Congress Rolls Back 2010 Dodd-Frank Banking Rules

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The U.S. House of Representatives Tuesday voted 258-159 to approve a bill (S. 2155) dismantling part of the post-recession Dodd-Frank Act that the U.S. Senate passed in March 67-31. The measure now goes to President Donald Trump, who is expected to sign it.

Mainly the bill relaxes Dodd-Frank regulations for all but the largest U.S. banks, but there is also a fairly arcane provision in the language that could help loosen commercial and residential real estate lending, according to industry organizations.

The main thrust of the bill raises the threshold at which banks face the tight oversight spelled out in Dodd-Frank to $250B in assets, from the current $50B. Small to midsize banks had long grumbled that such detailed oversight was onerous for institutions of their size.

“It really does take the handcuffs off of all but 13 U.S. banks,” Dan Ryan, banking and capital markets leader at PwC, told the Wall Street Journal.

The bill will not prevent regulators from overseeing banks they deem risky, even if they have less than $250B in assets.

There is also a provision that specifically addresses a long-standing complaint of the commercial real estate industry. Namely, the bill makes clarifications and reforms to the Basel III High Volatility Commercial Real Estate, or HVCRE, Rule.

According to the Real Estate Roundtable, the existing rule has created confusion and increased borrowing costs in the industry.

Going forward, commercial borrowers will be able to satisfy the 15% equity requirement through the appreciated value of contributed land or property, compared with the cost basis under the current rule.

The measure also clarifies that loans made to acquire existing property with rental income and/or to do cosmetic upgrades and other improvements don't trigger the HVCRE capital penalty.

The industry's concern over HVCRE was enough that 13 real estate organizations sent a comment letter to Congress in March about the matter.

"The problem with the current rule is that it is both unclear and overly broad," the letter said. "As a result, many stabilized loans without construction risk fall into the HVCRE category, unduly burdening stabilized loans with a higher capital charge designed to protect banks from heightened construction risks.

"This has deterred many banks, including small community financial institutions, from making this type of loan — which can represent up to 50% of some small bank loan portfolios."

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