

117TH CONGRESS
2D SESSION

S. 5347

To amend the Federal Deposit Insurance Act to remove restrictions on brokered deposits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 21, 2022

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

A BILL

To amend the Federal Deposit Insurance Act to remove restrictions on brokered deposits, 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 “Asset Growth Restric-
5 tion Act of 2022”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) restrictions on the acceptance of brokered
9 deposits were enacted in 1989 in order to prevent

1 the abuse of the deposit insurance system by trou-
2 bled depository institutions;

3 (2) since the enactment of the restrictions de-
4 scribed in paragraph (1), technological and demo-
5 graphic developments have changed the way in which
6 depository institutions seek and source deposits, and,
7 as a result, many deposits that are classified as bro-
8 kered pose little, if any, risk to the deposit insurance
9 system; and

10 (3) in today's economy, the greatest risk to the
11 deposit insurance system is asset growth by deposi-
12 tory institutions that are less than well capitalized.

13 (b) PURPOSE.—The purpose of this Act, and the
14 amendments made by this Act, is to remove the current
15 (as of the date of enactment of this Act) restrictions on
16 brokered deposits and to authorize the Federal Deposit
17 Insurance Corporation to issue regulations that restrict
18 asset growth by depository institutions that are less than
19 well capitalized.

20 **SEC. 3. ASSET GROWTH RESTRICTION.**

21 (a) ASSET GROWTH RESTRICTION.—Section 29 of
22 the Federal Deposit Insurance Act (12 U.S.C. 1831f) is
23 amended—

1 (1) in the section heading, by striking “**BRO-**
2 **KERED DEPOSITS**” and inserting “**ASSET**
3 **GROWTH RESTRICTIONS**”; and

4 (2) by striking subsections (a) through (i), and
5 inserting the following:

6 “(a) **DEFINITIONS.**—In this section, the terms ‘aver-
7 age’, ‘critically undercapitalized’, and ‘well capitalized’
8 have the meanings given those terms in section 38(b).

9 “(b) **REGULATIONS REQUIRED.**—Not later than 18
10 months after the date of enactment of the Asset Growth
11 Restriction Act of 2022, the Corporation, in consultation
12 with the Board of Governors of the Federal Reserve Sys-
13 tem and the Comptroller of the Currency, shall promul-
14 gate regulations imposing a restriction on average total
15 asset growth for insured depository institutions that are
16 less than well capitalized to maintain safety and soundness
17 and minimize risk to the Deposit Insurance Fund.

18 “(c) **MAXIMUM LEVEL OF GROWTH.**—As part of the
19 regulations required under subsection (b), the Corporation
20 shall—

21 “(1) establish a framework to impose 1 or more
22 maximum levels of growth in average total assets
23 that an insured depository institution that is less
24 than well capitalized may not exceed, and provide
25 appropriate adjustments for growth resulting from

1 corporate restructuring such as acquisitions or
2 mergers; and

3 “(2) establish a waiver process to enable the
4 Corporation to waive the maximum level established
5 in paragraph (1) upon application by an insured de-
6 pository institution that is not critically under-
7 capitalized, based on conditions set by the Corpora-
8 tion.

9 “(d) EXEMPTIONS AND ADDITIONAL RESTRIC-
10 TIONS.—As part of the regulations required under sub-
11 section (b), the Corporation may—

12 “(1) exempt specified classes of assets from the
13 asset growth restriction if the Corporation, in the
14 discretion of the Corporation, determines that
15 growth in those assets does not present risks to the
16 safety and soundness of an insured depository insti-
17 tution; and

18 “(2) impose additional restrictions on insured
19 depository institutions to prevent circumvention or
20 evasion of this section by an insured depository in-
21 stitution resulting from actions taken by the insured
22 depository institution by, or through, affiliates of the
23 insured depository institution.

24 “(e) ORDERS.—The Corporation may, by order—

1 “(1) establish a less restrictive level of growth
2 restriction for a particular insured depository insti-
3 tution that is less than well capitalized, or a group
4 of insured depository institutions that are less than
5 well capitalized, if the Corporation finds that such a
6 level will not pose an undue risk to the Deposit In-
7 surance Fund; and

8 “(2) establish a more restrictive level of growth
9 restriction for a particular insured depository insti-
10 tution that is less than well capitalized, or a group
11 of insured depository institutions that are less than
12 well capitalized, if the Corporation finds that such a
13 level is necessary to protect the Deposit Insurance
14 Fund.

15 “(f) CONFORMING REGULATIONS.—The Corporation
16 shall revise the regulations of the Corporation, as in exist-
17 ence on the date of enactment of the Asset Growth Re-
18 striction Act of 2022, to ensure that those regulations con-
19 form to the requirements of this section.”.

20 (b) RULE OF CONSTRUCTION.—An insured deposi-
21 tory institution that is in compliance with the regulations
22 or orders issued pursuant to section 29 of the Federal De-
23 posit Insurance Act (12 U.S.C. 1831f), as amended by
24 subsection (a) of this section, shall be deemed to be in

1 compliance with the asset growth standard established
2 pursuant to section 39 of that Act (12 U.S.C. 1831p-1).

3 (c) TECHNICAL AND CONFORMING AMENDMENT.—

4 Section 274(5) of the Truth in Savings Act (12 U.S.C.
5 4313(5)) is amended by inserting “, as that provision was
6 in effect on the day before the date of enactment of the
7 Asset Growth Restriction Act of 2022” after “Act”.

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