Banking and Finance Law Daily Wrap Up, TOP STORY—Senators reach agreement on proposals to ease regulation, (Nov. 13, 2017)

Banking and Finance Law Daily Wrap Up

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By Andrew A. Turner, J.D.

Senate Banking Committee members have reached bipartisan agreement on proposed economic growth legislation that would raise the threshold for applying enhanced prudential standards to bank holding companies from $50 billion to $250 billion. The regulatory relief package also includes consumer protections for veterans, senior citizens, and victims of fraud.

"The package is targeted toward helping community banks, credit unions, mid-sized banks, regional banks and custody banks," according to the press release announcing the agreement. Announced by Senate Banking Committee Chairman Mike Crapo (R-Idaho) and Banking Committee members Joe Donnelly (D-Ind), Heidi Heitkamp (D-ND), Jon Tester (D-Mont) and Mark Warner (D-Va), the legislative proposal includes provisions intended to:

- improve consumer access to mortgage credit;
- provide regulatory relief for small financial institutions and protect consumer access to credit;
- provide protections for veterans, consumers, and homeowners; and
- tailor regulation for banks to better reflect their business models.

Tailoring regulations. Bank holding companies with total consolidated assets between $50 billion and $100 billion would be exempt from enhanced prudential standards immediately, and bank holding companies with total consolidated assets between $100 billion and $250 billion would be exempt 18 months after the effective date. The proposed legislation would also require changes to the supplementary leverage ratio for custodial banks and the treatment of municipal obligations.

Mortgage credit. Mortgage loans that are originated and retained in portfolio by an insured depository institution or an insured credit union with less than $10 billion in total consolidated assets would be deemed qualified mortgages. A tailored exemption from appraisal requirements would be applied to mortgage loans with a balance of less than $400,000 if the originator is unable to find a state-certified or state-licensed appraiser.

The bill would also provide regulatory relief to small depository institutions from disclosure requirements under the Home Mortgage Disclosure Act. Other provisions target barriers to jobs for loan originators; access to manufactured homes; real property retrofit loans; escrow requirements for consumer credit transactions; and the wait period for lower mortgage rates.

Credit access. Capital simplification for qualifying community banks would establish a community bank leverage ratio of tangible equity to average consolidated assets of not less than 8 percent and not more than 10 percent. Banks with less than $10 billion in total consolidated assets that maintain tangible equity in an amount exceeding the community bank leverage ratio would be deemed to be in compliance with capital and leverage requirements.

Community bank relief would exempt banking entities from the Bank Holding Company Act if they have (1) less than $10 billion in total consolidated assets, and (2) total trading assets and trading liabilities that are not more than 5 percent of total consolidated assets.

Reporting requirements would be reduced for depository institutions with less than $5 billion in total consolidated assets that satisfy other appropriate criteria. Federal savings associations with less than $15 billion in total consolidated assets would be permitted to operate with the same powers and duties as national banks without

being required to convert their charters. The consolidated asset threshold would be raised from $1 billion to $3 billion for well managed and well capitalized banks to qualify for an 18-month examination cycle.

Protections. Credit bureaus would be required to include in a consumer's file fraud alerts for at least a year under certain circumstances, provide consumers one free freeze alert and one free unfreeze alert per year, and provide further protections for minors. Other sections are aimed at protecting veterans' credit and aiding senior protection.

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