

## HR 5461

To clarify the application of certain leverage and risk-based requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act, to improve upon the definitions provided for points and fees in connection with a mortgage transaction, and for other purposes.

**Congress:** 113 (2013–2015, Ended)

**Chamber:** House

**Policy Area:** Finance and Financial Sector

**Introduced:** Sep 15, 2014

**Current Status:** Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs. (Sep 17, 2014)

**Latest Action:** Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs. (Sep 17, 2014)

**Official Text:** <https://www.congress.gov/bill/113th-congress/house-bill/5461>

### Sponsor

**Name:** Rep. Barr, Andy [R-KY-6]

**Party:** Republican • **State:** KY • **Chamber:** House

### Cosponsors (3 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Huizenga, Bill [R-MI-2]	R · MI		Sep 15, 2014
Rep. Miller, Gary G. [R-CA-31]	R · CA		Sep 15, 2014
Rep. Scott, David [D-GA-13]	D · GA		Sep 15, 2014

### Committee Activity

Committee	Chamber	Activity	Date
Agriculture Committee	House	Referred To	Sep 15, 2014
Banking, Housing, and Urban Affairs Committee	Senate	Referred To	Sep 17, 2014
Financial Services Committee	House	Referred To	Sep 15, 2014

### Subjects & Policy Tags

#### Policy Area:

Finance and Financial Sector

## Related Bills

Bill	Relationship	Last Action
113 S 2270	Related bill	<b>Dec 18, 2014:</b> Became Public Law No: 113-279.
113 HR 5405	Related bill	<b>Sep 17, 2014:</b> Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
113 S 1577	Related bill	<b>Sep 16, 2014:</b> Committee on Banking, Housing, and Urban Affairs. Hearings held.
113 HR 3211	Related bill	<b>Jun 10, 2014:</b> Received in the Senate.
113 HR 4510	Related bill	<b>May 20, 2014:</b> Hearings Held by the Subcommittee on Housing and Insurance Prior to Referral.
113 HR 4167	Related bill	<b>Apr 30, 2014:</b> Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
113 S 2102	Related bill	<b>Mar 11, 2014:</b> Committee on Banking, Housing, and Urban Affairs Subcommittee on Financial Institutions and Consumer Protection. Hearings held.
113 HR 634	Related bill	<b>Jun 13, 2013:</b> Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
113 S 949	Related bill	<b>May 14, 2013:</b> Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
113 S 888	Related bill	<b>May 8, 2013:</b> Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 67.

**(This measure has not been amended since it was introduced. The summary has been expanded because action occurred on the measure.)**

**Title I: Insurance Capital Standards** - Insurance Capital Standards Clarification Act of 2014 - (Sec. 102) Amends the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) concerning establishment of minimum leverage and minimum risk-based capital requirements on a consolidated basis for a depository institution holding company or a nonbank financial company supervised by the Board of Governors of the Federal Reserve System.

States that federal banking agencies shall not be required to subject any person to such minimum capital requirements, to the extent that such person either: (1) acts in its capacity as a regulated insurance entity regulated by a state insurance regulator, or (2) is a regulated foreign subsidiary engaged in the business of insurance (including a regulated foreign affiliate of such subsidiary).

States that a Board-supervised depository institution holding company or nonbank financial company engaged in the insurance business and regulated by either a state insurance regulator or the National Association of Insurance Commissioners, and which files its holding company financial statements using only Statutory Accounting Principles pursuant to state law, shall not be required by the Board, under this Act or the Home Owners' Loan Act (HOLA), to prepare such financial statements in accordance with Generally Accepted Accounting Principles.

Declares that nothing in this Act shall: (1) limit Board authority to conduct any regulatory or supervisory activity of either a depository institution holding company or a non-bank financial company under Board jurisdiction, including the collecting or reporting of any information on an entity or group-wide basis; or (2) excuse the Board from its obligations to comply with Dodd-Frank requirements regarding examination of nonbank financial companies and HOLA requirements regarding examination of savings and loan holding companies.

**Title II: Collateralized Loan Obligations** - Restoring Proven Financing for American Employers Act - (Sec. 202) Amends the Bank Holding Company Act of 1956 with respect to certain prohibitions on proprietary trading by banking entities and certain relationships with hedge funds and private equity funds (Volcker Rule).

Prescribes rules of construction governing a collateralized loan obligation to prohibit the Volcker Rule from being construed to require divestiture, before July 21, 2017, of any debt securities of collateralized loan obligations issued before January 31, 2014.

Declares that a banking entity shall not be considered to have an ownership interest in a collateralized loan obligation because it either acquires, has acquired, or retains a debt security in such obligation if the debt security has no indicia of ownership other than the right of the banking entity to participate in the removal for cause, or in the selection of a replacement after removal for cause or resignation, of an investment manager or investment adviser of the collateralized loan obligation.

Defines "collateralized loan obligation" as any issuing entity of an asset-backed security comprised primarily of commercial loans.

Deems an investment manager or adviser to be removed "for cause" if the removal is a result of:

- a breach of a material term of the applicable management or advisory agreement or the agreement governing the

collateralized loan obligation;

- the investment manager's or investment adviser's inability to continue to perform its obligations under any such agreement;
- any other action or inaction by the investment manager or investment adviser that has or could reasonably be expected to have a materially adverse effect on the collateralized loan obligation, if the investment manager or investment adviser fails to cure or take reasonable steps to cure such effect within a reasonable time; or
- an event or circumstance which threatens, or could reasonably be expected to threaten, the interests of holders of the debt securities.

**Title III: Definition Of Points And Fees In Mortgage Transactions** - Mortgage Choice Act of 2014 - (Sec. 302) Amends the Truth in Lending Act with respect to requirements for disclosure to a consumer of points and fees information about a consumer credit transaction, secured by the consumer's principal dwelling, but which is not a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, when the total points and fees the consumer must pay at or before closing will exceed 8% of the total loan amount or \$400, whichever is greater. (Such consumer credit transactions might include an equity credit line to which consumer purchases or leases may be charged.)

Excludes from the computation of such points and fees any escrow for future payment of insurance.

Modifies the criteria for exclusion from the computation of points and fees of certain reasonable charges elsewhere exempted from the computation of the finance charge in extensions of credit secured by an interest in real property. Excludes from points and fees any such reasonable charges even though a creditor receives compensation, but only in so far as the creditor or its affiliate retains the compensation as a result of their participation in an affiliated business arrangement.

(An "affiliated business arrangement" is one in which: (1) a person who is in a position to refer business incident to or a part of a real estate settlement service involving a federally related mortgage loan, or an associate of such person, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1% in a provider of settlement services; and (2) either of such persons directly or indirectly refers such business to that provider or affirmatively influences the provider's selection.)

Revises the additional requirement that such a reasonable charge be paid to a third party unaffiliated with the creditor. Requires the charge to be either: (1) a bona fide third party charge not retained by the mortgage originator, creditor, or an affiliate; or (2) a fee or premium for title examination, title insurance, or similar purposes.

Modifies the conditions under which federal departments and agencies may exempt refinancings under a streamlined refinancing from an income verification requirement that, at the time a refinancing is consummated, the consumer has a reasonable ability to repay the loan and all applicable taxes, insurance, and assessments.

Repeals the exception for bona fide third party charges not retained by the mortgage originator, creditor, or an affiliate from the requirement that total points and fees not exceed 3% of the total new loan amount. (Thus subjects such charges to the same 3% ceiling.)

(Sec. 303) Directs the Consumer Financial Protection Bureau (CFPB) to issue, within 90 days after enactment of this Act, final regulations to it carry out.

**Title IV: Business Risk Mitigation And Price Stabilization** - Business Risk Mitigation and Price Stabilization Act of

2014 - (Sec. 402) Amends the Commodity Exchange Act (CEA) to exempt, from the rules of prudential regulators for swap dealers and major swap participants with respect to initial and variation margin requirements for swaps not cleared by a registered derivatives clearing organization, those swaps in which one of the counterparties:

- is eligible for an exception from clearing requirements because it is not a financial entity, uses swaps to hedge or mitigate commercial risk, and notifies the Commodity Futures Trading Commission (CFTC) how it meets financial obligations associated with entering into non-cleared swaps;
- is eligible for a public interest exemption from swap clearing requirements for certain cooperative entities; or
- satisfies specified criteria governing treatment of affiliates in connection with clearing requirements.

Amends the Securities Exchange Act of 1934 (SEA 1934) regarding registration and regulation of security-based swap dealers and major security-based swap participants, to exempt from initial and variation margin requirements for swaps not cleared by a registered derivatives clearing organization a security-based swap in which one of the counterparties either: (1) qualifies for a specified exception from clearing requirements, or (2) satisfies certain criteria governing the treatment of affiliates.

## **Actions Timeline**

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- **Sep 17, 2014:** Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
- **Sep 16, 2014:** Considered as unfinished business. (consideration: CR H7577)
- **Sep 16, 2014:** Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 327 - 97 (Roll no. 502). (text: CR 9/16/2014 H7508-7510)
- **Sep 16, 2014:** On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 327 - 97 (Roll no. 502). (text: CR 9/16/2014 H7508-7510)
- **Sep 16, 2014:** Motion to reconsider laid on the table Agreed to without objection.
- **Sep 15, 2014:** Introduced in House
- **Sep 15, 2014:** Referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
- **Sep 15, 2014:** Mr. Huizenga (MI) moved to suspend the rules and pass the bill.
- **Sep 15, 2014:** Considered under suspension of the rules. (consideration: CR H7508-7515)
- **Sep 15, 2014:** DEBATE - The House proceeded with forty minutes of debate on H.R. 5461.
- **Sep 15, 2014:** DEBATE - The House continued with debate on H.R. 5461.
- **Sep 15, 2014:** At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 8, rule XX, the Chair announced that further proceedings on the motion would be postponed.