

[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 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Repeat Offenders, Megabanks, and Credit Bureaus Ac-
6 countability Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 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
REMEDATION 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.

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

4 It is the sense of Congress that financial regulators
5 should utilize the full range of their existing authorities
6 to impose stronger penalties beyond the typical fines on
7 repeat offenders that egregiously harm consumers to pro-
8 mote accountability, consumer protection, and a level play-
9 ing field, such as—

- 10 (1) those detailed in a September 2017 report
- 11 by the Democratic staff of the Committee on Finan-
- 12 cial Services of the House of Representatives entitled
- 13 “The Case for Holding Megabanks Accountable: An
- 14 Examination of Wells Fargo’s Egregious Consumer
- 15 Abuses”;

1 (2) the 2018 enforcement action by the Board
2 of Governors of the Federal Reserve System, under
3 the leadership of then-Chairman Janet Yellen, to im-
4 pose an asset cap on Wells Fargo for widespread
5 consumer abuses and compliance breakdowns; and

6 (3) other penalties detailed in a March 2022
7 speech by the Bureau of Consumer Financial Pro-
8 tection Director Rohit Chopra entitled, “Reining in
9 Repeat Offenders”.

10 **SEC. 3. MEGABANK DEFINED.**

11 (a) IN GENERAL.—In this Act, the term “megabank”
12 means—

13 (1) a bank holding company that has been iden-
14 tified by the Board of Governors of the Federal Re-
15 serve System as a global systemically important
16 bank holding company pursuant to section 217.402
17 of title 12, Code of Federal Regulations;

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

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

23 (b) TREATMENT OF EXISTING GSIBS.—A company
24 or organization described under subsection (a)(1) or (a)(3)

1 on the date of the enactment of this Act shall be deemed
2 a megabank.

3 **TITLE I—STRATEGIC PLAN TO**
4 **HOLD REPEAT OFFENDERS**
5 **ACCOUNTABLE**

6 **SEC. 101. STRATEGIC PLAN.**

7 (a) IN GENERAL.—The covered Federal agencies (in
8 consultation with the Secretary of the Treasury, the Attor-
9 ney General, the Federal Trade Commission, and such
10 other Federal or State agencies as the covered Federal
11 agencies determine appropriate) shall design a strategic
12 plan describing how the agencies will utilize the full extent
13 of the agencies' authorities to hold a megabank, affiliated
14 banking organization, or large non-bank financial institu-
15 tion (including the directors and officers of such
16 megabank or institution) accountable when such
17 megabank, organization, or institution engages in a pat-
18 tern of compliance failures, including when such failures
19 result in extensive consumer harm or discrimination under
20 Federal law, including under the Fair Housing Act, the
21 Equal Credit Opportunity Act, or an unfair, deceptive, or
22 abusive act or practice described under section 1031 of
23 the Consumer Financial Protection Act of 2010.

1 (b) **AUTHORITIES DESCRIBED.**—The authorities of
2 the covered Federal agencies described in subsection (a)
3 include the authority to—

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

6 (2) restrict certain lines of business, including
7 imposing a moratorium on providing a certain prod-
8 uct or service, of a megabank or large non-bank fi-
9 nancial institution;

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

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

14 (5) permanently ban certain directors or offi-
15 cers of a megabank or large non-bank financial insti-
16 tution from working in the financial services indus-
17 try.

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

23 (d) **PUBLIC FEEDBACK.**—The covered Federal agen-
24 cies shall make a draft of the strategic plan described in

1 subsection (a) publicly available and invite public feedback
2 on the plan.

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

6 (1) issue a report to the Committee on Finan-
7 cial Services of the House of Representatives and
8 the Committee on Banking, Housing, and Urban Af-
9 fairs of the Senate containing the strategic plan de-
10 signed under subsection (a); and

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

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

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

1 lation, or a pattern of repeated violations, of applicable
2 laws and regulations.

3 (h) DEFINITIONS.—In this section:

4 (1) AFFILIATED BANKING ORGANIZATION.—

5 The term “affiliated banking organization” means
6 any depository institution subsidiary or affiliate of a
7 megabank that has an appropriate Federal banking
8 agency.

9 (2) COVERED FEDERAL AGENCIES.—The term

10 “covered Federal agencies” means the Board of
11 Governors of the Federal Reserve System, the Bu-
12 reau of Consumer Financial Protection, the Depart-
13 ment of Housing and Urban Development, the Fed-
14 eral Deposit Insurance Corporation, and the Office
15 of the Comptroller of the Currency.

16 (3) LARGE NON-BANK FINANCIAL INSTITU-

17 TION.—The term “large non-bank financial institu-
18 tion” means an entity—

19 (A) subject to section 1024 of the Con-
20 sumer Financial Protection Act of 2010 (12
21 U.S.C. 5514) (including a consumer reporting
22 agency described in section 603(p) of the Fair
23 Credit Reporting Act (15 U.S.C. 1681a)); and

24 (B) that the Director of the Bureau of
25 Consumer Financial Protection determines

1 should be included for purposes of the strategic
2 plan required under this section.

3 **TITLE II—CONSUMER ABUSE**
4 **AND DISCRIMINATION REME-**
5 **DIATION ENHANCEMENT**

6 **SEC. 201. PROMPT DISCLOSURE AND REMEDIATION OF**
7 **CONSUMER ABUSE.**

8 (a) IN GENERAL.—

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

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

1 ated banking organization, or large non-bank finan-
2 cial institution (as applicable) of such violation

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

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

17 (c) RULEMAKING.—The Consumer Bureau shall
18 issue such rules as may be necessary to carry out this sec-
19 tion.

20 (d) DEFINITIONS.—In this section:

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

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

4 (3) CUSTOMER.—With respect to megabank or
5 affiliated banking organization, the term “customer”
6 includes an individual who, but for extensive con-
7 sumer abuse or discrimination, would be a customer
8 of the megabank or affiliated banking organization.

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

13 (5) LARGE NON-BANK FINANCIAL INSTITU-
14 TION.—The term “large non-bank financial institu-
15 tion” has the meaning given in section 101.

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

18 **TITLE III—DISCLOSE MEGABANK** 19 **RATINGS ACT**

20 **SEC. 301. PUBLIC DISCLOSURE OF SUPERVISORY RATINGS.**

21 (a) CONSUMER COMPLIANCE RATINGS.—With re-
22 spect to a depository institution that is a subsidiary or
23 affiliate of a megabank, the appropriate Federal banking
24 agency shall, after each evaluation of the depository insti-
25 tution under the Consumer Compliance Rating System,

1 make the results of such evaluation available to the public
2 (including on the website of the agency) along with a brief
3 overview of the results that includes key findings made
4 by the agency in carrying out such evaluation.

5 (b) BANK RATINGS.—

6 (1) IN GENERAL.—With respect to a megabank
7 and each depository institution that is a subsidiary
8 or an affiliate of the megabank, the appropriate
9 Federal banking agency shall, after the end of the
10 2-year period beginning on the date of an evaluation
11 of the megabank or a depository institution under a
12 Bank Ratings System, make the results of such eval-
13 uation (including the composite score and component
14 scores, if applicable) available to the public (includ-
15 ing on the website of the agency) along with a brief
16 overview of the results that includes key findings
17 made by the agency in carrying out such evaluation.

18 (2) EARLIER DISCLOSURE PERMITTED.—An ap-
19 propriate Federal banking agency may disclose the
20 results of an evaluation described under paragraph
21 (1) before the end of the 2-year period described in
22 such paragraph if the appropriate Federal banking
23 agency determines that such disclosure is in the pub-
24 lic interest and would not negatively affect the safety

1 and soundness of the megabank or the depository in-
2 stitution evaluated.

3 (c) INCLUSION OF PRIOR EVALUATIONS.—The re-
4 quirements under subsections (a) and (b) shall also apply
5 to each evaluation of a megabank or a depository institu-
6 tion that is a subsidiary or an affiliate of the megabank
7 under the Consumer Compliance Rating System or a Bank
8 Ratings System that was completed after January 1,
9 2000.

10 (d) DEFINITIONS.—For purposes of this section:

11 (1) APPROPRIATE FEDERAL BANKING AGEN-
12 CY.—The term “appropriate Federal banking agen-
13 cy”—

14 (A) has the meaning given that term under
15 section 3 of the Federal Deposit Insurance Act
16 (12 U.S.C. 1813); and

17 (B) includes the Bureau of Consumer Fi-
18 nancial Protection, with respect to an evalua-
19 tion under the Consumer Compliance Rating
20 System of an insured depository institution de-
21 scribed under section 1025(a) of the Consumer
22 Financial Protection Act of 2010 (12 U.S.C.
23 5515(a)).

24 (2) BANK RATINGS SYSTEM.—The term “Bank
25 Ratings System” means—

1 (A) with respect to a depository institution,
2 the Uniform Financial Institutions Rating Sys-
3 tem (or a comparable rating system); and

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

7 (3) OTHER BANKING DEFINITIONS.—The terms
8 “affiliate”, “depository institution”, and “sub-
9 sidiary” have the meaning given those terms, respec-
10 tively, under section 3 of the Federal Deposit Insur-
11 ance Act (12 U.S.C. 1813).

12 **TITLE IV—MEGABANK BOARD** 13 **STANDARDS ACT**

14 **SEC. 401. DEFINITIONS.**

15 For purposes of this title:

16 (1) AFFILIATED BANKING ORGANIZATION.—
17 With respect to a megabank, the term “affiliated
18 banking organization” means any subsidiary or affil-
19 iate of the megabank that has an appropriate Fed-
20 eral banking agency.

21 (2) OTHER BANKING DEFINITIONS.—The terms
22 “affiliate”, “appropriate Federal banking agency”,
23 “depository institution”, “depository institution
24 holding company”, and “subsidiary” have the mean-
25 ing given those terms, respectively, under section 3

1 of the Federal Deposit Insurance Act (12 U.S.C.
2 1813).

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

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

6 (1) a majority of the members of the board of
7 directors of an affiliated banking organization of a
8 megabank do not also serve on the board of direc-
9 tors of—

10 (A) that megabank; or

11 (B) any affiliate of that megabank, if such
12 affiliate engages in any activities listed in sec-
13 tion 4(k) of the Bank Holding Company Act of
14 1956 (12 U.S.C. 1843(k)); and

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

18 (b) PENALTIES.—A violation of subsection (a) by any
19 megabank or affiliated banking organization shall be
20 deemed an unsafe and unsound practice by such
21 megabank or organization.

1 **SEC. 403. LIMITATIONS ON OUTSIDE COMMITMENTS OF DI-**
2 **RECTORS.**

3 (a) IN GENERAL.—A member of the board of direc-
4 tors of a megabank or an affiliated banking organization
5 may not—

6 (1) serve on the board of more than 3 public
7 companies (including such megabank or organiza-
8 tion); or

9 (2) serve on the board of more than 2 public
10 companies (including such megabank or organiza-
11 tion), if the member—

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

13 (B) serves as the lead independent mem-
14 ber, risk committee chair, or audit committee
15 chair of the board of directors of the megabank
16 or organization.

17 (b) PROHIBITIONS ON POSITIONS OF EXECUTIVES.—

18 An executive of a megabank or an affiliated banking orga-
19 nization may not also serve as the lead independent mem-
20 ber, risk committee chair, or audit committee chair of the
21 board of directors of such megabank or organization.

22 (c) PENALTIES.—Any individual who violates sub-
23 section (a) or (b) shall—

24 (1) be removed from any position as an execu-
25 tive, employee, or member of the board of directors

1 of the megabank or affiliated banking organization;
2 and

3 (2) be prohibited from taking any position as
4 an executive, employee, or member of the board of
5 directors of any depository institution, depository in-
6 stitution holding company, or subsidiary or affiliate
7 of a depository institution holding company.

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

11 (e) EFFECTIVE DATE.—This section shall apply after
12 the end of the 1-year period beginning on the date of en-
13 actment of this section.