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**AMENDMENT TO H.R. 4173  
(FINANCIAL REGULATORY REFORM)**

**OFFERED BY MS. KILROY OF OHIO**

[Page and line nos. refer to text of introduced bill as posted on Rules Committee website]

Page 255, after line 2, insert the following new section:

1           **Sec. 1316 MUTUAL NATIONAL BANKS AND FEDERAL MUTUAL BANK**  
2 **HOLDING COMPANIES AUTHORIZED.**

3           (a) **IN GENERAL.**—Chapter one of title LXII of the Revised Statutes of the United  
4 States (12 U.S.C. 21 et seq.) is amended by inserting after section 5133 the following new  
5 sections:

6           **“SEC. 5133A. MUTUAL NATIONAL BANKS.—**

7           **“(a) IN GENERAL.**—Notwithstanding the section designated the ‘Third’ of section  
8 5134, in order to provide mutual institutions for the deposit of funds, the extension of credit, and  
9 provision of other services, the Comptroller of the Currency may charter mutual national banks  
10 either *de novo* or through a conversion of any insured depository institution or any State mutual  
11 bank or credit union, subject to regulations prescribed by the Comptroller of the Currency in  
12 accordance with this section. The powers conferred by this section are intended to provide for the  
13 creation and maintenance of mutual national banks as bodies corporate existing in perpetuity for  
14 the benefit of their depositors and the communities in which they operate.

15           **“(b) REGULATIONS.—**

16           **“(1) REGULATIONS OF THE COMPTROLLER.**—The Comptroller of the Currency  
17 is authorized to prescribe appropriate regulations for the organization, incorporation,  
18 examination, operation, and regulation of mutual national banks. Except to the extent that such  
19 existing regulations conflict with Sections 5133A and 5133B, mutual national banks shall be  
20 subject to the regulations of the Director of the Office of Thrift Supervision governing corporate  
21 organization, governance, and conversion of mutual institutions, as in effect on the date of  
22 enactment of The Wall Street Reform and Consumer Protection Act of 2009, including parts 543,  
23 544, 546, 563b, and 563c of chapter V of title 12 of the Code of Federal Regulations (as in effect

1 on that date), for up to 3 years beginning on the date of enactment of The Wall Street Reform  
2 and Consumer Protection Act of 2009.

3 “(2) APPLICABILITY OF CAPITAL STOCK REQUIREMENTS.—The Comptroller  
4 of the Currency shall prescribe regulations regarding the manner in which requirements of title  
5 LXII of the Revised Statutes of the United States with respect to capital stock, and limitations  
6 imposed on national banks under that title based on capital stock, shall apply to mutual national  
7 banks.

8 “(c) CONVERSIONS.—

9 “(1) CONVERSION OF A MUTUAL DEPOSITORY TO A MUTUAL NATIONAL  
10 BANK.—Subject to such regulations as the Comptroller of the Currency may prescribe for the  
11 protection of depositors’ rights and for any other purpose the Comptroller of the Currency may  
12 consider appropriate, any mutual depository may convert to a mutual national bank by filing with  
13 the Comptroller of the Currency a notice of its election to convert on a specified date that is not  
14 earlier than 30 days after the date on which the notice is filed, and the mutual depository shall be  
15 converted to a mutual national bank charter on the date specified in the notice.

16 “(2) CONVERSION TO STOCK NATIONAL BANK.—Subject to such regulations as  
17 the Comptroller of the Currency may prescribe for the protection of depositors’ rights and for  
18 any other purpose the Comptroller of the Currency may consider appropriate, any national bank  
19 that is organized in the mutual form under subsection (a) may reorganize as a stock national  
20 bank.

21 “(3) CONVERSION TO STATE BANKS.—Any national mutual bank may convert to a  
22 State bank charter in accordance with regulations prescribed by the Comptroller of the Currency  
23 and applicable State law.”

24 “(d) TERMINATING MUTUALITY.—If a mutual national bank elects to terminate  
25 mutuality, it must do so by (1) liquidating, or (2) converting to a national banking association  
26 operating in stock form.

27 “(e) STATUS AND RIGHTS OF MEMBERS.—

28 “(1) In general, the status of a member is primarily that of a depositor and  
29 secondarily that of a holder of a contingent right to participate in the equity of a mutual national  
30 bank upon a liquidation or conversion.

31 “(2) Each member of a mutual national bank shall have the following rights:

1                   “(A) such rights as may be agreed upon, by contract, between the member  
2 and the mutual national bank;

3                   “(B) the right to vote for members of the board of directors of the mutual  
4 national bank;

5                   “(C) the right to attend any meeting of members properly called by the  
6 board of directors of a mutual national bank;

7                   “(D) In the event the board of directors, in its sole discretion, determines a  
8 conversion of a mutual national bank to a national banking association operating in stock form is  
9 in the best interests of the community in which the bank operates and the members approve the  
10 conversion through a special proxy, then the members as of a record date set by the board of  
11 directors shall have the first right to subscribe for and purchase stock in the converted bank; and

12                   “(E) In the event the board of directors, in its sole discretion, determines a  
13 liquidation of the mutual national bank is in the best interests of the community in which the  
14 bank operates and the members approve the liquidation, or if for any other reason the bank is  
15 liquidated by operation of law, then the members as of the date of liquidation shall have the right  
16 to have credited to their accounts, on a pro rata basis, any residual assets left after the liquidation  
17 of the mutual national bank.

18                   “(3) In the consideration of all questions requiring action by the members of a  
19 mutual national bank, the bank may provide in its charter that each member shall be permitted (i)  
20 one vote per member, or (ii) to cast one vote for each \$100, or fraction thereof, of the withdrawal  
21 value of the member's account, but not more than 1,000 votes per member.

22                   “(f) PROXIES. —

23                   “(1) A member may give, in writing or electronically, a perpetual proxy to a  
24 committee of the board of directors of a mutual depository, provided that the member may  
25 revoke such a proxy in writing or electronically, with such revocation to take effect after six  
26 business days.

27                   “(2) Such proxies may be used to vote on any issue requiring approval of the  
28 members, including the conversion of a mutual depository into a mutual national bank and the  
29 reorganization of a mutual national bank into a Federal mutual bank holding company, except  
30 that, without a prior finding by the regulator of the mutual national bank that such action is  
31 needed to avoid loss to the Federal Deposit Insurance Corporation's deposit insurance fund or to

1 protect the stability of the United States financial system, such proxies may not be used to vote in  
2 favor of:

3                   “(A) terminating mutuality for a mutual national bank or a Federal mutual  
4 bank holding company;

5                   “(B) permitting the modification of a Federal mutual bank holding  
6 company; or

7                   “(C) issuing mutual capital certificates (except when used to found a  
8 mutual national bank or a Federal mutual bank holding company de novo).

9                   “(3) Proxies given by a member, in writing or electronically, to management of,  
10 or to a committee of the board of directors of, a mutual depository shall not be deemed to have  
11 been revoked solely because of, and shall continue to exist following, a conversion to a mutual  
12 national bank and any concurrent or subsequent reorganization to a Federal mutual bank holding  
13 company.

14                   “(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

15                   “(1) INSURED DEPOSITORY INSTITUTION. – The term "insured depository  
16 institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

17                   “(2) MUTUAL NATIONAL BANK. – The term "mutual national bank" means a  
18 national banking association that operates as a mutual depository and is chartered by the  
19 Comptroller of the Currency under this section.

20                   “(3) MUTUAL DEPOSITORY. – The term "mutual depository" means a  
21 depository institution that is organized in non-stock form, including a Federal non-stock  
22 depository and any form of non-stock depository provided for under State law, the deposits of  
23 which are insured by an instrumentality of the Federal government.

24                   “(4) MUTUALITY. – The term "mutuality" means the quality of being an insured  
25 depository institution organized under a Federal or State law providing for the organization of  
26 non-stock depository institutions, or a holding company organized under a Federal or State law  
27 providing for the organization of non-stock entities that control one or more depository  
28 institutions.

29                   “(5) MEMBER. – The term "member" means each tax-liable depositor in a mutual  
30 depository's savings, demand, or other authorized depository accounts and each tax-liable

1 depositor in such an account in a depository subsidiary of a Federal mutual bank holding  
2 company.

3           “(6) TAX LIABLE DEPOSITOR. – The term "tax liable depositor" means the  
4 single person responsible for paying any Federal taxes due on any interest paid on any deposits  
5 held within any savings, demand, or other authorized depository account or accounts with any  
6 mutual depository.

7           “(7) MEMBERSHIP RIGHTS. - The term "membership rights" means the rights  
8 of each member under this section.

9           “(h) CONFORMING REFERENCES. – Unless otherwise provided by the Comptroller –

10           “(1) any reference in any Federal law to a national bank operating in stock form,  
11 including a reference to the term 'national banking association', 'member bank', 'national bank',  
12 'national association', 'bank', 'insured bank', 'insured depository institution', or 'depository  
13 institution', shall be deemed to refer also to a mutual national bank;

14           “(2) any reference in any Federal law to the term 'board of directors', 'director', or  
15 'directors' of a national bank operating in stock form shall be deemed to refer also to the board of  
16 a mutual national bank; and

17           “(3) any terms in Federal law that may apply only to a national bank operating in  
18 stock form, including the terms "stock", 'shares', 'shares of stock', 'capital stock', 'common stock',  
19 'stock certificate', 'stock certificates', 'certificates representing shares of stock', 'stock dividend',  
20 'transferable stock', 'each class of stock', 'cumulate such shares', 'par value', 'preferred stock' shall  
21 not apply to a mutual national bank, unless the Comptroller of the Currency determines that the  
22 context requires otherwise.

23           “SEC. 5133B. FEDERAL MUTUAL BANK HOLDING COMPANIES.

24           “(a) REORGANIZATION OF MUTUAL NATIONAL BANK AS A HOLDING  
25 COMPANY.—

26           “(1) IN GENERAL.—Subject to approval under the Bank Holding Company Act  
27 of 1956, a mutual national bank may reorganize so as to become a Federal mutual bank holding  
28 company by submitting a reorganization plan to the appropriate bank holding company regulator.

29           “(2) PLAN APPROVAL.—Upon the approval of the reorganization plan by the  
30 appropriate bank holding company regulator and the issuance of the appropriate charters –

1                   “(A) the substantial part of the mutual national bank's assets and liabilities,  
2 including all of the bank's insured liabilities, shall be transferred to a national banking  
3 association, a majority of the shares of voting stock of which is owned, directly or indirectly, by  
4 the mutual national bank that is to become a Federal mutual bank holding company; and

5                   “(B) the mutual national bank shall become a Federal mutual bank holding  
6 company.

7                   “(b) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN  
8 REQUIRED. – This subsection does not authorize a reorganization unless –

9                   “(1) a majority of the mutual national bank's board of directors has approved the  
10 plan providing for such reorganization; and

11                   “(2) a majority of members has approved the plan at a meeting held at the call of  
12 the directors under the procedures prescribed by the bank's charter and bylaws.

13                   “(c) OWNERSHIP OF DEPOSITORY SUBSIDIARIES. – To avoid terminating  
14 mutuality, a Federal mutual bank holding company must own, directly or indirectly, a majority  
15 of the shares of voting stock of each of its depository subsidiaries.

16                   “(d) NO TERMINATION OF MUTUALITY. - Neither a reorganization of a mutual  
17 depository nor a modification of a Federal mutual bank holding company shall cause a  
18 termination of mutuality.

19                   “(e) RETENTION OF CAPITAL. – In connection with a transaction described in  
20 subsection (a), a mutual national bank may, subject to the approval of the appropriate bank  
21 holding company regulator, retain capital at the holding company level to the extent that the  
22 capital retained at the holding company level exceeds the amount of capital required for the  
23 national banking association chartered as a part of a transaction described in subsection (a) to  
24 meet all relevant capital standards established by the Comptroller of the Currency for national  
25 banking associations.

26                   “(f) TERMINATING MUTUALITY. - If a Federal mutual bank holding company elects  
27 to terminate mutuality, it must do so by either liquidating or converting to a bank holding  
28 company operating in stock form.

29                   “(g) MEMBERSHIP RIGHTS. – Holders of savings, demand, or other authorized  
30 depository accounts in a depository subsidiary of a Federal mutual bank holding company shall  
31 have the same membership rights with respect to the Federal mutual bank holding company as

1 those holders would have had if the depository subsidiary of the Federal mutual bank holding  
2 company had been a mutual national bank.

3 “(h) REGULATION. – A Federal mutual bank holding company shall be –

4 “(1) chartered by the appropriate bank holding company regulator and shall be  
5 subject to such regulations as the appropriate bank holding company regulator shall prescribe;  
6 and

7 “(2) regulated under the Bank Holding Company Act of 1956 on the same terms  
8 and subject to the same limitations as any other company that controls a bank.

9 “(i) CAPITAL IMPROVEMENT. –

10 “(1) PLEDGE OF STOCK OF NATIONAL BANK SUBSIDIARY. – This  
11 section shall not prohibit a Federal mutual bank holding company from pledging all or a portion  
12 of the stock of the national banking association chartered as part of a transaction described in  
13 subsection (a) to raise capital for such national banking association.

14 “(2) ISSUANCE OF NONVOTING SHARES. – This section shall not prohibit a  
15 national banking association chartered as part of a transaction described in subsection (a) from  
16 issuing any nonvoting shares or less than 50 percent of the voting shares of such bank to any  
17 person other than the Federal mutual bank holding company.

18 “(j) INSOLVENCY AND LIQUIDATION. –

19 “(1) IN GENERAL. – Notwithstanding any other provision of law, the  
20 appropriate bank holding company regulator may file a petition under chapter 7 of title 11,  
21 United States Code, with respect to a Federal mutual bank holding company upon –

22 “(A) the default of any national bank –

23 “(i) the stock of which is owned by the Federal mutual bank  
24 holding company; and

25 “(ii) that was chartered in a transaction described in subsection (a);

26 or

27 “(B) a foreclosure on a pledge by the Federal mutual bank holding  
28 company described in subsection (i)(1).

29 “(2) DISTRIBUTION OF NET PROCEEDS. – Except as provided in subsection  
30 (3), the net proceeds of any liquidation of any Federal mutual bank holding company under

1 paragraph (1) shall be transferred to persons who hold membership interests in such Federal  
2 mutual bank holding company.

3           “(3) RECOVERY BY FDIC. – If the Federal Deposit Insurance Corporation  
4 incurs a loss as a result of the default of any insured bank subsidiary of a Federal mutual bank  
5 holding company that is liquidated under paragraph (1), the Federal Deposit Insurance  
6 Corporation shall succeed to the interests of the depositors of the bank as members in the Federal  
7 mutual bank holding company, to the extent of the Federal Deposit Insurance Corporation's loss.

8           “(k) DEFINITIONS. –

9           “(1) FEDERAL MUTUAL BANK HOLDING COMPANY. – The term "Federal  
10 mutual bank holding company" means a holding company that is organized in mutual form and  
11 owns, directly or indirectly, a majority of the shares of voting stock of one or more depository  
12 subsidiaries of a Federal mutual bank holding company.

13           “(2) DEPOSITORY SUBSIDIARY OF A FEDERAL MUTUAL BANK  
14 HOLDING COMPANY. – The term "depository subsidiary of a Federal mutual bank holding  
15 company" means a depository institution organized in stock form that is insured by the Federal  
16 Deposit Insurance Corporation, the majority of the shares of voting stock of which are owned by  
17 the Federal mutual bank holding company or its wholly owned subsidiaries and none of the  
18 shares of stock of which are pledged or otherwise subjected to lien except as permitted in  
19 subsection (i).

20           “(3) REORGANIZATION OF A MUTUAL DEPOSITORY. – The term  
21 "reorganization of a mutual depository" means the conversion of a mutual depository into a  
22 depository subsidiary of a Federal mutual bank holding company.

23           “(4) MODIFICATION OF A FEDERAL MUTUAL BANK HOLDING  
24 COMPANY. – The term "modification of a Federal mutual bank holding company" means either  
25 (A) the sale of shares of common or preferred stock in a depository subsidiary of a Federal  
26 mutual bank holding company to any party other than the subsidiary's parent Federal mutual  
27 bank holding company or a wholly owned subsidiary of that parent, or (B) the voluntary grant of  
28 a lien on shares of common or preferred stock in a depository subsidiary of a Federal mutual  
29 bank holding company.

30           “(5) DEFAULT. – With respect to a national bank, the term "default" means an  
31 adjudication or other official determination by any court of competent jurisdiction, the

1 Comptroller of the Currency, or other public authority pursuant to which a conservator, receiver,  
2 or other legal custodian is appointed for the national bank."

3 (l) CONFORMING REFERENCES – Unless otherwise provided by the appropriate  
4 bank holding company regulator –

5 "(1) any reference in any Federal law to a bank holding company operating in  
6 stock form shall be deemed to refer also to a Federal mutual bank holding company;

7 "(2) any reference in any Federal law to the term 'board of directors', 'director', or  
8 'directors' of a national bank operating in stock form shall be deemed to refer also to the board of  
9 a Federal mutual bank holding company;

10 "(3) any terms in Federal law that may apply only to a national bank operating in  
11 stock form, including the terms "stock', 'shares', 'shares of stock', 'capital stock', 'common stock',  
12 'stock certificate', 'stock certificates', 'certificates representing shares of stock', 'stock dividend',  
13 'transferable stock', 'each class of stock', 'cumulate such shares', 'par value', 'preferred stock' shall  
14 not apply to a Federal mutual bank holding company, unless the appropriate bank holding  
15 company regulator determines that the context requires otherwise.

16 (b) LIMITATION ON FEDERAL REGULATION OF STATE BANKS.—Except as  
17 otherwise provided in Federal law, the Comptroller, Board of Governors of the Federal Reserve  
18 System, and Federal Deposit Insurance Corporation may not adopt or enforce any regulation that  
19 contravenes the corporate governance rules prescribed by State law or regulation for State banks  
20 unless the Director, Board, or Corporation finds that the Federal regulation is necessary to assure  
21 the safety and soundness of the State banks.

22 (c) TECHNICAL AMENDMENT.—The table of sections for chapter one of title LXII of  
23 the Revised Statutes of the United States (12 U.S.C. 21 et seq) is amended by inserting after the  
24 item relating to section 5133 the following new items:

25 "5133A. Mutual national banks

26 "5133B. Federal mutual bank holding companies."

27 (d) APPROPRIATE FEDERAL BANKING AGENCY FOR FEDERAL MUTUAL  
28 BANK HOLDING COMPANIES.—Section 3(q)(1) of the Federal Deposit Insurance Act (12  
29 U.S.C. 1813(q)(2)) is amended by inserting the following paragraph (G):

1                   "(G) supervisory or regulatory proceedings arising from the authority  
2 given to the appropriate bank holding company regulator under section 5133B of the Revised  
3 Statutes of the United States.

4           (e) MUTUAL HOLDING COMPANY CONVERSION.—

5           (1) IN GENERAL.—Any mutual holding company, including any form of mutual  
6 depository holding company provided for under State law, may convert to a Federal mutual bank  
7 holding company by filing with the appropriate bank holding company regulator a notice of its  
8 election to convert on a specified date that is not earlier than 30 days after the date on which the  
9 notice is filed, and the mutual holding company shall be converted to a Federal mutual holding  
10 company charter on the date specified in the notice.

11           (2) DEFINITIONS.—For purposes of this subsection, the following definitions  
12 shall apply:

13           (A) Federal mutual bank holding company.—The term "Federal mutual  
14 bank holding company" has the same meaning as in section 5133B of the Revised Statutes of the  
15 United States (as added by this section); and

16           (B) Mutual holding company.—The term "mutual holding company" has  
17 the same meaning as in section 10o(10)(A) of the Home Owners Loan Act as in effect on the day  
18 before the date of enactment of this Act.

19           (f) Effective Date.—Sections (a)-(e) of this subtitle shall take effect on the date of  
20 enactment of this Act.