115TH CONGRESS
1ST SESSION

H. R. 790

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called "Glass-Steagall Act", and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2017

Ms. KAPTUR (for herself, Mr. LYNCH, Mr. RYAN of Ohio, Mr. POCAN, Ms. DELAURO, Ms. NORTON, Ms. SCHAKOWSKY, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. SLAUGHTER, Mr. JONES, Mr. WELCH, Mrs. WATSON COLEMAN, Mr. SERRANO, Mr. LIPINSKI, Mr. GARAMENDI, Ms. SPEIER, Mr. ELLISON, Mr. CONYERS, Ms. GABBARD, Mr. GRIJALVA, Mr. TONKO, Mr. MCGOVERN, Mr. DEFAZIO, Ms. LEE, Mr. CAPUANO, Ms. PINGREE, and Ms. FUDGE) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called "Glass-Steagall Act", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Return to Prudent Banking Act of 2017''.

SEC. 2. GLASS-STEAGALL REVIVED.

(a) WALL BETWEEN COMMERCIAL BANKS AND SECURITIES ACTIVITIES REESTABLISHED.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

''(aa) LIMITATIONS ON SECURITY AFFILIATIONS.—

''(1) PROHIBITION ON AFFILIATION BETWEEN INSURED DEPOSITORY INSTITUTIONS AND INVESTMENT BANKS OR SECURITIES FIRMS.—An insured depository institution may not be or become an affiliate of any broker or dealer, any investment adviser, any investment company, or any other person engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities.

''(2) PROHIBITION ON OFFICERS, DIRECTORS, AND EMPLOYEES OF SECURITIES FIRMS SERVICE ON BOARDS OF DEPOSITORY INSTITUTIONS.—

''(A) IN GENERAL.—An individual who is an officer, director, partner, or employee of any broker or dealer, any investment adviser, any investment company, or any other person engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities may not serve at the same time as an officer, director, employee, or other institution-affiliated party of any insured depository institution.

"(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to service by any individual which is otherwise prohibited under such subparagraph if the appropriate Federal banking agency determines, by regulation with respect to a limited number of cases, that service by such individual as an officer, director, employee, or other institution-affiliated party of any insured depository institution would not unduly influence the investment policies of the depository institution or the advice the institution provides to customers.

"(C) TERMINATION OF SERVICE.—Subject to a determination under subparagraph (B), any individual described in subparagraph (A) who, as of the date of the enactment of the Return to Prudent Banking Act of 2017, is serving as an officer, director, employee, or other institution-affiliated party of any insured depository institution shall terminate such service as soon as practicable after such date of enactment and no later than the end of the 60-day period beginning on such date.

"(3) TERMINATION OF EXISTING AFFILIATION.—

"(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION.—Any affiliation of an insured depository institution with any broker or dealer, any investment adviser, any investment company, or any other person, as of the date of the enactment of the Return to Prudent Banking Act of 2017, which is prohibited under paragraph (1) shall be terminated as soon as practicable and in any event no later than the end of the 2-year period beginning on such date of enactment.

"(B) EARLY TERMINATION.—The appropriate Federal banking agency, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the agency determines, having due regard for the purposes of this subsection and the Return to Prudent Banking Act of 2017, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices and is in the public interest.

''(C) EXTENSION.—Subject to a determination under subparagraph (B), an appropriate Federal banking agency may extend the 2-year period referred to in subparagraph (A) from time to time as to any particular insured depository institution for not more than 6 months at a time, if, in the judgment of the agency, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'broker' and 'dealer' have the same meanings as in section 3(a) of the Securities Exchange Act of 1934 and the terms 'investment adviser' and 'investment company' have the meaning given such terms under the Investment Advisers Act of 1940 and the Investment Company Act of 1940, respectively.''.

(b) PROHIBITION ON BANKING ACTIVITIES BY SECURITIES FIRMS CLARIFIED.—Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by adding at the end the following new subsection:

``(c) BUSINESS OF RECEIVING DEPOSITS.—For purposes of this section, the term 'business of receiving deposits' includes the establishment and maintenance of any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).''.

(c) CONTINUED APPLICABILITY OF ICI V. CAMP.—

(1) IN GENERAL.—The Congress ratifies the interpretation of the paragraph designated the ``Seventh'' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24, as amended by section 16 of the Banking Act of 1933 and subsequent amendments) and section 21 of the Banking Act of 1933 (12 U.S.C. 378) by the Supreme Court of the United States in the case of Investment Company Institute v. Camp (401 U.S. 617 et seq. (1971)) with regard to the permissible activities of banks and securities firms, except to the extent expressly prescribed otherwise by this section.

(2) APPLICABILITY OF REASONING.—The reasoning of the Supreme Court of the United States in the case referred to in paragraph (1) with respect to sections 20 and 32 of the Banking Act of 1933 (as in effect prior to the date of the enactment of the Gramm-Leach-Bliley Act) shall continue to apply to subsection (aa) of section 18 of the Federal Deposit Insurance Act (as added by subsection (a) of this section) except to the extent the scope and application of such subsection as enacted exceed the scope and application of such sections 20 and 32.

(3) LIMITATION ON AGENCY INTERPRETATION OR JUDICIAL CONSTRUCTION.—No appropriate Federal banking agency, by regulation, order, interpretation, or other action, and no court within the United States may construe the paragraph designated the ''Seventh'' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24, as amended by section 16 of the Banking Act of 1933 and subsequent amendments), section 21 of the Banking Act of 1933, or section 18(aa) of the Federal Deposit Insurance Act more narrowly than the reasoning of the Supreme Court of the United States in the case of Investment Company Institute

v. Camp (401 U.S. 617 et seq. (1971)) as to the construction and the purposes of such provisions.

SEC. 3. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVISIONS.

(a) FINANCIAL HOLDING COMPANY.—

(1) IN GENERAL.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by striking subsections (k), (l), (m), (n), and (o).

(2) TRANSITION.—

(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION.—In the case of a bank holding company which, pursuant to the amendments made by paragraph (1), is no longer authorized to control or be affiliated with any entity that was permissible for a financial holding company, any affiliation by the bank holding company which is not permitted for a bank holding company shall be terminated as soon as practicable and in any event no later than the end of the 2-year period beginning on such date of enactment.

(B) EARLY TERMINATION.—The Board of Governors of the Federal Reserve System, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the Board determines, having due regard to the purposes of this Act, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices, and is in the public interest.

(C) EXTENSION.—Subject to a determination under subparagraph (B), the Board of Governors of the Federal Reserve System may extend the 2-year period referred to in subparagraph (A) above from time to time as to any particular bank holding company for not more than 6 months at a time, if, in the judgment of the Board, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by striking subsection (p).

(B) Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended—

(i) by striking paragraphs (3) and (4); and

(ii) by redesignating paragraph (5) as paragraph (3).

(C) Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by striking subsection (g).

(D) The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking section 45.

(E) Subtitle B of title I of the Gramm-Leach-Bliley Act is amended by striking section 114 (12 U.S.C. 1828a) and section 115 (12 U.S.C. 1820a).

(b) FINANCIAL SUBSIDIARIES REPEALED.—

(1) IN GENERAL.—Section 5136A of the Revised Statutes of the United States (12 U.S.C. 24a) is amended to read as follows:

"SEC. 5136A. [REPEALED].".

(2) TRANSITION.—

(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION.—In the case of a national bank which, pursuant to the amendments made by paragraph (1), is no longer authorized to control or be affiliated with a financial subsidiary as of the date of the enactment of this Act, such affiliation shall be terminated as soon as practicable and in any event no later than the end of the 2-year period beginning on such date of enactment.

(B) EARLY TERMINATION.—The Comptroller of the Currency, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the Comptroller determines, having due regard for the purposes of this Act, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices and is in the public interest.

(C) EXTENSION.—Subject to a determination under subparagraph (B), the Comptroller of the Currency may extend the 2-year period referred to in subparagraph (A) above from time to time as to any particular national bank for not more than 6 months at a time, if, in the judgment of the Comptroller, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

(3) TECHNICAL AND CONFORMING AMENDMENT.—

(A) The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by striking the last sentence.

(B) The Federal Deposit Insurance Act is amended by striking section 46 (12 U.S.C. 1831w).

(4) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by striking the item relating to section 5136A.

(c) DEFINITION OF BROKER.—Section 3(a)(4)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)(B)) is amended—

(1) by striking clauses (i), (iii), (v), (vii), (x), and (xi); and

(2) by redesignating clauses (ii), (iv), (vi), (viii), and (ix) as clauses (i), (ii), (iii), (iv), and (v), respectively.

(d) DEFINITION OF DEALER.—Section 3(a)(5)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)(C)) is amended—

(1) by striking clauses (i) and (iii); and

(2) by redesignating clauses (ii) and (iv) as clauses (i) and (ii), respectively.

(e) DEFINITION OF IDENTIFIED BANKING PRODUCT.—Subsection (a) of section 206 of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) is amended—

(1) by inserting ''and'' after the semicolon at the end of paragraph (4);

(2) in paragraph (5)(B)(ii), by striking ''; or'' and inserting a period; and

(3) by striking paragraph (6) and all that follows through the end of such subsection.

(f) DEFINITION OF ACTIVITIES CLOSELY RELATED TO BANKING.—

(1) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking ''the day before the date of the enactment of the Gramm-Leach-Bliley Act'' and inserting ''January 1, 1970''.

(2) PROVISION ALLOWING FOR EXCEPTIONS AFTER REPORT TO THE CONGRESS.—Subsection (j) of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)) is amended to read as follows:

"(j) APPROVAL FOR CERTAIN POST-1970 SUBSECTION (c)(8) ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding the limitation of the January 1, 1970, approval deadline in subsection (c)(8), the Board may determine an activity to be so closely related to banking as to be a proper incident thereto for purposes of such subsection, subject to the requirements of this subsection and such terms and conditions as the Board may require.

"(2) GENERAL STANDARDS.—In making any determination under paragraph (1), the Board shall consider whether performance of the activity by a bank holding company or a subsidiary of such company can reasonably be expected to result in a violation of section 18(aa) of the Federal Deposit Insurance Act, section 21 of the Banking Act of 1933, or the spirit of section 2(c) of the Return to Prudent Banking Act of 2017, and other possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

"(3) REPORT AND WAIT.—No determination of the Board under paragraph (1) may take effect before the end of the 180-day period beginning on the date by which notice of the determination has been submitted to both Houses of the Congress together with a detailed explanation of the activities to which the determination relates and the basis for the determination, unless before the end of such period, such activities have been approved by an Act of Congress.".

(g) REPEAL OF PROVISION RELATING TO FOREIGN BANKS FILING AS FINANCIAL HOLDING COMPANIES.—Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by striking paragraph (3).

SEC. 4. REPORTS TO THE CONGRESS.

(a) REPORTS REQUIRED.—Each time the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or another appropriate Federal banking agency makes a determination or an extension under subparagraph (B) or (C) of paragraph (2) or (3) of section 18(aa) of the Federal Deposit Insurance Act (as added by section 2(a)) or subparagraph (B) or (C) of subsection (a)(2) or (b)(2) of section 3, as the case may be, the

Board, Comptroller, or agency shall promptly submit a report of such determination or extension to the Congress.

(b) CONTENTS.—Each report submitted to the Congress under subsection (a) shall contain a detailed description of the basis for the determination or extension.

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