[DISCUSSION DRAFT]

117TH CONGRESS 1ST SESSION

H. R. ______

To provide for additional protections for employees of financial institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. __________ introduced the following bill; which was referred to the Committee on __________________

____________________

A BILL

To provide for additional protections for employees of financial institutions, 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 “Financial Services Worker Bill of Rights”.
SEC. 2. SUPPLEMENTARY FEES ON INSTITUTIONS WITH LARGE CEO TO MEDIAN WORKER PAY RATIOS.

(a) In General.—With respect to a banking institution with a CEO to median worker pay ratio greater than 100 to 1, the appropriate Federal banking agency shall—

(1) levy an annual supplementary fee on the banking institution in an amount described under subsection (b); and

(2) deposit such fee in the general fund of the Department of the Treasury.

(b) Supplementary Fee Amount.—

(1) In General.—With respect to a banking institution, the supplementary fee amount shall be an amount equal to—

(A) the fee assessed on the banking institution to pay for the cost of examining and supervising such institution, multiplied by

(B) the amount specified under paragraph (2).

(2) Calculation of Rate.—For purposes of paragraph (1), the amount specified in this paragraph shall be determined as follows:

<table>
<thead>
<tr>
<th>If the CEO to median worker pay ratio is:</th>
<th>The amount is:</th>
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</thead>
<tbody>
<tr>
<td>More than 100 but not more than 150 .......</td>
<td>0.005</td>
</tr>
<tr>
<td>More than 150 but not more than 200 .......</td>
<td>0.01</td>
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</tbody>
</table>
If the CEO to median worker pay ratio is: | The amount is:
---|---
More than 200 but not more than 250 | 0.015
More than 250 but not more than 300 | 0.02
More than 300 but not more than 400 | 0.025
More than 400 | 0.03

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term “appropriate Federal banking agency”—

(A) has the meaning given that term under section 3 of the Federal Deposit Insurance Act; and

(B) means the National Credit Union Administration Board, in the case of a credit union.

(2) BANKING INSTITUTION.—The term “banking institution” means a credit union, depository institution, or depository institution holding company.

(3) CEO TO MEDIAN WORKER PAY RATIO.—With respect to a banking institution, the term “CEO to median worker pay ratio” means the ratio of—

(A) the annual total compensation of the chief executive officer (or any equivalent position) of the banking institution; and
(B) the median of the annual total compensation of all employees of the banking institution, except the chief executive officer (or any equivalent position) of the banking institution.

SEC. 3. PROHIBITION ON THE USE OF PREDATORY SALES GOAL POLICIES.

(a) IN GENERAL.—A financial institution may not use predatory sales goal policies.

(b) PREDATORY SALES GOAL POLICY DEFINED.—In this section, the term “predatory sales goals policy” means any policy that—

(1) uses sales goals based on individual performance instead of collective customer service goals;

(2) uses sales performance as a factor in discipline or termination; or

(3) uses incentive pay as the majority overall factor in determining an employee’s compensation.

SEC. 4. PROVIDING EMPLOYEES WITH BASIC DIGNITIES.

Each financial institution shall—

(1) provide employees of the financial institution with at least one paid 10-minute rest period per 4-hour period worked, as close as practicable to the middle of such period; and

(2) with respect to an employee with a documented medical condition requiring periodic short-
duration rest breaks, provide the employee with such short-duration rest breaks at the employee’s regular rate of pay.

SEC. 5. PROHIBITION ON FORCED ARBITRATION PROVISIONS IN EMPLOYMENT AGREEMENTS.

(a) In General.—Notwithstanding any other provision of law, with respect to a financial institution and an employee of a financial institution—

(1) no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of an employment dispute;

(2) no postdispute arbitration agreement that requires arbitration of an employment dispute shall be valid or enforceable unless—

(A) the agreement was not required by the financial institution, obtained by coercion or threat of adverse action, or made a condition of employment or any employment-related privilege or benefit;

(B) the employee entering into the agreement was informed in writing using sufficiently plain language likely to be understood by the average employee of the right of the employee under paragraph (3) to refuse to enter the agreement without retaliation;
(C) the employee entering into the agreement entered the agreement after a waiting period of not fewer than 45 days, beginning on the date on which the employee was provided both the final text of the agreement and the disclosures required under subparagraph (B); and

(D) the employee entering into the agreement affirmatively consented to the agreement in writing; and

(3) the financial institution may not retaliate or threaten to retaliate against an employee for refusing to enter into an agreement that provides for arbitration of an employment dispute.

(b) CIVIL ACTION.—Any person who is injured by reason of a violation of subsection (a) may bring a civil action in the appropriate district court of the United States against the financial institution within 2 years of the violation, or within 3 years if such violation is willful. Relief granted in such an action shall include a reasonable attorney’s fee, other reasonable costs associated with maintaining the action, and any appropriate relief authorized by section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)) or by section 1977A(b) of the Revised Statutes of the United States (42 U.S.C. 1981a(b)).
SEC. 6. PROHIBITING NONDISPARAGEMENT AND NON-DISCLOSURE CLAUSES THAT COVER WORKPLACE HARASSMENT, INCLUDING SEXUAL HARASSMENT.

(a) UNLAWFUL PRACTICES.—

(1) PROHIBITION ON WORKPLACE HARASSMENT NONDISCLOSURE CLAUSE.—Subject to subsection (b)(1), it shall be an unlawful practice for a financial institution to enter into a contract or agreement with an employee or applicant, as a condition of employment, promotion, compensation, benefits, or change in employment status or contractual relationship, or as a term, condition, or privilege of employment, if that contract or agreement contains a non-disparagement or nondisclosure clause that covers workplace harassment, including sexual harassment or retaliation for reporting, resisting, opposing, or assisting in the investigation of workplace harassment.

(2) PROHIBITION ON ENFORCEMENT.—Notwithstanding any other provision of law, it shall be an unlawful practice and otherwise unlawful for a financial institution to enforce or attempt to enforce a nondisparagement clause or nondisclosure clause described in paragraph (1).

(b) SETTLEMENT OR SEPARATION AGREEMENTS.—
(1) IN GENERAL.—The provisions of subsection 
(a) do not apply to a nondisclosure clause or non-
disparagement clause contained in a settlement 
agreement or separation agreement that resolves 
legal claims or disputes when—

(A) such legal claims accrued or such dis-
putes arose before the settlement agreement or 
separation agreement was executed; and 

(B) such clauses are mutually agreed upon 
and mutually benefit both the financial institu-
tion and employee.

(2) UNLAWFUL PRACTICE.—It shall be an un-
lawful practice for a financial institution to unilat-
ernally include a nondisclosure clause or a nondispar-
age clause that solely benefits the financial in-
stitution in a separation or settlement agreement.

(c) RIGHT TO REPORT RESERVED.—Notwith-
standing signing (before or after the effective date of this 
section) any nondisparagement or nondisclosure clause in-
cluding a clause referred to in subsection (a)(1), an em-
ployee or applicant retains any right that person would 
otherwise have had to report a concern about workplace 
harassment, including sexual harassment or another viola-
tion of the law to a Federal agency (including an office 
of the legislative or judicial branch), a State or local fair
employment practices agency or any other State or local agency, or a law enforcement agency, and any right that person would otherwise have had to bring an action in a court of the United States.

SEC. 7. AMENDMENTS TO THE WHISTLEBLOWER PROTECTIONS FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.

Section 1514A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “in the terms and conditions of employment because of any lawful act done by the employee” and inserting “with respect to compensation, terms, conditions, or privileges of employment because of any lawful act done by the applicant, employee, or former employee or perceived to have been done by the applicant, employee, or former employee (or any person acting pursuant to the request of the applicant, employee, or former employee), whether at the initiative of the applicant, employee, or former employee or in the ordinary course of the duties of the applicant, employee, or former employee”;
(B) in paragraph (1)(C), by striking ‘‘; or’’ and inserting a semicolon;

(C) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

‘‘(3) in objecting to, or refusing to participate in, any activity, policy, practice, or assigned task the applicant, employee, or former employee (or other such person) reasonably believed to be in violation of any law, rule, order, standard, or prohibition subject to the jurisdiction of, or enforceable by, the Securities and Exchange Commission; or

‘‘(4) in providing, preparing to provide, or assisting in the provision of information to the employer or a person with supervisory authority over the applicant, employee, or former employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct) relating to any violation of, or any act or omission that the whistleblower believes to be a violation of, any provision of this title or any other provision of law that is subject to the jurisdiction of the Securities and Exchange Commission, or any rule, order, standard, or prohibition prescribed by the Commission.’’;
(2) in subsection (c)(2)(B), by inserting “double” before “back pay”;

(3) in subsection (c), by adding at the end the following:

“(3) PUNITIVE DAMAGES.—Relief for any action under paragraph (1) may include punitive damages in an amount not to exceed $250,000.”; and

(4) by adding at the end the following:

“(e) CONFIDENTIALITY.—Neither the Securities and Exchange Commission, the Secretary of Labor, nor any officer or employee of the Commission or the Secretary may disclose any identifying information about an employee of a company described in subsection (a) who has provided information to the Commission or the Secretary—

“(1) unless the Commission or the Secretary has obtained the written consent of the whistleblower;

“(2) except in accordance with the provisions of section 552a of title 5, United States Code; or

“(3) unless required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or the Secretary.”.
SEC. 8. WORKER PARTICIPATION IN FINANCIAL INSTITUTION EXAMINATIONS.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301) is amended by adding at the end the following:

“SEC. 1012 WORKER PARTICIPATION.

“In establishing uniform principles and standards and report forms for the examination of financial institutions under section 1006, the Council shall—

“(1) establish a system for non-management employees of financial institutions to provide feedback to a Federal financial institutions regulatory agency conducting an examination as to whether applicable Federal laws and regulations are being followed by the financial institution or whether there are issues that need to be addressed; and

“(2) include a random or systematic survey of employees of the financial institution being examined, through a mechanism not subject to scrutiny by the financial institution.”.

SEC. 9. PROHIBITION ON OBSTRUCTING OR INTERFERING WITH WORKERS’ DECISIONS ON WHETHER OR NOT TO UNIONIZE.

(a) IN GENERAL.— Each financial institution shall—

(1) provide reasonable access to bank workplaces to inform workers of their rights;
(2) remain neutral about unionization; and

(3) recognize unions that demonstrate support from a majority of a unit of the financial institution’s employees.

(b) MANAGEMENT TRAINING.—Each financial institution shall ensure that training for management of the financial institution includes training on the requirements under subsection (a).

SEC. 10. ADDITIONAL DISCLOSURES FOR PUBLIC FINANCIAL INSTITUTIONS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

“(s) ADDITIONAL DISCLOSURES BY FINANCIAL INSTITUTIONS.—Each financial institution (as defined under section 5312 of title 31, United States Code) required to file an annual or quarterly report under subsection (a) shall disclose in that report the following:

“(1) The total number of employees of the financial institution globally.

“(2) The total number of employees of the financial institution in the United States.

“(3) The number of individuals performing work for the financial institution who are employed
by contractors, both in the United States and globally.

“(4) Any notice that the financial institution was required to made pursuant to the Worker Adjustment and Retraining Notification Act in the previous year to inform workers of mass layoffs of over 50 workers.

“(5) With respect to any lawsuit involving the financial institution in the previous year related to violations of the Fair Labor Standards Act of 1938, the Occupational Safety and Health Act of 1970, the National Labor Relations Act, the Age Discrimination in Employment Act of 1967, title VII of the Civil Rights Act fo 1964, the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Genetic Information Nondiscrimination Act of 2008, section 4311(b) of title 38, United States Code (regarding nondiscrimination against servicemembers), or a related State statute—

“(A) the name of the parties to the lawsuit;

“(B) the factual basis of the lawsuit;

“(C) the date the suit was filed; and

“(D) the amount of possible damages applicable to the lawsuit.”.
SEC. 11. WORKER TRAINING.

(a) IN GENERAL.—Each financial institution shall—

(1) provide employees of the financial institution with training on compliance with Federal consumer financial law that are relevant to each employee’s job duties;

(2) provide all employees with sufficient paid time for such training; and

(3) ensure that such training does not conflict with employees’ normal work duties.

(b) REPORT.—Each financial institution shall submit annual report to the appropriate Federal banking agency (if any) and the Bureau of Consumer Financial Protection describing the training protocols put in place by the financial institution to comply with this section.

SEC. 12. DEFINITIONS.

In this Act:

(1) CREDIT UNION.—The term “credit union” means a Federal credit union or a State credit union, as such terms are defined, respectively, under section 101 of the Federal Credit Union Act.

(2) 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).

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(3) FINANCIAL INSTITUTION.—The term “financial institution” has the meaning given that term under section 5312 of title 31, United States Code.

(4) OTHER BANKING TERMS.—The terms “appropriate Federal banking agency”, “depository institution”, “depository institution holding company”, “Federal banking agency” have the meaning given those terms, respectively, under section 3 of the Federal Deposit Insurance Act.