[DISCUSSION DRAFT]

117TH CONGRESS 2D SESSION

H. R. ______

To amend the Community Reinvestment Act of 1977 to improve the assessments of regulated 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 amend the Community Reinvestment Act of 1977 to improve the assessments of regulated 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,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “American Community

5 Investment Reform Act of 2022”.


SEC. 2. COMMUNITY REINVESTMENT ACT AMENDMENTS.

(a) FINDINGS AND PURPOSE.—Section 802 of the Community Reinvestment Act of 1977 (12 U.S.C. 2901) is amended to read as follows:

“SEC. 802. FINDINGS AND PURPOSE.

“(a) FINDINGS.—The 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;

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

“(3) regulated financial institutions have a continuing and affirmative obligation to help 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 encourage such institutions to help meet the credit or other financial needs of the local communities in which they are chartered or do business consistent with the safe and sound operation of such institutions.”.
(b) DEFINITIONS.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended to read as follows:

“SEC. 803. DEFINITIONS.

“For purposes of 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, or the acquisition of the assets, or the assumption
of the liabilities of a regulated financial institution requiring approval under section 18(e) of the Federal Deposit Insurance Act or under regulations issued under the authority of title IV of the National Housing Act; 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 or section 408(e) of the National Housing Act.

“(2) APPROPRIATE FEDERAL FINANCIAL SUPERVISING 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, as those terms are defined under section 3 of the Federal Deposit Insurance Act;

“(B) the Securities and Exchange Commission with respect to—

“(i) any U.S. nonbank financial company for which the Securities and Exchange Commission acts as the primary financial regulatory agency pursuant to sec-
tion 2 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and

“(ii) any broker or dealer that is a member of the Securities Investor Protection Corporation;

“(C) 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; and

“(D) the Board of Governors of the Federal Reserve System with respect to—

“(i) securities holding companies, as defined under section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and

“(ii) in consultation with the primary financial regulatory agency (as such term is defined under section 2 of the Dodd-Frank Wall Street Reform and Consumer Protection Act), any regulated financial institution not described in subparagraph (A), (B), or (C) or clause (i).

“(3) CAPITAL DISTRIBUTION.—The term ‘capital distribution’ means—
“(A) a distribution of cash or other property by any regulated financial institution to its owners made on account of that ownership;

“(B) a payment by a regulated financial institution to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests, including any extension of credit to finance an affiliated company’s acquisition of those shares or interests; and

“(C) a transaction that the appropriate Federal financial supervisory agency determines, by order or regulation, to be in substance a distribution of capital to the owners of the regulated financial institution.

“(4) COMMUNITY DEVELOPMENT.—The term ‘community development’ means—

“(A) affordable housing for low- (including extremely low-income) or moderate-income individuals (including multifamily rental housing and properties awarded low-income housing tax credits under section 42(h) of the Internal Revenue Code of 1986);

“(B) community and financial services targeted to low- or moderate-income individuals, including appropriate electronic payments, basic
account activities, and successful mortgage or
loan modifications;

“(C) activities that promote economic de-
velopment by financing businesses or farms
that—

“(i) meet the size eligibility require-
ments of the Small Business Administra-
tion’s Development Company or the Small
Business Investment Company programs
under section 121.301 of title 13, Code of
Federal Regulations; or

“(ii) have gross annual revenues of
$1,000,000 or less; or

“(D) activities that revitalize or stabilize—

“(i) low- or moderate-income geog-
raphies;

“(ii) designated disaster areas;

“(iii) distressed or underserved non-
metropolitan middle-income geographies
designated by the Board of Governors of
the Federal Reserve System, the Federal
Deposit Insurance Corporation, and the
Office of the Comptroller of the Currency,
based on—
“(I) rates of poverty, unemployment, and population loss; or

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

“(iv) activities conducted by certified community development financial institutions (as such term is defined under section 103 of the Community Development Banking and Financial Institutions Act of 1994).

“(5) ENTIRE COMMUNITY.—With respect to a financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area, such institution may define its ‘entire community’ to include its entire deposit customer base without regard to geographic proximity.

“(6) GEOGRAPHY.—The term ‘geography’ means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.
“(7) REGULATED FINANCIAL INSTITUTION.—
The term ‘regulated financial institution’ means an insured depository institution (as defined under section 3 of the Federal Deposit Insurance Act), a depository institution holding company (as defined under section 3 of the Federal Deposit Insurance Act), and a U.S. nonbank financial company.

“(8) U.S. NONBANK FINANCIAL COMPANY.—
The term ‘U.S. nonbank financial company’ has the meaning given such term under section 102 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.”.

(e) EVALUATIONS.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively;

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

“(a) DEPOSITORY INSTITUTIONS AND DEPOSITORY INSTITUTION HOLDING COMPANIES.—In connection with its examination of a regulated financial institution other than a U.S. nonbank financial company, the appropriate Federal financial supervisory agency shall do the following:
“(1) Assess the institution’s record of meeting the credit or other financial needs of its entire community, including low-income, moderate-income, and other traditionally underserved neighborhoods, consistent with the safe and sound operation of such institution.

“(2) Assess, with at least an equal weight to any other factor or test identified in the regulations prescribed by the appropriate Federal financial supervisory agency to implement this Act, the community development activities and those activities’ effectiveness in meeting the financial needs of an institution’s entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution.

“(3) Assess the following activities and those activities’ effectiveness in meeting the credit or other financial needs of an institution’s entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution, unless the appropriate Federal financial supervisory agency determines that such assessment is not appropriate for a given regulated financial institution or class of regulated financial institutions
because such institution or class of institutions engages in limited activities or is of a limited size:

“(A) Lending activities other than loans considered under paragraph (1).

“(B) Investment activities other than investments considered under paragraph (1).

“(C) Retail financial services other than community development services considered under paragraph (1).

“(4) Take such record into account in its evaluation of an application for a deposit facility by such institution.

“(b) U.S. Nonbank Financial Companies.—The appropriate Federal financial supervisory agency shall assess the community development activities of a U.S. nonbank financial company, including investments and loans where appropriate that benefit the community of the company, and those activities’ effectiveness in meeting the credit or other financial needs of the company’s entire community, including low-income, moderate-income, and other traditionally underserved neighborhoods, as appropriate for the company consistent with the safe and sound operation of such company.

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

“(A) take into consideration public comment received by the appropriate Federal financial supervisory agency regarding the institution’s record of meeting the credit or other financial needs of the institution’s entire community, including low-income, moderate-income, and other traditionally underserved neighborhoods; and

“(B) require an improvement plan for an institution that receives a ‘Needs to improve record of meeting community credit or other financial needs’ or a ‘Substantial nonecompliance in meeting community credit or other financial needs’ rating on the institution’s written evaluation, or such a rating in any individual assessment area, and require such improvement plan to result in the reasonable likelihood that the institution will obtain a rating of at least ‘Satisfactory record of meeting community credit or other financial needs’ in the relevant measure within 2 exam cycles.
“(2) IMPROVEMENT PLAN.—

“(A) IN GENERAL.—A regulated financial institution required to submit an improvement plan required under paragraph (1)(B) shall submit such plan in writing to the appropriate Federal financial supervisory agency no later than 60 days after receiving the notice that such plan will be required.

“(B) PUBLIC COMMENT.—Upon receipt of an improvement plan 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 no less than 30 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 under clause (i) and submit such plan to the appropriate Federal financial supervisory agency no later than 30 days after the end of such period.
“(3) LIMITATION.—Public comment received pursuant to paragraph (2)(B) shall be limited to comments that directly address the regulated financial institution’s record of meeting the credit or other financial needs of the entire community, including low-income, moderate-income, and other traditionally underserved neighborhoods.

“(d) NONMINORITY OWNED AND NON-CDFI INSTITUTION INVESTMENTS.—In assessing and taking into account, under subsections (a), (b), and (c), the record of a regulated financial institution that is a nonminority-owned, nonwomen-owned institution and that is not a certified community development financial institution, the appropriate Federal financial supervisory agency may consider as a factor capital investment, loan participation, and other ventures undertaken by the regulated financial institution in cooperation with certified community development financial institutions, minority- and women-owned financial institutions, and low-income credit unions, provided that these activities help meet the credit or other financial needs of local communities in which such institutions and credit unions operate, including communities other than where such institutions and credit unions operate, if the regulated financial institution has adequately met the needs of its local assessment area.”;
(3) by adding at the end the following new subsections:

“(g) **COMPLEX AND INNOVATIVE EFFORTS.**—In assessing and taking into account, under subsections (a), (b), and (c), the record of a regulated financial institution, the appropriate Federal financial supervisory agency shall consider, as a factor, the complexity, innovativeness, and effectiveness in meeting particularly difficult community needs, or significant effort extended in specific loans, investments, or services.

“(h) **INCORPORATION OF EVALUATIONS OF SUBSIDIARIES.**—An evaluation of a depository institution holding company shall incorporate evaluations of subsidiary regulated financial institutions made by each subsidiary’s appropriate Federal financial supervisory agency, if applicable.”

(d) **WRITTEN EVALUATIONS.**—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended—

(1) in subsection (a)—

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

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

...
(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

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

(II) by redesignating clause (iii) as clause (v); and

(III) by inserting after clause (ii) the following new clauses:

“(iii) disclose whether the institution provided, or offered to provide, a consumer financial product or service that the Bureau of Consumer Financial Protection has determined is unfair, deceptive, or abusive;

“(iv) include specific responses to public comments received by the appropriate Federal financial supervisory agency regarding the institution; and”;

(ii) by adding at the end the following new subparagraph:

“(C) TREATMENT WITH RESPECT TO UNFAIR, DECEPTIVE, OR ABUSIVE CONSUMER FINANCIAL PRODUCTS OR SERVICES.—If the regulated financial institution provided, or offered to provide, one or more consumer financial prod-
ucts or services that the Bureau of Consumer Financial Protection has determined is unfair, deceptive, or abusive, the written evaluation shall be negatively influenced in a manner commensurate with the extent to which such products or services were offered or provided.”;

(B) in paragraph (2)—

(i) by striking “paragraph (1)(C)” and inserting “paragraph (1)(A)(v)”;

(ii) by striking subparagraphs (A), (B), (C), and (D) and inserting the following:

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

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

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

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

(C) by inserting after paragraph (2) the following new paragraph:

“(3) APPLICATION FOR OUTSTANDING RATING.—
“(A) IN GENERAL.—The appropriate Federal financial supervisory agencies shall develop and implement a process to permit a regulated financial institution to submit an application at the time the examination process is initiated for a rating of ‘Outstanding record of meeting community credit or other financial needs’.

“(B) AVAILABILITY OF RATING.—

“(i) IN GENERAL.—The rating described under subparagraph (A) shall only be awarded to a regulated financial institution that—

“(I) applies for such rating pursuant to subparagraph (A);

“(II) significantly exceeds the requirements to receive the rating described under paragraph (2)(A);

“(III) with respect to a regulated financial institution for which ratings are available for the three most recent examination cycles, received no less than a ‘Satisfactory record of meeting community credit or other financial needs’ or, for evaluations prior to the date of the enactment of this para-
graph, ‘Satisfactory record of meeting community credit needs’, for the three most recent examination cycles; and

“(IV) with respect to a depository institution holding company or a regulated financial institution that controls one or more other regulated financial institutions, does not have a subsidiary regulated financial institution that received a rating of ‘Needs to improve record of meeting community credit or other financial needs’ or less, or, for evaluations prior to the date of enactment of this paragraph, a rating of ‘Needs to improve record of meeting community credit needs’ or lower for the most recent examination cycle.

“(ii) RULE OF CONSTRUCTION.—For purposes of clause (i)(IV), a rating given to a regulated financial institution prior to the control of such regulated financial institution by the relevant depository institution holding company or parent regulated financial institution as a subsidiary shall
not bar the company from being granted a rating of ‘Outstanding record of meeting community credit or other financial needs’.

“(C) **Expanded assessment area.**—For purposes of determining whether to award a rating described under subparagraph (A), the appropriate Federal financial supervisory agency may consider community development activities, including investments made outside the institution’s service area if the regulated financial institution has adequately met the needs of its local assessment area.”;

(3) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(4) by inserting after subsection (c) the following new subsections:

“**(d) Preliminary Report Required.**—

“(1) **In general.**—The appropriate Federal financial supervisory agency shall—

“(A) prepare a preliminary report of the public section of the evaluation required under subsection (a)(1); and

“(B) provide the preliminary report to the regulated financial institution and to the public...
not less than 60 days before the date on which
the corresponding written evaluation is issued.

“(2) LIMITATION.—The preliminary report re-
quired under paragraph (1) shall not include any as-
signed rating or discussion of an assigned rating.

“(e) PUBLIC COMMENT ON PRELIMINARY REPORT.—
The appropriate Federal financial supervisory agency
shall—

“(1) develop and implement a process to seek
and receive public comment on any preliminary re-
port for a period of 30 days following the release of
the report; and

“(2) incorporate into a revised written evalua-
tion any public comment received during such com-
ment period, as appropriate.”.

(e) EFFECTS OF ASSIGNED RATINGS.—The Commu-
is amended by adding at the end the following new section:

“SEC. 810. EFFECTS OF ASSIGNED RATINGS.

“(a) OUTSTANDING RATING.—A regulated financial
institution that receives a rating of ‘Outstanding record
of meeting community credit or other financial needs’ on
its most recent performance evaluation shall—

“(1) be presumed to have satisfied consider-
ation of such regulated financial institution’s record
of meeting the credit or other financial needs of its entire community in an application for a deposit facility; and

“(2) be given preference over other regulated financial institutions with lower ratings in connection with the award of Government contracts.

“(b) SATISFACTORY RATING.—There shall be a rebuttable presumption that a regulated financial institution that receives a rating of ‘Satisfactory record of meeting community credit or other financial needs’ on its two most recent performance evaluations will have satisfied consideration of such regulated financial institution’s record of meeting the credit or other financial needs of its entire community in an application for a deposit facility.

“(c) NEEDS TO IMPROVE RATING.—A regulated financial institution that receives a rating of ‘Needs to improve record of meeting community credit or other financial needs’ or lower on its two most recent performance evaluations shall be prohibited from—

“(1) being awarded a Government contract in an amount greater than $500,000, unless the Federal department or agency proposing to enter into such contract determines that compliance with such prohibition imposes an undue burden or is unable to meet its needs with another institution; and
“(2) making any capital distributions in the aggregate during any calendar quarter that exceed 50 percent of the institution’s net earnings during the previous quarter without the prior approval of the appropriate Federal financial supervisory agency.

“(d) SUBSTANTIAL NONCOMPLIANCE.—A regulated financial institution that receives a ‘Substantial non-compliance in meeting community credit or other financial needs’ rating on its most recent performance evaluations—

“(1) may be ordered to restrict executive compensation by the appropriate Federal financial supervisory agency;

“(2) shall be prohibited from being awarded a Government contract, unless the Federal department or agency proposing to enter into such contract determines that compliance with such prohibition imposes an undue burden or is unable to meet its needs with another institution; and

“(3) shall be prohibited from making any capital distributions without the prior approval of the appropriate Federal financial supervisory agency.”.