To compel regulators to take more severe action against Wells Fargo, including removing negligent directors and either reducing Wells Fargo’s size or activities, or to wind down the bank in an orderly fashion, to create a legal framework to compel recalcitrant regulators to escalate and utilize increasingly severe authorities to address any future recidivist megabank that extensively harms consumers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To compel regulators to take more severe action against Wells Fargo, including removing negligent directors and either reducing Wells Fargo’s size or activities, or to wind down the bank in an orderly fashion, to create a legal framework to compel recalcitrant regulators to escalate and utilize increasingly severe authorities to address any future recidivist megabank that extensively harms consumers, 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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Megabank Accountability and Consequences Act”.

SEC. 2. DEFINITIONS.

For purposes of this Act:

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

(2) BANKING ORGANIZATION.—The term “banking organization” means any depository institution, depository institution holding company, and any subsidiary or affiliate of a depository institution holding company.

(3) BOARD OF GOVERNORS.—The term “Board of Governors” means the Board of Governors of the Federal Reserve System.

(4) COMPTROLLER.—The term “Comptroller” means the Comptroller of the Currency.

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

(6) CORPORATION.—The term “Corporation” means the Board of Directors of the Federal Deposit Insurance Corporation.
(7) **FEDERAL CONSUMER FINANCIAL LAW.**—
The term “Federal consumer financial law” has the meaning given that term under section 1002 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

(8) **FEDERAL CONSUMER PROTECTION LAW.**—
The term “Federal consumer protection law” means—

(A) the Federal consumer financial law;

(B) the Fair Housing Act;

(C) the Federal Trade Commission Act;

(D) section 987 of title 10, United States Code (commonly known as the “Military Lending Act”);

(E) the Servicemembers Civil Relief Act;

and

(F) any regulation issued under a law described under subparagraph (A), (B), (C), (D), or (E).

(9) **MEGABANK.**—

(A) **IN GENERAL.**—The term “megabank” means—

(i) a bank holding company that has been identified by the Board of Governors as a global systemically important bank
holding company pursuant to section 217.402 of title 12, Code of Federal Regulations; and

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

(B) Treatment of existing GSIBs.—A company or organization described under clause (i) or (ii) of subparagraph (A) on the date of the enactment of this Act shall be deemed a megabank.

(10) Pattern or Practice of Unsafe or Unsound Banking Practices and Other Violations Related to Consumer Harm.—The term “pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm” means engaging in all of the following activities, to the extent each activity was discovered or occurred at least once in the 15 years preceding the date of the enactment of this Act:

(A) Having unsafe or unsound practices in the institution’s risk management and oversight of the institution’s sales practices, as evidenced by—
(i) an institution lacking an enterprise-wide sales practices oversight program that enables the institution to adequately monitor sales practices to prevent and detect unsafe or unsound sales practices and mitigate risks that may result from such unsafe and unsound sales practices; and

(ii) an institution lacking a comprehensive customer complaint monitoring process that—

(I) enables the institution to assess customer complaint activity across the institution;

(II) adequately monitors, manages, and reports on customer complaints; and

(III) analyzes and understands the potential risks posed by the institution’s sales practices.

(B) Engaging in unsafe and unsound sales practices, as evidenced by the institution—

(i) opening more than one million unauthorized deposit, credit card, or other accounts;
(ii) performing unauthorized transfers of customer funds; and

(iii) performing unauthorized credit inquiries for purposes of the conduct described in clause (i) or (ii).

(C) Lacking adequate oversight of third-party vendors for purposes of risk-mitigation, to prevent abusive and deceptive practices in the vendor’s provision of consumer products or services.

(D) Having deficient policies and procedures for sharing customers’ personal identifiable information with third-party vendors for litigation purposes that led to inadvertent disclosure of such information to unintended parties.

(E) Violating Federal consumer financial laws with respect to mortgage loans, including charges of hidden fees and unauthorized or improper disclosures tied to home mortgage loan modifications.

(F) Engaging in unsafe or unsound banking practices related to residential mortgage loan servicing and foreclosure processing.
(G) Violating the Servicemembers Civil Relief Act.

(11) PATTERN OR PRACTICE OF VIOLATIONS OF FEDERAL CONSUMER PROTECTION LAWS.—

(A) IN GENERAL.—The term “pattern or practice of violations of Federal consumer protection laws” means—

(i) a pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm; and

(ii) such other pattern or practice as the Director of the Consumer Bureau shall, in consultation with the Comptroller, the Board of Governors, and the Corporation, establish by regulation.

(B) TIME PERIOD.—Eligible activities that may be included in any pattern or practice described under subparagraph (A) are those that were discovered or occurred in the 15 years preceding any determination made under section 101.

(C) RULEMAKING.—Not later than the end of the 1-year period beginning on the date of the enactment of this Act, the Director of the
Consumer Bureau shall issue final regulations
to carry out subparagraph (A)(ii).

(12) STATE.—The term “State” means the sev-
eral States, the District of Columbia, and any other
territory or possession of the United States.

(13) DEFINITIONS RELATED TO SUBSIDIARIES
AND AFFILIATES OF FOREIGN BANKS.—The terms
“agency”, “branch”, “commercial lending com-
pany”, and “representative office” have the mean-
ings given those terms, respectively, under section
1(b) of the International Banking Act of 1978 (12
U.S.C. 3101(b)).

(14) OTHER BANKING DEFINITIONS.—The
terms “affiliate”, “appropriate Federal banking
agency”, “depository institution”, “depository insti-
tution holding company”, “Federal banking agen-
cies”, “Federal savings association”, “foreign bank”,
“insured depository institution”, “national bank”,
“State depository institution”, “State member
bank”, and “subsidiary” have the meaning given
those terms, respectively, under section 3 of the

SEC. 3. PATTERN OR PRACTICE OF VIOLATIONS OF FED-
ERAL CONSUMER PROTECTION LAWS.

(a) DETERMINATION.—
(1) COMPTROLLER.—The Comptroller shall regularly review and determine, in consultation with the Director of the Consumer Bureau, whether a national bank or Federal savings association affiliate of a megabank, or a federally licensed branch, agency, commercial lending company, or representative office of any foreign bank affiliate of a megabank is demonstrating a pattern or practice of violations of Federal consumer protection laws. Upon such a determination, the Comptroller shall provide a written, confidential notice within 7 days to the other Federal banking agencies, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review and any identified institution and, in consultation with the Director of the Consumer Bureau, immediately initiate additional enforcement actions pursuant to section 4 or initiate proceedings to either appoint a receiver or terminate the Federal charter of such institution pursuant to section 5.

(2) BOARD OF GOVERNORS.—The Board of Governors shall regularly review and determine, in consultation with the Director of the Consumer Bureau, whether a State member bank affiliate of a
megabank or a State-chartered branch, agency, or
representative office of a foreign bank affiliate of a
megabank is demonstrating a pattern or practice of
violations of Federal consumer protection laws.
Upon such a determination, the Board of Governors
shall provide a written, confidential notice within 7
days to the other Federal banking agencies, the
Committee on Financial Services of the House of
Representatives, and the Committee on Banking,
Housing, and Urban Affairs of the Senate describing
the review and any identified institution and, in con-
sultation with the Director of the Consumer Bureau,
immediately initiate additional enforcement actions
pursuant to section 4 or initiate proceedings to ter-
minate the bank’s membership in the Federal Re-
serve System or the foreign bank’s activities in the
United States, as applicable, pursuant to section 5.

(3) CORPORATION.—The Corporation shall reg-
ularly review and determine, in consultation with the
Director of the Consumer Bureau, whether an in-
sured depository institution affiliate of a megabank
is demonstrating a pattern or practice of violations
of Federal consumer protection laws. Upon such a
determination, the Corporation shall provide a writ-
ten, confidential notice within 7 days to the other
Federal banking agencies, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review and any identified institution and, in consultation with the Director of the Consumer Bureau, immediately initiate additional enforcement actions pursuant to section 4 or initiate proceedings to terminate the deposit insurance of the institution pursuant to section 5.

(b) Considerations.—

(1) Recommendation by Director.—Upon a finding by the Director of the Consumer Bureau that a depository institution affiliate of a megabank, or a federally licensed branch, agency, representative office, or commercial lending company of a foreign bank affiliate of a megabank is demonstrating a pattern or practice of violations of Federal consumer protection laws, the Director of the Consumer Bureau shall, within 7 days, recommend to the Comptroller, the Board of Governors, or the Corporation that a determination should be made under subsection (a). The Comptroller, the Board of Governors, or the Corporation, as applicable, shall consider such recommendation and publicly respond in...
writing, including a detailed basis for its decision, within 90 days as to whether they will follow such recommendation.

(2) DETAILED EXPLANATION.—In making a determination under subsection (a), including in response to any recommendation made by the Director of the Consumer Bureau and in any written notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Comptroller, the Board of Governors, or the Corporation, as applicable, shall include a detailed description of the review of the institution, the basis for its determination, and which of the enforcement actions or proceedings under subsection (c) that the agency has determined to take against the institution.

(3) PUBLIC HEARINGS.—The Comptroller, the Board of Governors, or the Corporation, as applicable, may convene public hearings to consider facts, observations, evidence, and testimony provided by any institution subject to a determination under this Act as well as affected stakeholders. At least one public hearing shall be granted if made at the written request of the institution subject to a determina-
tion under this Act, the Director of the Consumer
Bureau, or by relevant State or local government
agencies from at least five States.

(4) ANNUAL REPORT.—Each Federal banking
agency shall annually submit a written report to the
Committee on Financial Services of the House of
Representatives and the Committee on Banking,
Housing, and Urban Affairs of the Senate describing
the actions the agency has taken to carry out the re-
quirements of this Act, including the regular review
required by this section, and a list of each violation
of Federal law or regulation that was discovered or
occurred in the previous 15 years for each
megabank, and any affiliate thereof, that is subject
to the agency’s supervision.

(e) JUDICIAL REVIEW.—A determination under sub-
section (a) shall be subject to review by a Federal district
court of competent jurisdiction under the procedures pro-
vided for under section 8(h) of the Federal Deposit Insur-
ance Act (12 U.S.C. 1818(h)).

SEC. 4. CONSEQUENCE OF DETERMINATION; FRAMEWORK
FOR ENFORCEMENT ACTIONS.

(a) ADDITIONAL ENFORCEMENT ACTIONS.—If a de-
termination is made under section 3 with respect to an
institution that is demonstrating a pattern or practice of
violations of Federal consumer protection laws, the appropriate Federal banking agency, in consultation with the Director of the Consumer Bureau, shall take one or more of the following actions, in accordance with the framework established under subsection (c):

(1) Remove responsible senior officers or directors of the institution, and permanently ban them from working at another banking organization, pursuant to section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)).

(2) Impose a cap on the total assets of the institution.

(3) Reduce a cap on the total assets of the institution.

(4) Impose a cap on the assets of a line of business of the institution.

(5) Reduce a cap on the assets of a line of business of the institution.

(6) Restrict certain lines of business of the institution, pursuant to section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)).

(7) Prohibit an existing or new line of business of the institution.

(8) Initiate proceedings to terminate the Federal charter of the institution, terminate a foreign
bank’s ability to operate in the United States, or ap-
point a receiver pursuant to either title LXII of the
Revised Statutes of the United States, the National
Bank Receivership Act (12 U.S.C. 191 et seq.) or
the Home Owners’ Loan Act (12 U.S.C. 1461 et
seq.), with the identified pattern or practice of viola-
tions of Federal consumer protection laws deemed as
grounds for appointing a conservator or receiver
under the Federal Deposit Insurance Act or termi-
nating deposit insurance pursuant to section 8(a) of
the Federal Deposit Insurance Act (12 U.S.C.
1818(a)).

(b) RECOMMENDATION BY DIRECTOR.—If a deter-
mination is made under section 3 with respect to a na-
tional bank, Federal savings association, or federally li-
censed branch, agency, commercial lending company, or
representative office of a foreign bank—

(1) the Director of the Consumer Bureau may
recommend to the Comptroller, the Board of Gover-
nors, or the Corporation what actions should be
taken under this section; and

(2) the Comptroller, the Board of Governors, or
the Corporation, as applicable, shall consider such
recommendation and publicly respond in writing
within 30 days as to whether they will follow such recommendation.

(c) **Framework for Enforcement Actions.**—

(1) **In General.**—The Federal banking agencies shall, jointly, in consultation with the Director of the Consumer Bureau, issue rules to establish a framework under which an institution for which a determination has been made under section 3 shall be automatically subject to certain additional enforcement actions in an escalating manner as the degree of severity of such pattern or practice of violations escalates.

(2) **Considerations.**—In determining the criteria for the escalation of enforcement actions under paragraph (1), the Federal banking agencies may look at factors including—

(A) the number of individuals harmed by such pattern or practice of violations;

(B) whether the institution has failed to remediate such harm; and

(C) such other factors as the Federal banking agencies determine appropriate.

(d) **Mandatory Enforcement Actions.**—

(1) **In General.**—If a determination is made under section 3 with respect to a pattern or practice
of violations of Federal consumer protection laws by
an institution occurring on or after the date of en-
actment of this Act, the Comptroller, the Board of
Governors, or the Corporation, as applicable, shall
take—

(A) the action described under paragraph
(1) of subsection (a); and

(B) either—

(i) one or more action described under
paragraphs (2) through (7) of subsection
(a); or

(ii) the action described under para-
graph (8) of subsection (a).

(2) THIRD DETERMINATION.—With respect to
an institution described under paragraph (1), if a
third determination is made under section 3 against
the same institution after two separate sets of en-
forcement actions are taken pursuant to paragraph
(1), the Comptroller, the Board of Governors, or the
Corporation, as applicable, shall immediately initiate
proceedings to terminate a Federal charter, a State
member bank’s membership in the Federal Reserve
System, a foreign bank’s ability to operate in the
United States, or terminate deposit insurance.
Mandatory Enforcement Actions for Existing Violations.—

(1) In General.—If a determination is made under section 3 with respect to a pattern or practice of violations of Federal consumer protection laws by an institution occurring before the date of enactment of this Act, the Comptroller, the Board of Governors, or the Corporation, as applicable, shall take—

(A) the action described under paragraph (1) of subsection (a); and

(B) either—

(i) one or more action described under paragraphs (3) through (7) of subsection (a); or

(ii) the action described under paragraph (8) of subsection (a).

(2) Subsequent Determination.—With respect to an institution described under paragraph (1), if a second determination is made under section 3 against the same institution after enforcement actions are taken pursuant to paragraph (1), the Comptroller, the Board of Governors, or the Corporation, as applicable, shall immediately initiate proceedings to terminate a Federal charter, a State
member bank’s membership in the Federal Reserve System, a foreign bank’s ability to operate in the United States, or terminate deposit insurance.

SEC. 5. RECEIVERSHIP AND LIMITATION ON TRANSFER OF ASSETS.

(a) NOTICE TO FDIC.—The Comptroller and the Board of Governors shall notify within 24 hours the Corporation of any determination made under section 3.

(b) TERMINATION OF FEDERAL DEPOSIT INSURANCE BASED ON REVOCATION OF FEDERAL BANKING CHARTER.—If an institution for which a determination has been made under section 101 has the institution’s Federal charter terminated, or is subject to the termination of deposit insurance under section 4(e)(2), the Corporation shall—

(1) initiate an involuntary termination of the deposit insurance of the institution under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818); and

(2) place the institution into receivership, with the Corporation acting as the receiver, pursuant to the procedures provided under section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)).

(c) LIMITATION ON TRANSFER OF ASSETS.—In its capacity as receiver of a national bank, Federal savings
association, or branch, agency, commercial lending company, or representative office of a foreign bank under this section, the Corporation may transfer any assets of the institution only to a banking organization that was assigned a rating of “satisfactory record of meeting community credit needs” or better for complying with the Community Reinvestment Act of 1977 in the organization’s most recent evaluation, and may not transfer any assets of the institution to either—

(1) a megabank or any affiliated banking organization; or

(2) a banking organization that has exhibited substantial noncompliance with Federal consumer protection laws as evidenced by any enforcement actions, targeted supervisory exams, or a rating of less than “satisfactory” on its most recent consumer compliance examination.

(d) CONSULTATION.—When acting in the capacity of a receiver pursuant to subsection (b), the Corporation shall consult with the Office of Minority and Women Inclusion of the Corporation.
SEC. 6. ADDRESSING PETITIONS FROM STATE AND LOCAL GOVERNMENT AGENCIES WITH RESPECT TO VIOLATIONS OF FEDERAL CONSUMER PROTECTION LAWS AND REGULATIONS.

The Federal banking agencies shall—

(1) consider petitions from relevant State and local government agencies, including law enforcement and city and State attorney generals, regarding—

(A) a pattern or practice of violations of Federal consumer protection laws by a national bank, a State member bank, or a Federal savings association affiliate of a megabank, or a United States branch, agency, commercial lending company, or representative office of a foreign bank affiliate of a megabank, or a State depository institution affiliate of a megabank, as applicable; or

(B) the appropriate determination as to enforcement actions to be taken under the framework for enforcement action rules issued pursuant to section 4(d);

(2) for any petition from State or local government agencies from at least five States, provide a written response within 180 days after receiving such a petition whether or not a determination is
made under this Act, including a detailed basis for
the determination; and

(3) for any written response under paragraph
(2), send a copy of the written response to the Com-
mittee on Financial Services of the House of Rep-
resentatives and the Committee on Banking, Hous-
ing, and Urban Affairs of the Senate.

SEC. 7. CONSIDERATION WITH RESPECT TO EMPLOYEES
AND CUSTOMERS.

Section 11(h) of the Federal Deposit Insurance Act
(12 U.S.C. 1821(h)) is amended by adding at the end the
following:

“(5) Consideration with respect to em-
ployees and customers.—In taking any action in
a resolution proceeding, the Corporation shall fully
consider the adverse impact of actions to be taken
by the Corporation with respect to a depository in-
stitution in default on employees and customers of
such depository institution.”.

SEC. 8. AGENCY AUTHORITY.

(a) In General.—Notwithstanding any other law
and for the sole purpose of carrying out the requirements
of this Act, in the event that a Federal banking agency
lacks a quorum, a majority of the members of the Federal
banking agency shall have the full authority to act on behalf of the agency.

(b) Determination of Certain Violations.—In making any determination under this Act with respect to whether an institution has violated a Federal consumer protection law, if a Federal banking agency does not have enforcement authority over the applicable Federal consumer protection law, the agency shall rely on publically available information with respect to such violations, such as criminal convictions and enforcement actions, and consult with any relevant Federal department or agency that took such actions against the institution.

(e) Rule of Construction.—Nothing in this Act shall be construed to reduce or impair any existing authority with respect to enforcement actions taken by a Federal banking agency. Furthermore, a violation of Federal consumer protection law by an institution shall not be deemed insufficient grounds for a Federal banking agency to take any enforcement action, including those referenced in this Act, the agency determines necessary and is otherwise authorized to take.