[DISCUSSION DRAFT]

117TH CONGRESS
2D Session

H. R. ______

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

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

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

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 
4 SECTION 1. SHORT TITLE.
5 (a) SHORT TITLE.—This Act may be cited as the “Repeat Offenders, Megabanks, and Credit Bureaus Ac-
6 countability Act”.
7
(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Sense of Congress.
Sec. 3. Megabank defined.

**TITLE I—STRATEGIC PLAN TO HOLD REPEAT OFFENDERS ACCOUNTABLE**

Sec. 101. Strategic plan.

**TITLE II—CONSUMER ABUSE AND DISCRIMINATION REMEDIATION ENHANCEMENT**

Sec. 201. Prompt disclosure and remediation of consumer abuse.

**TITLE III—DISCLOSE MEGABANK RATINGS ACT**

Sec. 301. Public disclosure of supervisory ratings.

**TITLE IV—MEGABANK BOARD STANDARDS ACT**

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

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that financial regulators should utilize the full range of their existing authorities to impose stronger penalties beyond the typical fines on repeat offenders that egregiously harm consumers to promote accountability, consumer protection, and a level playing field, such as—

(1) those detailed in a September 2017 report by the Democratic staff of the Committee on Financial Services of the House of Representatives entitled “The Case for Holding Megabanks Accountable: An Examination of Wells Fargo’s Egregious Consumer Abuses”;
(2) the 2018 enforcement action by the Board of Governors of the Federal Reserve System, under the leadership of then-Chairman Janet Yellen, to impose an asset cap on Wells Fargo for widespread consumer abuses and compliance breakdowns; and

(3) other penalties detailed in a March 2022 speech by the Bureau of Consumer Financial Protection Director Rohit Chopra entitled, “Reining in Repeat Offenders”.

SEC. 3. MEGABANK DEFINED.

(a) In General.—In this Act, the term “megabank” means—

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

(2) a bank holding company with consolidated assets greater than $500,000,000,000; or

(3) 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 subsection (a)(1) or (a)(3)
on the date of the enactment of this Act shall be deemed a megabank.

TITLE I—STRATEGIC PLAN TO HOLD REPEAT OFFENDERS ACCOUNTABLE

SEC. 101. STRATEGIC PLAN.
(a) IN GENERAL.—The covered Federal agencies (in consultation with the Secretary of the Treasury, the Attorney General, the Federal Trade Commission, and such other Federal or State agencies as the covered Federal agencies determine appropriate) shall design a strategic plan describing how the agencies will utilize the full extent of the agencies’ authorities to hold a megabank, affiliated banking organization, or large non-bank financial institution (including the directors and officers of such megabank or institution) accountable when such megabank, organization, or institution engages in a pattern of compliance failures, including when such failures result in extensive consumer harm or discrimination under Federal law, including under the Fair Housing Act, the Equal Credit Opportunity Act, or an unfair, deceptive, or abusive act or practice described under section 1031 of the Consumer Financial Protection Act of 2010.
(b) AUTHORITIES DESCRIBED.—The authorities of the covered Federal agencies described in subsection (a) include the authority to—

(1) restrict the growth of a megabank or large non-bank financial institution;

(2) restrict certain lines of business, including imposing a moratorium on providing a certain product or service, of a megabank or large non-bank financial institution;

(3) require the disposition of assets of a megabank or large non-bank financial institution;

(4) remove certain directors or officers of a megabank or large non-bank financial institution; or

(5) permanently ban certain directors or officers of a megabank or large non-bank financial institution from working in the financial services industry.

(c) PENALTIES.—The plan described in subsection (a) shall include an outline of penalties for multiple compliance failures by a megabank or large non-bank financial institution that increase in severity based on the number and type of failure.

(d) PUBLIC FEEDBACK.—The covered Federal agencies shall make a draft of the strategic plan described in
subsection (a) publicly available and invite public feedback
on the plan.

(c) REPORT.—Not later than 1 year after the date
of enactment of this Act, the covered Federal agencies
shall—

(1) issue a report to the Committee on Financial
Services of the House of Representatives and
the Committee on Banking, Housing, and Urban Af-
fairs of the Senate containing the strategic plan de-
signed under subsection (a); and

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

(f) PERIODIC UPDATES.—The covered Federal agen-
cies (in consultation with the Secretary of the Treasury,
the Attorney General, the Federal Trade Commission, and
such other Federal or State agencies as the covered Fed-
eral agencies determine appropriate) may periodically up-
date the strategic plan required under subsection (a) if
the agencies comply with the requirement of subsection
(d) with respect to any update.

(g) RULE OF CONSTRUCTION.—Nothing in this sec-
tion may be construed to limit the ability of a Government
agency to impose any appropriate penalty against a
megabank or large non-bank financial institution for a vio-
(h) DEFINITIONS.—In this section:

(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) COVERED FEDERAL AGENCIES.—The term “covered Federal agencies” means the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Department of Housing and Urban Development, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

(3) LARGE NON-BANK FINANCIAL INSTITUTION.—The term “large non-bank financial institution” means an entity—

(A) subject to section 1024 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5514) (including a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a)); and

(B) that the Director of the Bureau of Consumer Financial Protection determines
should be included for purposes of the strategic
plan required under this section.

TITLE II—CONSUMER ABUSE
AND DISCRIMINATION REMEDIATION ENHANCEMENT

SEC. 201. PROMPT DISCLOSURE AND REMEDIATION OF
CONSUMER ABUSE.

(a) IN GENERAL.—

(1) TREBLE DAMAGES.—With respect to a viol-
lation of any provision of the Federal consumer fi-
nancial laws (or any regulation issued thereunder)
by a megabank, affiliated banking organization, or
large non-bank financial institution that results in
harm (including discrimination) to a consumer, such
consumer shall be entitled to treble damages in any
suit to recover damages related to such violation un-
less provides the notice described in paragraph (2).

(2) NOTICE DESCRIBED.—Not later than 72
hours after making a reasonable determination that
a violation described in paragraph (1) occurred, a
megabank, affiliated banking organization, or large
non-bank financial institution (as applicable) shall
notify the Director of the Consumer Bureau and the
public, directly and through a clear and conspicuous
notification on the website of the megabank, affili-
ated banking organization, or large non-bank financial institution (as applicable) of such violation

(3) REMEDIATION PLAN.—Not later than 15 days after such determination about a violation is made, a megabank, affiliated banking organization, or large non-bank financial institution (as applicable) shall submit to the Director of the Consumer Bureau a remediation plan with respect to such violation.

(b) CONSUMER RIGHT TO RECOVER DAMAGES.—With respect to a violation of a law or regulation described under this section that does not provide a right of action for a consumer to recover damages for such violation, the violator shall be liable to the consumer in the manner provided under sections 616 and 617 of the Fair Credit Reporting Act (15 U.S.C. 1681n and 1681o).

(c) RULEMAKING.—The Consumer Bureau shall issue such rules as may be necessary to carry out this section.

(d) DEFINITIONS.—In this section:

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

(3) CUSTOMER.—With respect to megabank or affiliated banking organization, the term “customer” includes an individual who, but for extensive consumer abuse or discrimination, would be a customer of the megabank or affiliated banking organization.

(4) FEDERAL CONSUMER FINANCIAL LAW.—The term “Federal consumer financial law” has the meaning given in section 1002 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

(5) LARGE NON-BANK FINANCIAL INSTITUTION.—The term “large non-bank financial institution” has the meaning given in section 101.

(6) MEGABANK.—The term “megabank” has the meaning given in section 3 of this Act.

TITLE III—DISCLOSE MEGABANK RATINGS ACT

SEC. 301. PUBLIC DISCLOSURE OF SUPERVISORY RATINGS.

(a) CONSUMER COMPLIANCE RATINGS.—With respect to a depository institution that is a subsidiary or affiliate of a megabank, the appropriate Federal banking agency shall, after each evaluation of the depository institution under the Consumer Compliance Rating System,
make the results of such evaluation available to the public (including on the website of the agency) along with a brief overview of the results that includes key findings made by the agency in carrying out such evaluation.

(b) Bank Ratings.—

(1) In general.—With respect to a megabank and each depository institution that is a subsidiary or an affiliate of the megabank, the appropriate Federal banking agency shall, after the end of the 2-year period beginning on the date of an evaluation of the megabank or a depository institution under a Bank Ratings System, make the results of such evaluation (including the composite score and component scores, if applicable) available to the public (including on the website of the agency) along with a brief overview of the results that includes key findings made by the agency in carrying out such evaluation.

(2) Earlier disclosure permitted.—An appropriate Federal banking agency may disclose the results of an evaluation described under paragraph (1) before the end of the 2-year period described in such paragraph if the appropriate Federal banking agency determines that such disclosure is in the public interest and would not negatively affect the safety
and soundness of the megabank or the depository institution evaluated.

(c) INCLUSION OF PRIOR EVALUATIONS.—The requirements under subsections (a) and (b) shall also apply to each evaluation of a megabank or a depository institution that is a subsidiary or an affiliate of the megabank under the Consumer Compliance Rating System or a Bank Ratings System that was completed after January 1, 2000.

(d) DEFINITIONS.—For purposes of 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 (12 U.S.C. 1813); and

(B) includes the Bureau of Consumer Financial Protection, with respect to an evaluation under the Consumer Compliance Rating System of an insured depository institution described under section 1025(a) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5515(a)).

(2) BANK RATINGS SYSTEM.—The term “Bank Ratings System” means—
(A) with respect to a depository institution, the Uniform Financial Institutions Rating System (or a comparable rating system); and

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

(3) OTHER BANKING DEFINITIONS.—The terms “affiliate”, “depository institution”, and “subsidiary” have the meaning given those terms, respectively, under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

TITLE IV—MEGABANK BOARD STANDARDS ACT

SEC. 401. DEFINITIONS.

For purposes of this title:

(1) AFFILIATED BANKING ORGANIZATION.—

With respect to a megabank, the term “affiliated banking organization” means any subsidiary or affiliate of the megabank that has an appropriate Federal banking agency.

(2) OTHER BANKING DEFINITIONS.—The terms “affiliate”, “appropriate Federal banking agency”, “depository institution”, “depository institution holding company”, and “subsidiary” have the meaning given those terms, respectively, under section 3

3 **SEC. 402. QUALIFICATIONS FOR DIRECTORS.**

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

(1) a majority of the members of the board of directors of an affiliated banking organization of a megabank do not also serve on the board of directors of—

(A) that megabank; or

(B) any affiliate of that megabank, if such affiliate engages in any activities listed in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)); and

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

(b) PENALTIES.—A violation of subsection (a) by any megabank or affiliated banking organization shall be deemed an unsafe and unsound practice by such megabank or organization.
SEC. 403. LIMITATIONS ON OUTSIDE COMMITMENTS OF DIRECTORS.

(a) IN GENERAL.—A member of the board of directors of a megabank or an affiliated banking organization may not—

(1) serve on the board of more than 3 public companies (including such megabank or organization); or

(2) serve on the board of more than 2 public companies (including such megabank or organization), if the member—

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

(B) serves as the lead independent member, risk committee chair, or audit committee chair of the board of directors of the megabank or organization.

(b) PROHIBITIONS ON POSITIONS OF EXECUTIVES.—

An executive of a megabank or an affiliated banking organization may not also serve as the lead independent member, risk committee chair, or audit committee chair of the board of directors of such megabank or organization.

(c) PENALTIES.—Any individual who violates subsection (a) or (b) shall—

(1) be removed from any position as an executive, employee, or member of the board of directors
of the megabank or affiliated banking organization; and

(2) be prohibited from taking any position as an executive, employee, or member of the board of directors of any depository institution, depository institution holding company, or subsidiary or affiliate of a depository institution holding company.

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

(e) EFFECTIVE DATE.—This section shall apply after the end of the 1-year period beginning on the date of enactment of this section.