

Client Alert

September 12, 2016



H.R. 5983—Act as Introduced—Title I

U.S. Congressman Jeb Hensarling, Chairman of the House Financial Services Committee, has set the stage for the consideration of regulatory reform and burden reduction with the introduction of H.R. 5983, the “Financial Choice Act of 2016,” a cornerstone of which (Title I) provides regulatory relief for banking organizations that are strongly capitalized and well-managed. This alert provides an easy-to-follow, plain language summary chart of Title I at a glance.

Qualification Criteria:	BHCs and SHLCs must maintain a ratio of average tier 1 common equity, and additional tier 1 capital instruments issued on or before June 1, 2016, ¹ to total leverage exposure, as measured for purposes of the supplementary ratio, of 10% for itself (and each IDI), and each IDI must maintain a CAMELS rating of 1 or 2
Section	Exemptions
102(a)(1)	Exempts from regulatory capital and liquidity requirements, including: (1) Basel III; (2) supplementary leverage ratio; (3) LCR; and (4) NSFR.
102(a)(2)	Exempts from limitations on capital distributions.
102(a)(3)(A)	Exempts BHCs from any consideration of any risk the BHCs may pose to U.S. financial stability.
102(a)(3)(B)	Exempts from any consideration of limitations on proposed mergers, consolidations, or acquisitions due to concentrations risks to the U.S. financial stability.
102(a)(3)(C)&(D)	Exempts from any consideration of risk to U.S. financial stability in applications by BHCs to engage in nonbanking activities.
102(a)(3)(E)	Exempts from any consideration of whether a merger under the Bank Merger Act would pose a risk to U.S. financial stability.

¹ BHCs with less than \$15 billion in consolidated assets can include certain TruPS issued before May 19, 2010, and for traditional banking organizations with no trading assets and limited swaps, the leverage exposure is limited to Call Report assets minus tier 1 capital deductions.

Qualification Criteria:	BHCs and SHLCs must maintain a ratio of average tier 1 common equity, and additional tier 1 capital instruments issued on or before June 1, 2016, to total leverage exposure, as measured for purposes of the supplementary ratio, of 10% for itself (and each IDI), and each IDI must maintain a CAMELS rating of 1 or 2
Section	Exemptions
102(a)(3)(F)	Exempts SLHCs from consideration of any risk the SLHC may pose to U.S. financial stability.
102(a)(4)	Exempts BHCs from the 10% deposit cap on interstate acquisitions, removes the \$10b cap on FHCs acquiring companies without prior approval, and exempts the BHC from the 10% cap on consolidated liabilities.
102(a)(5)	Exempts the IDIs from the 10% deposit cap on mergers.
102(a)(6)	Exempts BHCs with total consolidated assets >\$50b from the approval requirements for acquisitions >\$10b.
102(a)(7)	Exempts SHLCs from the 10% deposit cap.
102(a)(8)	Exempts BHCs with >\$50b from Dodd-Frank Section 165, and similar requirements relating to prudential standards, including: (1) risk based or leverage capital; (2) liquidity; (3) overall risk management, including a risk committee; (4) concentration limits; (5) contingent capital requirements; (6) enhanced disclosures; (7) short-term debit limits; and (8) resolution planning and credit exposure reports.
102(a)(9)	Exempts from any federal limitations on mergers, consolidations, or acquisitions of assets or control, to the extent such limitations relate to capital or liquidity standards or concentrations of deposits or assets.
102(b)	Exempts certain banking organizations with consolidated assets of between \$10b and \$50b from annual stress tests.
102(c)	IDIs are deemed well capitalized for purposes of prompt corrective action.

Authors

Oliver Ireland
Washington, D.C.
(202) 778-1614
oireland@mofo.com

Jared Kaplan
New York
(212) 336-4334
jkaplan@mofo.com

About Morrison & Foerster

We are Morrison & Foerster—a global firm of exceptional credentials. Our clients include some of the largest financial institutions, investment banks, and Fortune 100, technology and life sciences companies. We’ve been included on *The American Lawyer*’s A-List for 13 straight years, and *Fortune* named us one of the “100 Best Companies to Work For.” Our lawyers are committed to achieving innovative and business-minded results for our clients while preserving the differences that make us stronger. This is MoFo. Visit us at www.mofo.com. © 2016 Morrison & Foerster LLP. All rights reserved. For more updates, follow Thinkingcapmarkets, our Twitter feed: www.twitter.com/Thinkingcapmkts.

Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations.