

115TH CONGRESS
1ST SESSION

S. 1893

To amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to specify when bank holding companies may be subject to certain enhanced supervision, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2017

Mrs. McCASKILL (for herself and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to specify when bank holding companies may be subject to certain enhanced supervision, 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.**

4 This Act may be cited as the “Systemic Risk Des-
5 ignation Improvement Act of 2017”.

6 **SEC. 2. REVISIONS TO COUNCIL AUTHORITY.**

7 (a) **PURPOSES AND DUTIES.**—Section 112 of the
8 Dodd-Frank Wall Street Reform and Consumer Protec-

1 tion Act (12 U.S.C. 5322) is amended in subsection
2 (a)(2)(I) by inserting before the semicolon “, which have
3 been identified as global systemically important bank hold-
4 ing companies pursuant to section 217.402 of title 12,
5 Code of Federal Regulations, or subjected to a determina-
6 tion under subsection (l) of section 165”.

7 (b) ENHANCED SUPERVISION.—Section 115 of the
8 Dodd-Frank Wall Street Reform and Consumer Protec-
9 tion Act (12 U.S.C. 5325) is amended—

10 (1) in subsection (a)(1), by striking “large,
11 interconnected bank holding companies” and insert-
12 ing “bank holding companies which have been iden-
13 tified as global systemically important bank holding
14 companies pursuant to section 217.402 of title 12,
15 Code of Federal Regulations, or subjected to a de-
16 termination under subsection (l) of section 165”;
17 and

18 (2) in subsection (a)(2)—

19 (A) in subparagraph (A), by striking “;
20 or” at the end and inserting a period;

21 (B) by striking “the Council may” and all
22 that follows through “differentiate” and insert-
23 ing “the Council may differentiate”; and

24 (C) by striking subparagraph (B).

1 (c) REPORTS.—Section 116(a) of the Dodd-Frank
2 Wall Street Reform and Consumer Protection Act (12
3 U.S.C. 5326(a)) is amended by striking “with total con-
4 solidated assets of \$50,000,000,000 or greater” and in-
5 serting “which has been identified as a global systemically
6 important bank holding company pursuant to section
7 217.402 of title 12, Code of Federal Regulations, or sub-
8 jected to a determination under subsection (l) of section
9 165”.

10 (d) MITIGATION.—Section 121(a) of the Dodd-Frank
11 Wall Street Reform and Consumer Protection Act (12
12 U.S.C. 5331) is amended by striking “with total consoli-
13 dated assets of \$50,000,000,000 or more” and inserting
14 “which has been identified as a global systemically impor-
15 tant bank holding company pursuant to section 217.402
16 of title 12, Code of Federal Regulations, or subjected to
17 a determination under subsection (l) of section 165”.

18 (e) OFFICE OF FINANCIAL RESEARCH.—Section 155
19 of the Dodd-Frank Wall Street Reform and Consumer
20 Protection Act (12 U.S.C. 5345) is amended in subsection
21 (d) by striking “with total consolidated assets of
22 50,000,000,000 or greater” and inserting “which have
23 been identified as global systemically important bank hold-
24 ing companies pursuant to section 217.402 of title 12,

1 Code of Federal Regulations, or subjected to a determina-
2 tion under subsection (l) of section 165”.

3 **SEC. 3. REVISIONS TO BOARD AUTHORITY.**

4 (a) ACQUISITIONS.—Section 163 of the Dodd-Frank
5 Wall Street Reform and Consumer Protection Act (12
6 U.S.C. 5363) is amended by striking “with total consoli-
7 dated assets equal to or greater than \$50,000,000,000”
8 each place such term appears and inserting “which has
9 been identified as a global systemically important bank
10 holding company pursuant to section 217.402 of title 12,
11 Code of Federal Regulations, or subjected to a determina-
12 tion under subsection (l) of section 165”.

13 (b) MANAGEMENT INTERLOCKS.—Section 164 of the
14 Dodd-Frank Wall Street Reform and Consumer Protec-
15 tion Act (12 U.S.C. 5364) is amended by striking “with
16 total consolidated assets equal to or greater than
17 \$50,000,000,000” and inserting “which has been identi-
18 fied as a global systemically important bank holding com-
19 pany pursuant to section 217.402 of title 12, Code of Fed-
20 eral Regulations, or subjected to a determination under
21 subsection (l) of section 165”.

22 (c) ENHANCED SUPERVISION AND PRUDENTIAL
23 STANDARDS.—Section 165 of the Dodd-Frank Wall Street
24 Reform and Consumer Protection Act (12 U.S.C. 5365)
25 is amended—

1 (1) in subsection (a), by striking “with total
2 consolidated assets equal to or greater than
3 \$50,000,000,000” and inserting “which have been
4 identified as global systemically important bank
5 holding companies pursuant to section 217.402 of
6 title 12, Code of Federal Regulations, or subjected
7 to a determination under subsection (l)”;

8 (2) in subsection (a)(2)—

9 (A) by striking “(A) IN GENERAL.—”;

10 (B) in subparagraph (A), by striking
11 “may” and inserting “shall”; and

12 (C) by striking subparagraph (B);

13 (3) in subsection (j), by striking “with total
14 consolidated assets equal to or greater than
15 \$50,000,000,000” and inserting “which has been
16 identified as a global systemically important bank
17 holding company pursuant to section 217.402 of
18 title 12, Code of Federal Regulations, or subjected
19 to a determination under subsection (l)”.

20 (d) **ADVANCED TAILORING.**—Section 165 of the
21 Dodd-Frank Wall Street Reform and Consumer Protec-
22 tion Act (12 U.S.C. 5365) is amended by adding at the
23 end the following:

1 “(1) ADDITIONAL BANK HOLDING COMPANIES SUB-
2 JECT TO ENHANCED SUPERVISION AND PRUDENTIAL
3 STANDARDS BY TAILORED REGULATION.—

4 “(1) DETERMINATION.—The Board of Gov-
5 ernors may, within the limits of its existing re-
6 sources—

7 “(A) determine that a bank holding com-
8 pany that has not been identified as a global
9 systemically important bank holding company
10 pursuant to section 217.402 of title 12, Code of
11 Federal Regulations, shall be subject to certain
12 enhanced supervision or prudential standards
13 under this section, tailored to the risks pre-
14 sented, based on the considerations in para-
15 graph (3), where material financial distress at
16 the bank holding company, or the nature, scope,
17 size, scale, concentration, interconnectedness, or
18 mix of the activities of the individual bank hold-
19 ing company, could pose a threat to the finan-
20 cial stability of the United States; or

21 “(B) by regulation determine that a cat-
22 egory of bank holding companies that have not
23 been identified as global systemically important
24 bank holding companies pursuant to section
25 217.402 of title 12, Code of Federal Regula-

1 tions, shall be subject to certain enhanced su-
2 pervision or prudential standards under this
3 section, tailored to the risk presented by the
4 category of bank holding companies, based on
5 the considerations in paragraph (3), where ma-
6 terial financial distress at the category of bank
7 holding companies, or the nature, scope, size,
8 scale, concentration, interconnectedness, or mix
9 of the activities of the category of bank holding
10 companies, could pose a threat to the financial
11 stability of the United States.

12 “(2) COUNCIL APPROVAL OF REGULATIONS
13 WITH RESPECT TO CATEGORIES.—Notwithstanding
14 paragraph (1)(B), a regulation issued by the Board
15 of Governors to make a determination under such
16 paragraph (1)(B) shall not take effect unless the
17 Council, by a vote of not fewer than $\frac{2}{3}$ of the voting
18 members then serving, including an affirmative vote
19 by the Chairperson, approves the metrics used by
20 the Board of Governors in establishing such regula-
21 tion.

22 “(3) CONSIDERATIONS.—In making any deter-
23 mination under paragraph (1), the Board of Gov-
24 ernors shall consider the following factors:

1 “(A) The size of the bank holding com-
2 pany.

3 “(B) The interconnectedness of the bank
4 holding company.

5 “(C) The extent of readily available sub-
6 stitutes or financial institution infrastructure
7 for the services of the bank holding company.

8 “(D) The global cross-jurisdictional activ-
9 ity of the bank holding company.

10 “(E) The complexity of the bank holding
11 company.

12 “(4) CONSISTENT APPLICATION OF CONSIDER-
13 ATIONS.—In making a determination under para-
14 graph (1), the Board of Governors shall ensure that
15 bank holding companies that are similarly situated
16 with respect to the factors described under para-
17 graph (3), are treated similarly for purposes of any
18 enhanced supervision or prudential standards ap-
19 plied under this section.

20 “(5) USE OF CURRENTLY REPORTED DATA TO
21 AVOID UNNECESSARY BURDEN.—For purposes of
22 making a determination under paragraph (1), the
23 Board of Governors shall make use of data already
24 being reported to the Board of Governors, including
25 from calculating a bank holding company’s systemic

1 indicator score, in order to avoid placing an unneces-
2 sary burden on bank holding companies.”.

3 (e) SYSTEMIC IDENTIFICATION.—Section 165 of the
4 Dodd-Frank Wall Street Reform and Consumer Protec-
5 tion Act (12 U.S.C. 5365), as amended by subsection (d),
6 is further amended by adding at the end the following:

7 “(m) SYSTEMIC IDENTIFICATION.—With respect to
8 the identification of bank holding companies as global sys-
9 temically important bank holding companies pursuant to
10 section 217.402 of title 12, Code of Federal Regulations,
11 or subjected to a determination under subsection (l), the
12 Board of Governors shall—

13 “(1) publish, including on the Board of
14 Governors’s website, a list of all bank holding com-
15 panies that have been so identified, and keep such
16 list current; and

17 “(2) solicit feedback from the Council on the
18 identification process and on the application of such
19 process to specific bank holding companies.”.

20 (f) CONFORMING AMENDMENT.—The second sub-
21 section (s) (relating to “Assessments, Fees, and Other
22 Charges for Certain Companies”) of section 11 of the Fed-
23 eral Reserve Act (12 U.S.C. 248) is amended—

24 (1) by redesignating such subsection as sub-
25 section (t); and

1 (2) in paragraph (2)(A), by striking “having
2 total consolidated assets of \$50,000,000,000 or
3 more” and inserting “which have been identified as
4 global systemically important bank holding compa-
5 nies pursuant to section 217.402 of title 12, Code of
6 Federal Regulations, or subjected to a determination
7 under subsection (l) of section 165 of the Dodd-
8 Frank Wall Street Reform and Consumer Protection
9 Act”.

10 **SEC. 4. RULE OF CONSTRUCTION.**

11 Nothing in this Act or the amendments made by this
12 Act shall be construed to prohibit the Board of Governors
13 of the Federal Reserve System from prescribing enhanced
14 prudential standards for any bank holding company which
15 the Board of Governors determines, based upon the bank
16 holding company’s size, interconnectedness, substitut-
17 ability, global cross-jurisdictional activity, and complexity,
18 could pose a safety and soundness risk to the stability of
19 the United States banking or financial system but has not
20 been designated as a global systemically important bank
21 holding company.

1 **SEC. 5. EFFECTIVE DATE.**

2 The amendments made by this Act shall take effect
3 after the end of the 1-year period following the date of
4 the enactment of this Act.

○