

THE DODD-FRANK WALL STREET REFORM & CONSUMER PROTECTION ACT ([H.R. 4173](#))

“BIG WIN FOR SMALL BANKS” SAYS WALL STREET JOURNAL

“Some of the smallest U.S. banks are heading toward a big boost from financial-overhaul legislation. A string of provisions tucked into the bill being voted on by the House on Wednesday would reduce the premiums that small banks pay to the Federal Deposit Insurance Corp., exempt them from parts of the newly proposed consumer-protection agency and reduce their financial exposure to some mortgages by allowing the small banks to sell the loans to investors. The bill also would permit small institutions to count certain types of securities toward their capital requirements. Larger U.S. banks wouldn't be permitted to do so.” -- [Wall Street Journal](#), 7/1/10

Responsible community banks, credit unions and small business should not endure unnecessary regulatory burdens that instead should be focused on Wall Street and other actors that created the financial crisis. That is why the Dodd-Frank conference report includes:

- **Fully preserving the thrift charter** while eliminating the ineffective Office of Thrift Supervision (OTS) and shifting its functions to the Office of the Comptroller of the Currency (OCC). This will preserve a business model that has worked for highly regulated institutions that play by the rules and make responsible lending decisions [Title III].
- **Exemption of community banks and credit unions from the new Consumer Bureau's enforcement power**, leaving consumer protection enforcement for community banks and credit unions with \$10 billion or less in assets with their primary bank regulator [§1026].
- **Exemption of small businesses from the Consumer Bureau's regulatory powers** for small businesses that sell their products and services to consumers if they meet a three-prong test. Specifically, the conference report exempts a small business from the Bureau's regulation if it sells non-financial products, does not securitize its consumer debt, and falls within the North American Industry Classification System code's definition of a small business [§1027].
- **Community banks will pay less for their Deposit Insurance Fund (DIF) assessments** with new authority for the FDIC to make assessment calculations based on a risk-based asset and liability metric [§331].
- **Community banks exempted from paying for higher DIF reserve ratio**, as all banks with less than \$10 billion in assets will be held harmless under a provision to raise the minimum DIF reserve ratio from 1.15% of total deposits to 1.35% of total deposits by 2020 [§334].
- **Permanent increase to \$250,000 of deposit insurance** will help community banks and credit unions compete with larger competitors [§335].
- **Two-year extension of FDIC's Transaction Account Guaranty (TAG) program**, which provides depositors with unlimited coverage for noninterest-bearing transaction accounts at participating FDIC-insured institutions. Similar authority is provided to the NCUA to have a similar program for credit unions [§343].
- **Eliminating Senate bill's authority to apply national lending limits to state-chartered banks**, which would have had the effect of undermining the dual-banking system that has

worked well for many decades. New language was added to ensure state-chartered banks don't circumvent the intent to count derivative transactions in the lending limit [§611].

- **Full grandfather of existing trust-preferred securities (TruPS) for community banks.** Trust-preferred securities (TruPS) issued before May 19, 2010 by a depository institution holding company with total consolidated assets of less than \$15 billion as of December 31, 2009, or any mutual holding company will not be forced to take any capital deductions on these instruments. The conference report does not change the treatment of small bank holding companies with less than \$500 million in assets under the Federal Reserve's Small Bank Holding Company Policy Statement [§171].
- **Fair treatment and consideration of small business credit** by specifying that during the rulemaking process, the consumer regulator is required to consider the impact that their rules will have on the cost of credit for small businesses and consider specific alternatives to minimize increases in the cost of credit [§1031].
- **Community banks and credit unions under \$10 billion exempted from the Federal Reserve's power to regulate interchange fees.** Tough anti-discrimination language was included in the conference report to ensure larger financial competitors can't have an unfair advantage over community banks and credit unions [§1075].
- **Small businesses will be relieved from the burden of paying excessive and disproportionate swipe card fees,** freeing up resources to allow them to grow their businesses and hire more workers [§1075].