

115TH CONGRESS  
1ST SESSION

# H. R. 1595

To amend the Federal Deposit Insurance Act to allow mutual capital certificates to satisfy capital requirements for mutual depositories.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2017

Mr. ROTHFUS (for himself and Mr. STIVERS) introduced the following bill;  
which was referred to the Committee on Financial Services

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## A BILL

To amend the Federal Deposit Insurance Act to allow mutual capital certificates to satisfy capital requirements for mutual depositories.

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 “Mutual Bank Capital  
5 Opportunity Act of 2017”.

6 **SEC. 2. TREATMENT OF MUTUAL CAPITAL CERTIFICATES.**

7 (a) IN GENERAL.—Section 38 of the Federal Deposit  
8 Insurance Act (12 U.S.C. 1831o) is amended—

9 (1) in subsection (b)(2)—

1 (A) by redesignating subparagraphs (F)  
2 through (I) as subparagraphs (H) through (K),  
3 respectively; and

4 (B) by inserting after subparagraph (E)  
5 the following new subparagraphs:

6 “(F) MUTUAL CAPITAL CERTIFICATE.—  
7 The term ‘mutual capital certificate’ means a  
8 financial instrument issued by a mutual deposi-  
9 tory pursuant to subsection (c)(1)(C) that—

10 “(i) is subordinate to all claims  
11 against such mutual depository;

12 “(ii) is unsecured by the assets of  
13 such mutual depository;

14 “(iii) does not permit preemptive  
15 rights;

16 “(iv) does not provide voting or mem-  
17 ber rights to the holder unless the board of  
18 directors of such mutual depository pro-  
19 poses to change the specific terms of any  
20 class of such certificates in a manner ad-  
21 verse to the interests of the holder;

22 “(v) is not eligible for use as collateral  
23 for any loan made by such mutual deposi-  
24 tory;

1           “(vi) if declared by the board of direc-  
2           tors of such mutual depository, entitles the  
3           holder to a payment of fixed, variable, or  
4           participating dividends; and

5           “(vii) is not redeemable until the date  
6           that is 5 years after the date of issuance,  
7           except in the case of merger, conversion, or  
8           consolidation of such mutual depository, or  
9           reorganization of such mutual depository  
10          into a mutual holding company or a Fed-  
11          eral mutual bank holding company (as  
12          such term is defined in section 5133A(a)  
13          of the Revised Statutes of the United  
14          States).

15          “(G) MUTUAL DEPOSITORY.—The term  
16          ‘mutual depository’ means an insured depository  
17          institution operating in a non-stock form,  
18          including a Federal non-stock depository and  
19          any form of non-stock depository provided for  
20          under State law, the deposits of which are in-  
21          sured by an instrumentality of the Federal Gov-  
22          ernment.”; and  
23          (2) in subsection (c)(1)—

1 (A) in subparagraph (A), by inserting  
2 “and subparagraph (C)” after “subparagraph  
3 (B)(ii)”; and

4 (B) by inserting after subparagraph (B)  
5 the following new subparagraph:

6 “(C) MUTUAL CAPITAL CERTIFICATES.—A  
7 mutual depository is authorized to issue mutual  
8 capital certificates that shall qualify as common  
9 equity Tier 1 capital (as such term is defined  
10 by the appropriate Federal banking agency) for  
11 purposes of any capital requirements mandated  
12 by any Federal law or regulation.”.

13 (b) REGULATIONS.—

14 (1) IMPLEMENTATION.—Not later than 180  
15 days after the date of the enactment of this section,  
16 the appropriate Federal banking agencies (as de-  
17 fined in section 3 of the Federal Deposit Insurance  
18 Act (12 U.S.C. 1813)) shall jointly issue regulations  
19 to implement this section.

20 (2) OTHER FINANCIAL INSTRUMENTS.—

21 (A) IN GENERAL.—Not later than 90 days  
22 after the date of the enactment of this section,  
23 the appropriate Federal banking agencies shall  
24 jointly issue regulations identifying other finan-  
25 cial instruments, aside from mutual capital cer-

1           tificates, that mutual depositories may issue  
2           that shall qualify as additional Tier 1 capital  
3           (as such term is defined by the appropriate  
4           Federal banking agency) for purposes of any  
5           capital requirements mandated by any Federal  
6           law or regulation.

7           (B) DEFINITIONS.—The terms “mutual  
8           capital certificate” and “mutual depository”  
9           have the meaning given such terms in section  
10          38(b)(2) of the Federal Deposit Insurance Act  
11          (12 U.S.C. 1831o(b)(2)).

12          (c) REPORT TO CONGRESS.—Not later than 6  
13          months after the date of the enactment of this section,  
14          and every 6 months thereafter until the date which is 3  
15          years after the date of the enactment of this section, the  
16          appropriate Federal banking agencies shall submit a re-  
17          port to Congress on the progress of such agencies in pro-  
18          mulgating the regulations described in subsection (b).  
19          Such report shall include a description of outreach efforts  
20          to the financial industry and any barriers to implementa-  
21          tion of the requirements of this section.

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