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MARK WALKER, CHAIRMAN

RSC THE REPUBLICAN STUDY COMMITTEE

H.R. 4061: Financial Stability Oversight Council Improvement Act of 2017 (Rep. Ross, R-FL)

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FLOOR SCHEDULE:

Expected to be considered on April 11, 2018, under a closed rule.

The rule considers as adopted an amendment that is meant to offset the cost of the bill.

The rule also provides for consideration of H.R. 4293, the Stress Test Improvement Act of 2017.

TOPLINE SUMMARY:

H.R. 4061 would require the Financial Stability Oversight Council (FSOC) to take into account the appropriateness of the imposition of prudential standards as opposed to other forms of regulation when determining whether to subject a nonbank financial company to prudential regulation by the Federal Reserve.

COST:

The Congressional Budget Office (CBO) estimates that "enacting H.R. 4061 would increase net direct spending by $29 million and reduce revenues by $5 million over the 2019-2027 period. CBO estimates that, on net, budget deficits would increase by $34 million over the 2018-2027 period… CBO also estimates that implementing the bill would cost $1 million over the 2019-2022 period, subject to the availability of appropriated funds."

The rule considers as adopted an amendment that would reduce the limitation on the Federal Reserve Surplus Fund by $48,571,429 (from $7.5 billion to $7,451,428,571). Any amounts of the Surplus Fund that exceed the limit are required to be transferred to the General Fund of the Treasury. This amendment is meant to offset the cost of the bill. However, some conservatives may be concerned that transfers from the Federal Reserve Surplus Fund can be considered a budget gimmick. According to the Committee for a Responsible Federal Budget, this type of transfer "results in one-time savings on paper but no actual change in the amount of revenue the Treasury would receive over the long term." Section 5111 of the FY 2018 Budget Resolution prohibits the use of the Federal Reserve Surplus Fund from being counted as an offset in the House of Representatives.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

According to the Committee Report:

> "Section 113 of the Dodd-Frank Act authorizes the [Financial Stability Oversight Council (FSOC)] to determine that the material financial distress of a nonbank financial company could pose a threat to the financial stability of the United States. Once the FSOC makes a determination about a nonbank financial company, the nonbank financial company becomes subject to heightened prudential supervision and regulation by the Fed. Dodd-Frank requires the FSOC to consider a number of factors as it considers a SIFI determination."

H.R. 4061 would require the FSOC to take into account the appropriateness of the imposition of prudential standards as opposed to other forms of regulation when determining whether to subject a nonbank financial company to prudential regulation by the Federal Reserve.

The bill would require the FSOC to reevaluate a determination of systemic risk for a nonbank financial company supervised by the Federal Reserve at least annually. The bill would allow nonbank financial companies to challenge a determination every five years. If the two-thirds of the FSOC determines that the nonbank financial company no longer meets the systemic risk standards, the determination shall be rescinded.

The bill would specify requirements for a nonbank financial company that is being considered designated for prudential regulation to provide input to the FSOC and for the FSOC to provide information to the company prior to the determination being made.

The bill would require the FSOC to publicly disclose its determinations and the methodology for analyzing nonbank financial companies.

The bill would require the FSOC to conduct a study on the impact of the determinations on the companies and the wider economy.

The bill would also provide that done of the amendments made by the bill may be construed as limiting the FSOC's emergency powers under section 113(f) of Dodd-Frank.

COMMITTEE ACTION:

H.R. 4566 was introduced on October 12, 2017, and referred to the Committee on Financial Services. The Committee marked up and reported the bill on January 18, 2018, by a 45 – 10 vote.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

"Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 3 (The Congress shall have the Power ``to regulate Commerce with foreign Nations, and among the several States and with the Indian Tribes''"

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