H.R. ______

To strengthen the Community Reinvestment Act of 1977, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To strengthen the Community Reinvestment Act of 1977, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Community Reinvest-
ment Reform Act of 2021”.

SEC. 2. AMENDMENTS TO THE COMMUNITY REINVESTMENT

ACT OF 1977.

The Community Reinvestment Act of 1977 (12
U.S.C. 2901 et seq.) is amended—
(1) by striking sections 802 and 803 (12 U.S.C. 2901, 2902) and inserting the following:

“SEC. 802. FINDINGS AND PURPOSE.

“(a) FINDINGS.—Congress finds that—

“(1) regulated financial institutions are required by law to demonstrate that they serve the convenience and needs of the communities in which they are chartered or do business, in particular low- and moderate-income communities;

“(2) the convenience and needs of communities include the need for credit services, deposit services, transaction services, other financial services, and community development loans and investments; and

“(3) regulated financial institutions have a continuing and affirmative obligation to meet the credit or other financial needs of the local communities in which they are chartered or do business.

“(b) PURPOSE.—It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining regulated financial institutions to ensure that those institutions meet the credit and other financial needs of the local communities in which they are chartered or do business consistent with the safe and sound operation of those institutions.
“SEC. 803. DEFINITIONS.

“In this title:

“(1) APPLICATION FOR A DEPOSIT FACILITY.—

The term ‘application for a deposit facility’ means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

“(A) a charter for a national bank or Federal savings and loan association;

“(B) deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association, or similar institution;

“(C) the establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

“(D) the relocation of the home office or a branch office of a regulated financial institution;

“(E) the merger or consolidation with, the acquisition of the assets of, or the assumption of the liabilities of a regulated financial institution requiring approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)); or
“(F) the acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842).

“(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term ‘appropriate Federal banking agency’ has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

“(3) APPROPRIATE FEDERAL FINANCIAL SUPERVISORY AGENCY.—The term ‘appropriate Federal financial supervisory agency’ means—

“(A) the appropriate Federal banking agency with respect to depository institutions and depository institution holding companies; and

“(B) the Bureau of Consumer Financial Protection with respect to any covered person supervised by the Bureau pursuant to section 1024 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5514).

“(4) ASSESSMENT AREA.—The term ‘assessment area’ means, with respect to a regulated financial institution, each community, including a State,
metropolitan area, or urban or rural county, in which the institution—

“(A) maintains deposit-taking branches, automated teller machines, or retail offices;

“(B) is represented by an agent;

“(C) issues a significant number of loans or other products relative to the total number of loans or other products made by the institution;

“(D) has issued not less than 75 percent of the loans of the institution;

“(E) has conducted not less than 75 percent of the business of the institution; or

“(F) has received not less than 75 percent of the deposits of the institution.

“(5) COMMUNITY BENEFITS PLAN.—The term ‘community benefits plan’ means a plan that provides measurable goals for future amounts of safe and sound loans, investments, services, and other financial products for low- and moderate-income communities and other distressed or underserved communities.

“(6) COMMUNITY DEVELOPMENT.—The term ‘community development’ includes—
“(A) affordable housing for low- or moderate-income individuals and avoidance of patterns of lending resulting in the loss of affordable housing units;

“(B) community development services, including counseling and successful mortgage or loan modifications of delinquent loans;

“(C) activities that promote integration;

“(D) activities that promote economic development by financing small businesses or farms that meet the size eligibility requirements of the development company or small business investment company programs under section 121.301 of title 13, Code of Federal Regulations, or any successor regulation, with an emphasis on small businesses that have gross annual revenues of not more than $1,000,000;

“(E) activities that revitalize or stabilize—

“(i) low- or moderate-income geographies;

“(ii) designated disaster areas;

“(iii) distressed or underserved non-metropolitan middle-income geographies designated by the Federal Financial Institutions Examination Council, based on—
“(I) rates of poverty, unemployment, and population loss; or

“(II) population size, density, and dispersion, if those activities help to meet essential community needs, including the needs of low- and moderate-income individuals; or

“(iv) other distressed or underserved communities;

“(F) activities that promote physical, environmental, and sensory accessibility in housing stock that is integrated into the community; and

“(G) other activities that promote the objectives of this title, as determined by the appropriate Federal financial supervisory agencies.

“(7) DEPOSITORY INSTITUTION; DEPOSITORY INSTITUTION HOLDING COMPANY.—The terms ‘depository institution’ and ‘depository institution holding company’ have the meanings given those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).
“(8) Entire Community.—The term ‘entire community’ means all of the assessment areas of a regulated financial institution.

“(9) Enumerated Consumer Laws.—The term ‘enumerated consumer laws’ has the meaning given the term in section 1002 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

“(10) Geography.—The term ‘geography’ means a census tract delineated by the Bureau of the Census in the most recent decennial census.

“(11) Insured Depository Institution.—The term ‘insured depository institution’ has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

“(12) Other Distressed or Underserved Community.—The term ‘other distressed or underserved community’ means an area or census tract that, according to a periodic review and data analysis by the appropriate Federal financial supervisory agencies on an interagency basis through the Federal Financial Institutions Examination Council, is experiencing economic hardship or is underserved by financial institutions.

“(13) Regulated Financial Institution.—The term ‘regulated financial institution’ means—
“(A) an insured depository institution;

“(B) a depository institution holding company; and

“(C) a U.S. nonbank mortgage originator.

“(14) U.S. NONBANK MORTGAGE ORIGINATOR.—The term ‘U.S. nonbank mortgage originator’ means a covered person subject to section 1024 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5514) that offers or provides—

“(A) origination of loans secured by real estate for use by consumers primarily for personal, family, or household purposes; or

“(B) loan modification or foreclosure relief services in connection with a loan described in subparagraph (A).”;

(2) in section 804 (12 U.S.C. 2903)—

(A) by redesignating subsections (c) and (d) as subsections (f) and (g), respectively;

(B) by striking subsections (a) and (b) and inserting the following:

“(a) DEPOSITORY INSTITUTIONS AND BANK HOLDING COMPANIES.—In connection with its examination of a regulated financial institution other than a U.S.
nonbank mortgage originator, the appropriate Federal financial supervisory agency shall perform the following:

“(1) Assess the record of the institution in meeting the credit and other financial needs of its entire community, in particular low- and moderate-income people and communities, and other distressed or underserved communities, consistent with the safe and sound operation of the institution.

“(2) Assess the effectiveness of the following activities in meeting the credit and other financial needs of the assessment areas of the institution, consistent with the safe and sound operation of the institution:

“(A) Retail lending, including home, small business, consumer, and other lending and financial products, that responds to credit needs or other financial needs.

“(B) Community development lending and investments, which may include a consideration of—

“(i) the origination of loans and other efforts by the institution to assist existing low- and moderate-income residents to remain in affordable housing in their community; and
“(ii) the origination of loans by the institution that result in the construction, rehabilitation, or preservation of affordable housing units.

“(C) Retail financial services and community development services.

“(3) With respect to its evaluation of an application for a deposit facility by the institution—

“(A) consider the record described in paragraph (1), the overall rating of the institution under this section, and any improvement plans submitted pursuant to this section;

“(B) provide an opportunity for public comment for a period of not less than 60 days;

“(C) consider changes in the community reinvestment performance of the institution since the most recent rating under this section by the appropriate Federal financial supervisory agency; and

“(D) require—

“(i) a demonstration of public benefit, including a community benefits plan with measurable goals regarding increasing responsible lending and other financial products that is commensurate with the ability.
of the institution to accomplish those
goals;

“(ii) that the institution consult with
community-based organizations and other
community stakeholders in developing the
community benefits plan; and

“(iii) a public hearing for any institu-
tion that has received a ‘need-to-improve’
or ‘low satisfactory’ grade in any individual
assessment area during the most recent ex-
amination.

“(b) U.S. NONBANK MORTGAGE ORIGINATOR.—In
connection with its examination of a U.S. nonbank mort-
gage originator, the appropriate Federal financial super-
visory agency shall perform the following:

“(1) Assess the record of the U.S. nonbank
mortgage originator in meeting the credit or other
financial needs of its entire community, in particular
low-income and moderate-income people and commu-
nities and other distressed or underserved commu-
nities, consistent with the safe and sound operation
of the U.S. nonbank mortgage originator.

“(2) Assess, as appropriate, the following activi-
ties in the assessment areas of the U.S. nonbank
mortgage originator:
“(A) Retail lending, including home loans.

“(B) Community development services.

“(C) Community development lending and investments, which may include a consideration of—

“(i) the origination of loans and other efforts by the institution to assist existing low- and moderate-income residents to remain in affordable housing in their community;

“(ii) the origination of loans by the institution that result in the construction, rehabilitation or preservation of affordable housing units; and

“(iii) investments in, grants to, or loans to community development financial institutions (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)), community development corporations (as defined in section 613 of the Community Economic Development Act of 1981 (42 U.S.C. 9802)), and other nonprofit organizations serving the housing and development needs of the community.
“(3) With respect to its evaluation of an application for a deposit facility by the U.S. nonbank mortgage originator—

“(A) consider the record described in paragraph (1), the overall rating of the U.S. nonbank mortgage originator under this section, and any improvement plans submitted pursuant to this section;

“(B) provide an opportunity for public comment for a period of not less than 60 days;

“(C) consider changes in the community reinvestment performance of the U.S. nonbank mortgage originator since the most recent rating under this section by the appropriate Federal financial supervisory agency; and

“(D) require—

“(i) a demonstration that granting the application for a deposit facility is in the public interest, which shall include a submission of a community benefits plan, which shall be commensurate with the ability of the institution to accomplish the plan, by the U.S. nonbank mortgage originator to the appropriate Federal financial supervisory agency;
“(ii) that the U.S. nonbank mortgage originator consult with community-based organizations and other community stakeholders in developing the community benefits plan; and

“(iii) a public hearing for any U.S. nonbank mortgage originator that has received a ‘need-to-improve’ or ‘low satisfactory’ grade in any individual assessment area during the most recent examination.

“(c) REQUIREMENTS.—

“(1) IN GENERAL.—In connection with its examination of a regulated financial institution under subsection (a) or (b), the appropriate Federal financial supervisory agency shall—

“(A) consider public comments received by the appropriate Federal financial supervisory agency regarding the record of the institution in meeting the credit or other financial needs of its entire community, including low- and moderate-income communities; and

“(B) require—

“(i) an improvement plan for an institution that receives a rating of ‘low satisfactory’ or lower on the written evaluation
of the institution, or such a rating in any individual assessment area; and

“(ii) the improvement plan described in clause (i) to result in the reasonable likelihood that the institution will obtain a rating of at least ‘high satisfactory’ in meeting community credit or other financial needs in the relevant measure on the next examination.

“(2) IMPROVEMENT PLAN.—

“(A) IN GENERAL.—A regulated financial institution that is required to submit an improvement plan required under paragraph (1)(B) shall submit the plan in writing to the appropriate Federal financial supervisory agency not later than 90 days after receiving notice that the regulated financial institution is required to submit the plan.

“(B) PUBLIC COMMENT.—Upon receipt of an improvement plan of a regulated financial institution required under paragraph (1)(B), the appropriate Federal financial supervisory agency shall—
“(i) make the plan available to the public for review and comment for a period of not less than 60 days; and

“(ii) require the regulated financial institution to revise, as appropriate, the improvement plan in response to the public comments received under the public review and comment period described in clause (i) and submit the plan to the appropriate Federal financial supervisory agency not later than 60 days after the end of that period.

“(3) EXAMINATION OF CERTAIN REGULATED FINANCIAL INSTITUTIONS.—In the case of a regulated financial institution whose lending or other business is not clustered in geographical areas and is thinly dispersed across the country, the institution shall—

“(A) be evaluated under subsection (a) or (b), as applicable—

“(i) by considering the effectiveness of the institution in serving customers or borrowers, with a special emphasis on low- and moderate-income individuals across the
country regardless of where the individuals reside; and

“(ii) based on objective thresholds developed by the appropriate Federal financial supervisory agencies to clarify when lending or other business is dispersed across the country and not clustered in distinct geographical areas, which may include low levels of lending or other financial products across States or other areas; and

“(B) meet the needs of other distressed or underserved communities.

“(d) CONSIDERATION.—Remediation of consumers pursuant to an order by an court or administrative body or a settlement with a government agency or a private party may not be considered in an assessment conducted under subsection (a)(2) or (b)(2).

“(e) RULE OF CONSTRUCTION.—An evaluation of a bank holding company under this section shall incorporate evaluations of subsidiary regulated financial institutions made by the appropriate Federal financial supervisory agency of each subsidiary, if applicable.”;

(C) in subsection (f), as so redesignated—

(i) by striking paragraph (2);
(ii) by redesignating paragraph (3) as paragraph (2); and

(iii) in paragraph (2), as so redesignated, by striking subparagraph (C); and

(D) in subsection (g), as so redesignated, by striking “subsection (a)” and inserting “subsections (a) and (b)”;

(3) in section 807 (12 U.S.C. 2906)—

(A) in subsection (a)—

(i) by striking “an insured depository institution” and inserting “a regulated financial institution”; and

(ii) by inserting “or financial” after “credit”;

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A)—

(aa) in clause (ii), by striking “and” at the end;

(bb) by redesignating clause (iii) as clause (iv); and

(ce) by inserting after clause (ii) the following:

“(iii) disclose whether the institution engaged in acts or practices that the Bureau of
Consumer Financial Protection has determined, and has publicly disclosed, violate the enumerated consumer laws; and''; and

(II) by striking subparagraph (B) and inserting the following:

“(B) METROPOLITAN AREA DISTINCTIONS.—The information required under clauses (i) and (ii) of subparagraph (A) shall be presented separately for each assessment area.

“(C) TREATMENT WITH RESPECT TO VIOLATIONS OF ENUMERATED CONSUMER LAWS.—If a regulated financial institution has engaged in acts or practices that the appropriate Federal financial supervisory agency has determined to be unfair, deceptive, or abusive or acts or practices that violate enumerated consumer laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for individuals and communities that are enforced by the Bureau of Consumer Financial Protection or other Federal or State agencies, the written evaluation shall be negatively influenced in a manner commensurate with the extent of the harm suffered by those individuals and communities.”;

(ii) in paragraph (2)—
(I) by striking subparagraphs (A), (B), (C), and (D) and inserting the following:

“(A) ‘Outstanding record of meeting community credit or other financial needs’.

“(B) ‘High Satisfactory record of meeting community credit or other financial needs’.

“(C) ‘Low Satisfactory record of meeting community credit or other financial needs’.

“(D) ‘Needs to improve record of meeting community credit or other financial needs’.

“(E) ‘Substantial noncompliance in meeting community credit or other financial needs’.”; and

(iii) by inserting after the flush text following paragraph (2) the following:

“(3) ADDITIONAL AUTHORITY.—The appropriate Federal financial supervisory agencies may—

“(A) alter the ratings under this subsection to change or include additional ratings; and

“(B) develop an accompanying point system that includes ranges for each rating category under paragraph (2).”;}
(C) by redesignating subsection (e) as subsection (f); and

(D) by inserting after subsection (d) the following:

“(e) APPEALS OF RATING.—If a regulated financial institution appeals the assigned rating under this section, the appropriate Federal financial supervisory agency shall post a public notice of the appeal on the part of the website of the appropriate Federal financial supervisory agency that contains information on this title.”;

(4) in section 806 (12 U.S.C. 2905)—

(A) by striking “Regulations” and inserting the following:

“(a) IN GENERAL.—Regulations”;

(B) in subsection (a), as so designated, by striking “companies,” and inserting “companies,”; and

(C) by adding at the end the following:

“(b) PERIODIC REVIEW.—Not later than 5 years after the date of enactment of this subsection and every 5 years thereafter, the appropriate Federal financial supervisory agencies shall—

“(1) review the regulations promulgated to carry out this title; and
“(2) report to Congress any recommendations for updates to the regulations and this title, which may include consideration of—

“(A) data collection under this title;

“(B) the rigor of evaluations under this title;

“(C) the assessment area coverage of loans and deposits; and

“(D) the extent to which the provisions of this title are reducing disparities in access to credit and capital by income and race.”; and

(5) by adding at the end the following:

“SEC. 810. DATA COLLECTION AND REPORTING REQUIREMENTS.

“(a) DATA COLLECTION.—

“(1) CONSUMER LOANS.—

“(A) IN GENERAL.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal financial supervisory agency, data for consumer loans originated or purchased by the regulated financial institution, including motor vehicle loans, credit cards, lines of credit, and other secured or unsecured loans.

The regulated financial institution shall main-
tain data separately for each category of consumer loan, including the following for each loan:

“(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan.

“(ii) The loan amount at origination or purchase.

“(iii) The loan location.

“(iv) The gross annual income of the borrower that the regulated financial institution considered in making its credit decision.

“(B) EXEMPTIONS.—The appropriate Federal financial supervisory agencies may exempt classes of regulated financial institutions from the requirements under subparagraph (A) due to low levels of consumer lending or other factors.

“(2) COMMUNITY DEVELOPMENT LOANS AND INVESTMENTS.—

“(A) COLLECTION AND MAINTENANCE OF DATA.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal
financial supervisory agency, data on the categories of community development lending and investments, including data regarding financing affordable housing, small business development, and economic development.

“(B) PUBLIC DISSEMINATION.—Each regulated financial institution shall—

“(i) publicly disseminate the data described in subparagraph (A) on a county level and for categories of census tracts including low- and moderate-income census tracts or other distressed and underserved census tracts; and

“(ii) consider disseminating the data described in subparagraph (A) by individual census tracts in addition to the categories described in clause (i).

“(3) ASSESSMENT AREA DATA.—

“(A) IN GENERAL.—Each regulated financial institution shall collect and report to the appropriate Federal financial supervisory agency by March 1 of each year a list for each assessment area showing the geographies within the area.
“(B) PUBLICATION.—The appropriate Federal financial supervisory agencies shall make the list of assessment areas reported by each regulated financial institution under subparagraph (A) publicly available on the part of the website of the appropriate Federal financial supervisory agency that contains information on this title.

“(4) DEPOSITS.—The appropriate Federal financial supervisory agencies shall—

“(A) collect data from regulated financial institutions that reflects—

“(i) the number of customers of those institutions that reside in categories of census tracts including low- and moderate-income census tracts or other distressed and underserved census tracts and the dollar amount of deposits of those customers; and

“(ii) the number of small businesses that are located in the census tract categories described in clause (i); and

“(B) consider the dissemination of the deposit data collected under subparagraph (A) by
individual census tracts in addition to the categories described in that subparagraph.

“(b) Aggregate Disclosure Statements.—

“(1) In general.—Each appropriate Federal financial supervisory agency shall prepare annually, for each assessment area, a disclosure statement of home, small business, small farm, and consumer lending for each regulated financial institution subject to reporting under this section and an aggregated statement for all reporting institutions combined, which shall indicate, for each assessment area, the number and amount of all small business, small farm, and consumer loans originated or purchased sorted by income level of borrowers, race and ethnicity of borrowers, revenue size of small business and farms, and categories of census tracts.

“(2) Deposits and Community Development Loans and Investments.—An appropriate Federal financial supervisory agency shall include data on deposits and community development loans and investments in the disclosure statements prepared under paragraph (1).

“(3) Adjusted Form.—An appropriate Federal financial supervisory agency may adjust the form of the disclosure statement prepared under
paragraph (1) if necessary, because of special cir-
1 cumstances, to protect the privacy of a borrower or
2 the competitive position of a regulated financial in-
3 stitution.

“(c) CENTRAL DATA DEPOSITORIES.—The Federal
4 Financial Institutions Examination Council, in consulta-
5 tion with the appropriate Federal financial supervisory
6 agencies, shall implement a system—
7 “(1) to allow the public to access online and in
8 a searchable format the data maintained under
9 paragraphs (1) through (4) of subsection (a); and
10 “(2) that ensures that personally identifiable fi-
11 nancial information is not disclosed to public.
12 “(d) LIMITATION.—An appropriate Federal financial
13 supervisory agency may not use the authorities of the ap-
14 propriate Federal financial supervisory agency under this
15 section to obtain a record from a regulated financial insti-
16 tution for the purpose of gathering or analyzing the per-
17 sonally identifiable financial information of a consumer.”.

SEC. 3. AMENDMENT TO THE BANK HOLDING COMPANY
1  ACT OF 1956.
2  Section 4(k)(6) of the Bank Holding Company Act
3 of 1956 (12 U.S.C. 1843(k)(6)) is amended to read as
4 follows:
“(6) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED.—

“(A) IN GENERAL.—No financial holding company shall directly or indirectly acquire, and no company that becomes a financial holding company shall directly or indirectly acquire control of, any company in the United States, including through merger, consolidation, or other type of business combination, that is engaged in activities permitted under this subsection or subsection (n) or (o), unless—

“(i) the holding company has provided notice to the Board, not later than 60 days prior to the proposed acquisition or prior to becoming a financial holding company, and during that time period, or such longer time period not exceeding an additional 60 days, as established by the Board;

“(ii) the Board has provided public notice and opportunity for comment for not less than 60 days; and

“(iii) the Board has not issued a notice disapproving the proposed acquisition or retention.
“(B) FACTORS FOR CONSIDERATION.—In reviewing any prior notice filed under this paragraph, the Board shall—

“(i) consider the overall rating of the financial holding company under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) and any improvement plans submitted pursuant to that Act;

“(ii) provide opportunity for public comment for a period of not less than 60 days;

“(iii) consider changes in the community reinvestment performance of the financial holding company since the last rating under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by the appropriate Federal financial supervisory agency; and

“(iv) require—

“(I) a demonstration that granting the application for a deposit facility is in the public interest, which shall include submission to the appropriate Federal financial supervisory agency of a community benefits plan
commensurate with the ability of the institution to carry out that plan;

“(II) that the institution consult with community-based organizations and other community stakeholders in developing the community benefits plan; and

“(III) a public hearing for any bank that has received a ‘need-to-improve’ or ‘low satisfactory’ grade in any assessment area during the last examination under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.).”.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENT.