

S. 2155 Is Headed to the President's Desk: Here's What It Means for Your Bank

Today, the U.S. House of Representatives passed S. 2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act. S. 2155 passed the Senate on March 14. This historic bill is now headed to the President's desk to be signed into law. S. 2155 is the culmination of a multi-year ICBA effort to create regulation that is tiered to the size, risk, complexity, and business model of community banks. ([See our timeline.](#))

What's next?

Some of the provisions of S. 2155 described below explicitly require agency rulemaking before they go into effect. These are noted below ("agency action"). Most of the provisions are (technically) effective immediately, however they may conflict with existing regulation, and the agencies must conform their regulations to the new law. Fortunately, we expect the Administration, the banking agencies, and the CFPB to be accommodating and eager to realize the economic benefits of S. 2155. ICBA will work closely with the agencies to expedite rulemaking or other guidance so that you can begin to benefit from this important new law as soon as possible.

Here's what S. 2155 means for your bank.

Simplified Capital Rules

Relief from Basel III. Banks with assets of less than \$10 billion that exceed the "community bank leverage ratio" are "well capitalized" and effectively exempt from all risk-based capital requirement, including Basel III and its predecessors.

What it means for you

- If you are a qualifying bank, most of Schedule RC-R – Regulatory Capital, of the call report will not apply to you.
- None of the punitive risk-based capital rules on high volatility commercial real estate lending (HVCRE), mortgage servicing rights, deferred tax assets, trust preferred securities (TruPS), and more would apply to you.
- Relief from international capital standards will allow you to deploy more credit in your community, promoting local economic growth while enhancing your bottom line.

Agency action

- The banking agencies must establish the "community bank leverage ratio" (a ratio of tangible equity to average consolidated assets) between 8% and 10% before community banks can begin to take advantage of this provision.

Holding company debt. Bank holding companies with assets of up to \$3 billion will be eligible for the Federal Reserve's Small Bank Holding Company Policy Statement, which eases limitations on the issuance of debt. The current asset threshold is \$1 billion.

What it means for you

- This will be a new, affordable capital option for approximately 400 more community bank holding companies. Holding company debt can be used to inject equity capital into subsidiary banks and expand lending.

Agency action

- The Federal Reserve has 180 days from the date of enactment to revise the Policy Statement.

HVCRE. For banks that continue to be subject to the risk-based capital rules of Basel III, certain commercial real estate loans that were formally classified as HVCRE will not be subject to heightened risk weights if they meet certain criteria. While acquisition, development, and construction loans will generally be subject to heightened risk weights, there will be important exceptions.

What it means for you

- If you continue to be subject to risk-based capital rules, the Basel III HVCRE risk weights will not be so punitive.

Systemically important financial institution (SIFI) threshold. Institutions with assets of \$50 billion to \$100 billion are exempt from Dodd-Frank enhanced prudential standards as of the date of enactment. Institutions with assets of \$100 billion to \$250 billion will be exempt from Dodd-Frank enhanced prudential standards other than stress testing 18 months after the date of enactment (however, the Federal Reserve will have discretion to apply the prudential standards to these banks).

What it means for you

- If you're approaching the current SIFI threshold, you are less vulnerable to examiner application of enhanced prudential standards as a "best practice."

Relief From Mortgage Lending Red Tape

QM for portfolio loans. Banks with assets of less than \$10 billion will enjoy automatic "qualified mortgage" status for certain mortgages they originate and hold in portfolio.

What it means for you

- No more torturous analysis of the borrower's "ability to repay" or draconian legal risk that deters sound loans.

Escrow exemption. Banks with assets of less than \$10 billion that make fewer than 1,000 first lien mortgages annually on principal dwellings will be exempt from Truth in Lending Act escrow requirements.

What it means for you

- Escrow requirements are costly and impractical for many lenders and add to the cost of credit.

Exemption from new HMDA data fields. Lenders of all asset sizes with a "satisfactory" CRA rating and that originate fewer than 500 closed-end mortgage loans or fewer than 500 open-end lines of credit will be exempt from the new Dodd-Frank HMDA data fields.

What it means for you

- An end to data collection over-kill means more resources to direct toward customers. However, even if you are exempt from the new data collection fields you will still be required to collect data as you did before Dodd-Frank and the new HMDA rule.

Appraisal exemption for certain rural loans. Rural portfolio loans of less than \$400,000 will be exempt from appraisal requirements when a certified/licensed appraiser cannot be found in a timely manner.

What it means for you

- If you're a rural lender facing a shortage of appraisers, this provision will help solve that problem.

TRID waiting period. No more three-day waiting period when the lender extends a second offer of credit with a lower APR.

What it means for you

- Your borrowers should not be forced to choose between a lower rate and a waiting period that could jeopardize their closing.

Less Intrusive Reporting and Examination

Fewer exams. S. 2155 creates an 18-month exam cycle for well-managed, well-capitalized with up to \$3 billion in assets. The current asset threshold for the 18-month exam cycle is \$1 billion.

What it means for you

- Fewer examiner visits for more community banks will allow these banks to focus on their customers and their business.

Short form call reports. The agencies are required to create a short form call report for banks with assets of less than \$5 billion. The short form would be filed in the first and third quarters of each year. This provision was needed because the agencies have resisted any meaningful call report reform.

What it means for you

- Better use of your costly resources to serve customers instead of providing granular data to your regulator.

Agency action

- The agencies are required to issue regulations to create short form call reports.

Stress tests. Banks with assets between \$10 billion and \$50 billion will no longer be subject to mandatory stress testing.

What it means for you

- Better use of your resources in the service of your customers.

Risk committees. Publicly held institutions with assets between \$10 billion and \$50 billion will no longer be required to have risk committees.

What it means for you

- Less internal bureaucracy in the governance of your bank and more freedom to serve your customers.

Flexibility for Mutual Banks

Powers expansion. Federal savings institutions with assets of \$20 billion or less can elect to operate with national bank powers.

What it means for you

- Flexibility to offer more bank services in your community without having to convert your charter.

Agency action

- The OCC is required to issue regulations to enact this provision.

Relief from Other Regulations

Volcker Rule exemption. Banks with assets of less than \$10 billion and with total trading assets of less than five percent of total assets are exempt from the Volcker Rule.

What it means for you

- You will no longer be required to demonstrate compliance with the complex Volcker Rule, whether or not you engage in proprietary trading.

Reciprocal deposits. Certain reciprocal deposits will not be considered brokered deposits provided they do not exceed the lesser of \$5 billion or 20 percent of the bank's total liabilities. The bank must have a composite condition of outstanding or good and be well capitalized. These deposits are also subject to limitations on interest rates paid.

What it means for you

- Makes it easier to compete with larger banks for the large deposits in your community without jeopardizing your FDIC premiums.

Treatment of municipal bonds in liquidity coverage ratio. The agencies are directed to classify investment-grade municipal bonds as level 2B liquid assets under the LCR rule.

What it means for you

- If you have municipal bonds, this provision may improve their liquidity.

[Click here](#) for a description of provisions of S. 2155 organized by the asset size of banks to which they are available, as well as additional provisions in the bill.