICATION.—The responsible
11 agency shall publish on the website of such
12 agency the disclosure, certification, and any up-
13 dates required under this paragraph within 1
14 business day of receipt.”.

15 (b) BANK HOLDING COMPANIES.—

16 (1) PROPOSED ACQUISITIONS, MERGERS, OR
17 CONSOLIDATIONS.—Section 3(e) of the Bank Hold-
18 ing Company Act of 1956 (12 U.S.C. 1842(e)), as
19 amended by section 8, is further amended by adding
20 at the end the following new paragraph:

21 “(14) TRANSPARENCY.—

22 “(A) IN GENERAL.—In any application
23 under this section—

24 “(i) a bank holding company shall—

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

9 “(II) identify the dates and the
10 names of individuals involved in, and
11 the content of, all communications de-
12 scribed in subclause (I); and

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

23 “(B) UPDATES.—A bank holding company
24 shall update the disclosure and certification de-
25 scribed in subparagraph (A) as needed within 2

1 business days of any communication that occurs
2 before the Board makes a final decision on a
3 proposal.

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

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

14 “(8) TRANSPARENCY.—

15 “(A) IN GENERAL.—In any notice under
16 this section—

17 “(i) a bank holding company shall—

18 “(I) disclose whether any persons
19 employed by, representing, or acting
20 on behalf of the bank holding com-
21 pany have had verbal or written com-
22 munications with the Board, a Fed-
23 eral reserve bank, or any other Fed-
24 eral regulatory agency regarding the
25 proposal; and

1 “(II) identify the dates and the
2 names of individuals involved in, and
3 the content of, all communications de-
4 scribed in subclause (I); and

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

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

21 “(C) PUBLICATION.—The Board shall pub-
22 lish on the website of the Board the disclosure,
23 certification, and any updates required under
24 this paragraph within 1 business day of re-
25 ceipt.”.

1 **SEC. 10. FINANCIAL STABILITY EXCEPTION.**

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 9, is further amended
5 by adding at the end the following new paragraph:

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

14 (b) **BANK HOLDING COMPANIES.**—

15 (1) **PROPOSED ACQUISITIONS, MERGERS, OR**
16 **CONSOLIDATIONS.**—Section 3(e) of the Bank Hold-
17 ing Company Act of 1956 (12 U.S.C. 1842(e)), as
18 amended by section 9, is further amended by adding
19 at the end the following new paragraph:

20 “(15) **FSOC DETERMINATION.**—Notwithstand-
21 ing paragraphs (7)(B), (8), (9), (10), (11), and (12)
22 of this subsection, if the Financial Stability Over-
23 sight Council determines by a $\frac{2}{3}$ vote that a pro-
24 posed acquisition, merger, or consolidation under
25 this subsection is necessary to preserve the stability
26 of the United States banking or financial system,

1 the Board may approve such acquisition, merger, or
2 consolidation.”.

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 8, is amended by adding at the end the
6 following new paragraph:
7

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

17 **SEC. 11. CITIZEN STANDING.**

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 10, is further amended
21 by adding at the end the following new paragraph:

22 “(22) CITIZEN STANDING.—

23 “(A) IN GENERAL.—Not later than 10
24 days after the approval of a merger transaction
25 by the responsible agency under this subsection

1 or the denial of a request for reconsideration of
2 an application for a merger transaction, an in-
3 dividual may file a civil action in the appro-
4 priate United States district court to review
5 such approval, regardless of whether the indi-
6 vidual submitted a comment or otherwise par-
7 ticipated in the application process for approval
8 of the merger transaction.

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

13 “(C) COSTS.—An individual who files a
14 civil action under this paragraph may not be re-
15 quired to pay the costs of the responsible agen-
16 cy or any party to the merger transaction that
17 is the subject of the civil action.

18 “(D) EFFECT ON MERGER TRANS-
19 ACTION.—The proposed merger transaction
20 that is the subject of a civil action under this
21 paragraph may not be consummated until the
22 court issues a final decision in such action.”.

23 (b) BANK HOLDING COMPANIES.—

24 (1) PROPOSED ACQUISITIONS, MERGERS, OR
25 CONSOLIDATIONS.—Section 3(e) of the Bank Hold-

1 ing Company Act of 1956 (12 U.S.C. 1842(c)), as
2 amended by section 10, is further amended by add-
3 ing at the end the following new paragraph:

4 “(16) CITIZEN STANDING.—

5 “(A) IN GENERAL.—Not later than 10
6 days after the approval of an application under
7 this section by the Board, or the denial of a re-
8 quest for reconsideration of such an application
9 by the Board, an individual may file a civil ac-
10 tion in the appropriate United States district
11 court to review such approval, regardless of
12 whether the individual submitted a comment or
13 otherwise participated in the application proc-
14 ess.

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

19 “(C) COSTS.—An individual who files a
20 civil action under this paragraph may not be re-
21 quired to pay the costs of the Board or any
22 party to the application that is the subject of
23 the civil action.

24 “(D) EFFECT ON APPLICATION.—The pro-
25 posed acquisition, merger, or consolidation that

1 is the subject of a civil action under this para-
2 graph may not be consummated until the court
3 issues a final decision in such action.”.

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

9 “(M) CITIZEN STANDING.—

10 “(i) IN GENERAL.—Not later than 10
11 days after the approval of a notice under
12 this subsection by the Board, or the denial
13 of a request for reconsideration of such no-
14 tice by the Board, an individual may file a
15 civil action in the appropriate United
16 States district court to review such ap-
17 proval, regardless of whether the individual
18 submitted a comment or otherwise partici-
19 pated in the notice process.

20 “(ii) CONSIDERATION.—In any such
21 action, the court shall review de novo the
22 issues presented, consider the matter on an
23 expedited basis, and issue a decision within
24 30 days.

1 “(iii) COSTS.—An individual who files
2 a civil action under this subparagraph may
3 not be required to pay the costs of the
4 Board or any party to the notice that is
5 the subject of the civil action.

6 “(iv) EFFECT ON NOTICE.—The pro-
7 posed transaction or activity that is the
8 subject of a civil action under this sub-
9 paragraph may not be commenced or con-
10 summed until the court issues a final de-
11 cision in such action.”.

○