

[DISCUSSION DRAFT]

117TH CONGRESS
2D SESSION

H. R. _____

To require the Federal banking agencies to design a strategic plan to hold megabanks and large financial institutions accountable when they engage in a pattern of compliance failures that results in extensive consumer harm, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To require the Federal banking agencies to design a strategic plan to hold megabanks and large financial institutions accountable when they engage in a pattern of compliance failures that results in extensive consumer harm, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Repeat Offenders and Megabank Accountability Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

Sec. 1. Short title.
Sec. 2. Megabank defined.

TITLE I—STRATEGIC PLAN TO HOLD REPEAT OFFENDERS
ACCOUNTABLE

Sec. 101. Strategic plan.

TITLE II—CONSUMER ABUSE REMEDIATION ENHANCEMENT

Sec. 201. Disclosure and remediation of extensive consumer abuse.

TITLE III—DISCLOSE MEGABANK RATINGS ACT

Sec. 301. Public disclosure of supervisory ratings.

TITLE IV—MEGABANK BOARD STANDARDS ACT

Sec. 401. Definitions.
Sec. 402. Qualifications for directors.
Sec. 403. Limitations on outside commitments of directors.

3 **SEC. 2. MEGABANK DEFINED.**

4 (a) IN GENERAL.—In this Act, the term “megabank”
5 means—

6 (1) a bank holding company that has been iden-
7 tified by the Board of Governors of the Federal Re-
8 serve System as a global systemically important
9 bank holding company pursuant to section 217.402
10 of title 12, Code of Federal Regulations; and

11 (2) a global systemically important foreign
12 banking organization, as defined under section 252.2
13 of title 12, Code of Federal Regulations.

14 (b) TREATMENT OF EXISTING GSIBS.—A company
15 or organization described under clause (i) or (ii) of sub-

1 paragraph (A) on the date of the enactment of this Act
2 shall be deemed a megabank.

3 **TITLE I—STRATEGIC PLAN TO**
4 **HOLD REPEAT OFFENDERS**
5 **ACCOUNTABLE**

6 **SEC. 101. STRATEGIC PLAN.**

7 (a) IN GENERAL.—The Federal banking agencies, in
8 consultation with the Secretary of the Treasury, shall de-
9 sign a strategic plan describing how the agencies will uti-
10 lize the full extent of the agencies’ authorities to hold a
11 large financial institution (including a megabank) and the
12 directors and officers of such institution accountable when
13 such institution engages in a pattern of compliance fail-
14 ures, including when such failures result in extensive con-
15 sumer harm.

16 (b) AUTHORITIES DESCRIBED.—The authorities of
17 the Federal banking agencies described in subsection (a)
18 include the authority to—

19 (1) restrict the growth of a large financial insti-
20 tution;

21 (2) restrict certain lines of business of a large
22 financial institution;

23 (3) require the disposition of assets of a large
24 financial institution;

1 (4) remove certain directors or officers of a
2 large financial institution; or

3 (5) permanently ban certain directors or offi-
4 cers of a large financial institution from working in
5 the financial services industry.

6 (c) PENALTIES.—The plan described in subsection
7 (a) shall include an outline of penalties for multiple com-
8 pliance failures by a large financial institution that in-
9 crease in severity based on the number and type of failure.

10 (d) PUBLIC FEEDBACK.—The Federal banking agen-
11 cies shall make a draft of the strategic plan described in
12 subsection (a) publicly available and invite public feedback
13 on the plan.

14 (e) REPORT.—Not later than 1 year after the date
15 of enactment of this Act, the Federal banking agencies
16 shall—

17 (1) issue a report to the Committee on Finan-
18 cial Services of the House of Representatives and
19 the Committee on Banking, Housing, and Urban Af-
20 fairs of the Senate containing the strategic plan de-
21 signed under subsection (a); and

22 (2) make such report publicly available on a
23 website of each Federal banking agency.

24 (f) PERIODIC UPDATES.—The Federal banking agen-
25 cies, in consultation with the Secretary of the Treasury,

1 may periodically update the strategic plan required under
2 subsection (a) if the agencies comply with the requirement
3 of subsection (d) with respect to any update.

4 (g) DEFINITIONS.—In this section:

5 (1) FEDERAL BANKING AGENCIES.—The term
6 “Federal banking agencies” means the Board of
7 Governors of the Federal Reserve System, the Bu-
8 reau of Consumer Financial Protection, the Federal
9 Deposit Insurance Corporation, the Office of the
10 Comptroller of the Currency, and the National Cred-
11 it Union Administration.

12 (2) LARGE FINANCIAL INSTITUTION.—The term
13 “large financial institution” means a large entity
14 regulated by a Federal banking agency, as deter-
15 mined jointly by the Federal banking agencies.

16 **TITLE II—CONSUMER ABUSE**
17 **REMEDICATION ENHANCEMENT**

18 **SEC. 201. DISCLOSURE AND REMEDIATION OF EXTENSIVE**
19 **CONSUMER ABUSE.**

20 (a) IN GENERAL.—Any megabank or affiliated bank-
21 ing organization that has engaged or is engaging in exten-
22 sive consumer abuse described under subsection (b)
23 shall—

24 (1) not later than the end of the 72-hour period
25 beginning on the hour on which the megabank or af-

1 affiliated banking organization determines the exist-
2 ence of extensive consumer abuse, notify the appro-
3 priate Federal banking agency, the Consumer Bu-
4 reau, the Congress, and the public of such extensive
5 consumer abuse, including on the website of the
6 megabank or affiliated banking organization;

7 (2) not later than the end of the 15-day period
8 beginning on the date on which the megabank or af-
9 filiated banking organization determines the exist-
10 ence of extensive consumer abuse, submit a remedi-
11 ation plan to the Consumer Bureau under which the
12 megabank or affiliated banking organization will—

13 (A) pay each customer of the megabank or
14 affiliated banking organization affected by the
15 extensive consumer abuse an amount equal to
16 the damages suffered by such customer because
17 of the extensive consumer abuse; and

18 (B) correct any incorrect information fur-
19 nished to a consumer reporting agency in con-
20 nection with such extensive consumer abuse;
21 and

22 (3) not later than the end of the 30-day period
23 beginning on the date the Consumer Bureau ap-
24 proves the remediation plan submitted pursuant to
25 paragraph (2), complete such remediation plan in a

1 satisfactory manner that is certified by the Con-
2 sumer Bureau.

3 (b) EXTENSIVE CONSUMER ABUSE.—For purposes of
4 a megabank or affiliated banking organization, extensive
5 consumer abuse described under this subsection is any in-
6 dividual violation or series of violations of Federal law by
7 the megabank or affiliated banking organization that—

8 (1) in the aggregate, affects more than 50,000
9 customers or customer accounts of the megabank or
10 affiliated banking organization;

11 (2) in the aggregate, results in the loss to cus-
12 tomers of the megabank or affiliated banking organi-
13 zation of more than \$10,000,000; or

14 (3) the Consumer Bureau determines to be ex-
15 tensive consumer abuse, including if such abuse re-
16 sults in significant reputational risk or raises other
17 supervisory concerns.

18 (c) PENALTIES.—Any megabank or affiliated bank-
19 ing organization that violates subsection (a) or fails to re-
20 ceive a certification from the Consumer Bureau for a com-
21 pleted remediation plan submitted under such subsection
22 shall be fined in an amount equal to—

23 (1) 3 times the aggregate amount of fines appli-
24 cable to such megabank or organization for the ex-
25 tensive consumer abuse; or

1 (2) in the case of an extensive consumer abuse
2 identified by the Consumer Bureau or a Federal
3 banking agency before the applicable megabank or
4 affiliated banking organization, 6 times the aggregate
5 amount of fines applicable to such megabank or
6 organization for the extensive consumer abuse.

7 (d) RULEMAKING.—The Consumer Bureau and the
8 Federal banking agencies shall issue such rules as may
9 be necessary to carry out this section.

10 (e) DEFINITIONS.—For purposes of this section:

11 (1) AFFILIATED BANKING ORGANIZATION.—
12 The term “affiliated banking organization” means
13 any depository institution subsidiary or affiliate of a
14 megabank that has an appropriate Federal banking
15 agency.

16 (2) APPROPRIATE FEDERAL BANKING AGENCY.—
17 The term “appropriate Federal banking agency”
18 cy”—

19 (A) has the meaning given that term under
20 section 3 of the Federal Deposit Insurance Act
21 (12 U.S.C. 1813); and

22 (B) includes the Consumer Bureau, with
23 respect to an insured depository institution described
24 under section 1025(a) of the Consumer

1 Financial Protection Act of 2010 (12 U.S.C.
2 5515(a)).

3 (3) CONSUMER BUREAU.—The term “Consumer
4 Bureau” means the Bureau of Consumer Financial
5 Protection.

6 (4) CONSUMER REPORTING AGENCY.—The term
7 “consumer reporting agency” has the meaning given
8 that term under section 603 of the Fair Credit Re-
9 porting Act (15 U.S.C. 1681a).

10 (5) CUSTOMER.—With respect to megabank or
11 affiliated banking organization, the term “customer”
12 includes an individual who, but for extensive con-
13 sumer abuse, would be a customer of the megabank
14 or affiliated banking organization.

15 (6) OTHER BANKING DEFINITIONS.—The terms
16 “affiliate”, “depository institution”, “Federal bank-
17 ing agency”, and “subsidiary” have the meaning
18 given those terms, respectively, under section 3 of
19 the Federal Deposit Insurance Act (12 U.S.C.
20 1813).

21 **TITLE III—DISCLOSE MEGABANK** 22 **RATINGS ACT**

23 **SEC. 301. PUBLIC DISCLOSURE OF SUPERVISORY RATINGS.**

24 (a) CONSUMER COMPLIANCE RATINGS.—With re-
25 spect to a depository institution that is a subsidiary or

1 affiliate of a megabank, the appropriate Federal banking
2 agency shall, after each evaluation of the depository insti-
3 tution under the Consumer Compliance Rating System,
4 make the results of such evaluation available to the public
5 (including on the website of the agency) along with a brief
6 overview of the results that includes key findings made
7 by the agency in carrying out such evaluation.

8 (b) BANK RATINGS.—

9 (1) IN GENERAL.—With respect to a megabank
10 and each depository institution that is a subsidiary
11 or an affiliate of the megabank, the appropriate
12 Federal banking agency shall, after the end of the
13 2-year period beginning on the date of an evaluation
14 of the megabank or a depository institution under a
15 Bank Ratings System, make the results of such eval-
16 uation (including the composite score and component
17 scores, if applicable) available to the public (includ-
18 ing on the website of the agency) along with a brief
19 overview of the results that includes key findings
20 made by the agency in carrying out such evaluation.

21 (2) EARLIER DISCLOSURE PERMITTED.—An ap-
22 propriate Federal banking agency may disclose the
23 results of an evaluation described under paragraph
24 (1) before the end of the 2-year period described in
25 such paragraph if the appropriate Federal banking

1 agency determines that such disclosure is in the pub-
2 lic interest and would not negatively affect the safety
3 and soundness of the megabank or the depository in-
4 stitution evaluated.

5 (c) INCLUSION OF PRIOR EVALUATIONS.—The re-
6 quirements under subsections (a) and (b) shall also apply
7 to each evaluation of a megabank or a depository institu-
8 tion that is a subsidiary or an affiliate of the megabank
9 under the Consumer Compliance Rating System or a Bank
10 Ratings System that was completed after January 1,
11 2000.

12 (d) DEFINITIONS.—For purposes of this section:

13 (1) APPROPRIATE FEDERAL BANKING AGEN-
14 CY.—The term “appropriate Federal banking agen-
15 cy”—

16 (A) has the meaning given that term under
17 section 3 of the Federal Deposit Insurance Act
18 (12 U.S.C. 1813); and

19 (B) includes the Bureau of Consumer Fi-
20 nancial Protection, with respect to an evalua-
21 tion under the Consumer Compliance Rating
22 System of an insured depository institution de-
23 scribed under section 1025(a) of the Consumer
24 Financial Protection Act of 2010 (12 U.S.C.
25 5515(a)).

1 (2) BANK RATINGS SYSTEM.—The term “Bank
2 Ratings System” means—

3 (A) with respect to a depository institution,
4 the Uniform Financial Institutions Rating Sys-
5 tem (or a comparable rating system); and

6 (B) with respect to a megabank, the large
7 financial institution (LFI) rating system (or a
8 comparable rating system).

9 (3) OTHER BANKING DEFINITIONS.—The terms
10 “affiliate”, “depository institution”, and “sub-
11 sidiary” have the meaning given those terms, respec-
12 tively, under section 3 of the Federal Deposit Insur-
13 ance Act (12 U.S.C. 1813).

14 **TITLE IV—MEGABANK BOARD** 15 **STANDARDS ACT**

16 **SEC. 401. DEFINITIONS.**

17 For purposes of this title:

18 (1) AFFILIATED BANKING ORGANIZATION.—

19 With respect to a megabank, the term “affiliated
20 banking organization” means any subsidiary or affil-
21 iate of the megabank that has an appropriate Fed-
22 eral banking agency.

23 (2) OTHER BANKING DEFINITIONS.—The terms
24 “affiliate”, “appropriate Federal banking agency”,
25 “depository institution”, “depository institution

1 holding company”, and “subsidiary” have the mean-
2 ing given those terms, respectively, under section 3
3 of the Federal Deposit Insurance Act (12 U.S.C.
4 1813).

5 **SEC. 402. QUALIFICATIONS FOR DIRECTORS.**

6 (a) IN GENERAL.—Each megabank and affiliated
7 banking organization shall ensure that—

8 (1) a majority of the members of the board of
9 directors of an affiliated banking organization of a
10 megabank do not also serve on the board of direc-
11 tors of—

12 (A) that megabank; or

13 (B) any affiliate of that megabank, if such
14 affiliate engages in any activities listed in sec-
15 tion 4(k) of the Bank Holding Company Act of
16 1956 (12 U.S.C. 1843(k)); and

17 (2) the board of directors of the megabank or
18 organization includes members with relevant and
19 current banking or regulatory experience.

20 (b) PENALTIES.—A violation of subsection (a) by any
21 megabank or affiliated banking organization shall be
22 deemed an unsafe and unsound practice by such
23 megabank or organization.

1 **SEC. 403. LIMITATIONS ON OUTSIDE COMMITMENTS OF DI-**
2 **RECTORS.**

3 (a) IN GENERAL.—A member of the board of direc-
4 tors of a megabank or an affiliated banking organization
5 may not—

6 (1) serve on the board of more than 3 public
7 companies (including such megabank or organiza-
8 tion); or

9 (2) serve on the board of more than 2 public
10 companies (including such megabank or organiza-
11 tion), if the member—

12 (A) is an executive of a public company; or

13 (B) serves as the lead independent mem-
14 ber, risk committee chair, or audit committee
15 chair of the board of directors of the megabank
16 or organization.

17 (b) PROHIBITIONS ON POSITIONS OF EXECUTIVES.—

18 An executive of a megabank or an affiliated banking orga-
19 nization may not also serve as the lead independent mem-
20 ber, risk committee chair, or audit committee chair of the
21 board of directors of such megabank or organization.

22 (c) PENALTIES.—Any individual who violates sub-
23 section (a) or (b) shall—

24 (1) be removed from any position as an execu-
25 tive, employee, or member of the board of directors

1 of the megabank or affiliated banking organization;
2 and

3 (2) be prohibited from taking any position as
4 an executive, employee, or member of the board of
5 directors of any depository institution, depository in-
6 stitution holding company, or subsidiary or affiliate
7 of a depository institution holding company.

8 (d) RULEMAKING.—The appropriate Federal banking
9 agencies shall issue such rules as may be necessary to
10 carry out this section.

11 (e) EFFECTIVE DATE.—This section shall apply after
12 the end of the 1-year period beginning on the date of en-
13 actment of this section.