

HOUSE BILL REPORT

ESJM 8005

As Passed House:

March 1, 2024

Brief Description: Addressing "de-risking" by financial institutions.

Sponsors: Senators Hasegawa and Wilson, C..

Brief History:

Committee Activity:

Consumer Protection & Business: 3/17/23, 3/22/23 [DP], 2/20/24, 2/21/24 [DP].

Floor Activity:

Passed House: 3/1/24, 59-37.

Brief Summary of Engrossed Joint Memorial

- Requests federal legislation to address actions taken by financial institutions to terminate or restrict business relationships with certain customers.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass. Signed by 7 members: Representatives Walen, Chair; Reeves, Vice Chair; Chapman, Donaghy, Hackney, Ryu and Santos.

Minority Report: Do not pass. Signed by 4 members: Representatives Robertson, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Connors and Volz.

Minority Report: Without recommendation. Signed by 2 members: Representatives Corry and Sandlin.

Staff: Megan Mulvihill (786-7304).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

The term "de-risking" refers to actions taken by a financial institution to terminate, fail to initiate, or restrict a business relationship with a customer or category of customers rather than manage the risk associated with that relationship.

The federal Bank Secrecy Act and related anti-money laundering (BSA/AML) regulations require financial institutions to collect and retain various records of customer transactions, verify customers' identities, maintain anti-money laundering programs, and report suspicious transactions.

Some nonbank financial institutions and nonprofit charitable organizations, sometimes referred to as "money services businesses" or "money transmitters," transfer funds to recipients in foreign countries, including areas experiencing humanitarian crises, and require bank accounts and bank services to facilitate these transfers. However, when transfers occur to recipients in countries at high risk for money laundering or terrorist financing, some financial institutions may be reluctant to provide these services.

The 2021 federal National Defense Authorization Act (NDAA) directed the United States Government Accountability Office (GAO) to analyze and report on de-risking, including drivers of de-risking efforts and alternative means for financial institutions to handle transactions or accounts for high-risk categories of clients, which the GAO has done. The NDAA also directs the United States Department of Treasury (Treasury), in consultation with federal and state regulators, to develop a strategy to reduce de-risking and related adverse consequences.

Relatedly, the Washington Department of Financial Institutions (DFI) provides regulatory oversight to money transmitters, banks, and credit unions in Washington. The DFI has developed regulatory guidance to clarify expectations for financial institutions offering account services to affected money transmitters, and forwarded such guidance to federal financial regulators for review and comment.

Summary of Joint Memorial:

The Legislature requests the United States Congress to pass, and the President to sign, legislation implementing the strategies and recommendations resulting from: (1) directives to the GAO and Treasury under the NDAA; and (2) review of the DFI's regulatory guidance for depository institutions. The legislation should also include:

- directives to federal financial regulatory agencies to develop regulations that clearly and specifically require financial institutions to have reasonably designed and risk-based AML programs supervised on a risk basis, taking into consideration the effects of financial inclusion;
- provisions that give federal banking regulators clarity on how to improve the ability of examiners to evaluate banks' BSA/AML compliance as applied to money

- transmitter accounts;
- a requirement that financial institutions disclose a specific reason when denying or closing an account; and
- assistance for financial institutions to mitigate the cost of due diligence required to comply with BSA/AML provisions impacting money transmitters.

The Legislature further requests that the President direct federal regulators to work with the DFI and stakeholders to support efforts to develop new and creative solutions to improve banking access for local and community-based money transmitters.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The DFI reviewed this joint memorial this interim, so it includes a few updates.

(Opposed) None.

Persons Testifying: Senator Bob Hasegawa, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.