



## Dodd-Frank Exempt

regulatory

After Tara Monroe was arrested for allegedly driving under the influence in 2015, the father of the Texas State University student didn't waste any time confiscating her Jeep. That, however, didn't stop Tara, who had no intention of riding around on the bicycle her father left her as a replacement means of transportation. Instead of taking to her new bike, Tara took to the Internet - where she found a Barbie Jeep for sale on Craigslist and began driving it around campus.

Tara's unique approach to getting around a decision she didn't like made us think about legislation recently passed by the House that would allow more community banks to get around the Dodd-Frank Act's leverage and risk based capital requirements.

Under H.R. 3791, which was passed with a vote of 247 to 141, the threshold for exemption for smaller banks and thrift holding companies would climb to \$5B in consolidated assets - up from \$1B. Such an increase would allow a larger number of community banks to increase their overall lending to both consumers and small businesses, reduce costs and increase corporate flexibility. The bill's passage came just over a year after the Fed already increased the exemption threshold to \$1B, from the \$500mm mark initially included within Dodd-Frank. According to regulators, the initial increase provided exemption from certain capital and regulatory guidelines for roughly 500 small banks and thrifts, while the latest increase would exempt an additional 400 or so.

Supporters of the latest increase argue that it would be beneficial for small businesses because it would make it easier for them to borrow needed capital at a time when the number of community banks, traditionally the most active lenders to this group, has been consolidating.

Supporters also argue that increasing the exemption threshold would help stave off further consolidation by making it easier for smaller banks to raise the capital needed or to issue debt to form new holding company and to make acquisitions.

Though the Fed is probably not a proponent of bank holding companies issuing a bunch of debt to finance acquisitions, it has acknowledged that some issuance is often a necessity in order to transfer the ownership of smaller banks to holding companies. Because of this, back in 1980, the Fed initially decided to allow qualifying small bank holding companies to have higher debt levels than its capital guidelines allowed for larger bank holding companies. Not surprisingly, both the ICBA and ABA have written letters highlighting their support for the threshold change.

For their part, detractors say the threshold change would jeopardize the soundness of bank holding companies by encouraging them to do little more than to assume more debt. The White House is even on the record against the increase saying, "Community banks with \$1 to \$5 billion in assets already have sufficient access to capital markets and as a group are exhibiting health and resilience."

Other opponents of the bill argue that its passage would lead to further consolidation among community banks by encouraging small bank holding companies to seek out acquisitions of other small banks for the wrong reason - primarily to boost their own bottom line.

We will have to watch and wait to see how this all turns out, but in the meantime we note the legislation will probably move along at about the same speed as the Barbie Jeep, which tops out at only 5mph. Go Tara go.

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