

116TH CONGRESS
1ST SESSION

H. R. 1491

To establish a FinTech Council to designate a single primary regulator of eligible FinTech startups, to create the Offices of Financial Innovation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2019

Mr. DAVID SCOTT of Georgia (for himself and Mr. LOUDERMILK) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Agriculture, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a FinTech Council to designate a single primary regulator of eligible FinTech startups, to create the Offices of Financial Innovation, 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 “Facilitating Innovation
5 and New Technology so Entrepreneurs Create and Hire
6 Act of 2019” or the “FINTECH Act of 2019”.

1 **SEC. 2. FINTECH COUNCIL.**

2 (a) ESTABLISHMENT.—There is established within
3 the Department of the Treasury the FinTech Council,
4 which shall determine which Federal financial regulator
5 or regulators should be the Designated Financial Regu-
6 lator of an eligible FinTech startup.

7 (b) PETITION TO AGENCY.—

8 (1) IN GENERAL.—An eligible FinTech startup
9 may submit a petition to the FinTech Council, in
10 such form and in such manner as the Council may
11 require, to request a determination on which Federal
12 financial regulators have enforcement authority with
13 respect to the eligible FinTech startup.

14 (2) CONTENTS.—In a petition submitted under
15 this subsection, the eligible FinTech startup shall
16 demonstrate that the eligible FinTech startup is of-
17 fering or intending to offer a financial innovation
18 that—

19 (A) will serve the public interest;

20 (B) improves access to financial products
21 or services;

22 (C) does not present systemic risk to the
23 United States financial system;

24 (D) is a new technology or is an innovative
25 use of existing technology;

1 (E) does not pose a risk to consumer pro-
2 tection; and

3 (F) will not permit unfair, deceptive, or
4 abusive acts and practices.

5 (3) MULTIPARTY PETITIONS.—One or more eli-
6 gible FinTech startups that offer or intend to offer
7 similar financial innovations may jointly submit a
8 petition under this subsection.

9 (c) DETERMINATION.—Upon the request of an eligi-
10 ble FinTech startup, the FinTech Council shall—

11 (1) determine which one or more Federal finan-
12 cial regulators should be the regulators primarily re-
13 sponsible for oversight of the eligible FinTech start-
14 up;

15 (2) designate such agencies as the Designated
16 Financial Regulator of the eligible FinTech startup;
17 and

18 (3) notify the eligible FinTech startup and each
19 Federal financial regulator of such determination.

20 (d) SOLE ENFORCEMENT AUTHORITY BY DES-
21 IGNATED FINANCIAL REGULATOR.—Except for the Des-
22 ignated Financial Regulator, the Federal financial regu-
23 lators may not take any enforcement action against an eli-
24 gible FinTech startup.

25 (e) AUTHORITY TO REVIEW DESIGNATION.—

1 (1) IN GENERAL.—With respect to an entity
2 that has had primary regulators designated under
3 subsection (c)(2), the FinTech Council may review
4 the designation on an annual basis, or pursuant to
5 a request made under paragraph (2), to determine
6 whether—

7 (A) there has been a material change in
8 the business model of the entity;

9 (B) the entity is no longer an eligible
10 FinTech startup;

11 (C) there are material unseen risks that
12 weren't present at the time of the application;
13 or

14 (D) the entity can no longer demonstrate
15 that it meets the requirements described under
16 subsection (b)(2).

17 (2) RECOMMENDATION OF REVIEW.—If a Fed-
18 eral financial regulator determines that it would
19 have, but for the prohibition under subsection (d),
20 taken an enforcement action against an entity that
21 has had primary regulators designated under sub-
22 section (c)(2), the Federal financial regulator may
23 recommend that the FinTech Council review such
24 designation under paragraph (1).

1 (3) AUTHORITY TO RESCIND DESIGNATION.—If,
2 in reviewing a designation under paragraph (1), the
3 FinTech Council makes a determination under sub-
4 paragraph (A), (B), (C), or (D) of paragraph (1),
5 the FinTech Council may rescind the designation.

6 (4) REAPPLICATION PERMITTED.—An eligible
7 FinTech startup that loses its designation under this
8 section may reapply for designation.

9 (5) NOTICE.—If the FinTech Council rescinds
10 a designation under this section, the Council shall—

11 (A) immediately notify the entity that was
12 the subject of the designation and the Congress;
13 and

14 (B) upon making a final determination,
15 publicly provide a written explanation of the
16 basis for the Council’s decision with sufficient
17 detail to provide the public with an under-
18 standing of the specific basis of the Council’s
19 determination, including any assumptions re-
20 lated thereof.

21 (f) TWO-YEAR LIMITATION.—After the end of the
22 two-year period beginning on the date an entity first has
23 a primary regulatory designated under subsection (c)(2)—

24 (1) any such designation is terminated; and

1 (2) the entity is not eligible for any future des-
2 ignation under subsection (c)(2).

3 **SEC. 3. OFFICE OF FINANCIAL INNOVATION.**

4 (a) ESTABLISHMENT.—

5 (1) IN GENERAL.—Each Federal financial regu-
6 lator shall establish an Office of Financial Innova-
7 tion (“Office”).

8 (2) DIRECTOR.—The head of each Office shall
9 be a Director, who shall be appointed to a 5-year
10 term by, and report to, the head of the Federal fi-
11 nancial regulator.

12 (3) STAFFING.—The head of each Federal fi-
13 nancial regulator shall ensure that the regulator’s
14 Office is adequately staffed at all times.

15 (b) DUTIES.—The duties of the Office are to—

16 (1) draft a mission statement, which shall in-
17 clude the phrase “responsible innovation”;

18 (2) coordinate and make publicly available ef-
19 forts made by Designated Financial Regulators re-
20 lated to covered actions so as to reduce the regu-
21 latory burden for eligible FinTech startups;

22 (3) establish and maintain an easily-accessible
23 website, which shall include the Office’s mission
24 statement and a portal where eligible FinTech

1 startups can submit questions or request meetings
2 with the Office;

3 (4) respond to questions and meeting requests
4 described under paragraph (3) in a timely manner;

5 (5) implement recommendations from the Advi-
6 sory Council of FinTech Directors;

7 (6) conduct outreach to eligible FinTech
8 startups when a covered action is made public or fi-
9 nalized; and

10 (7) provide support for the Director of the Of-
11 fice with respect to the Director's duties on the Ad-
12 visory Council of FinTech Directors.

13 (c) INCLUSION IN RULEMAKING.—Each Federal fi-
14 nancial regulator shall, throughout the development of a
15 new rule, including prior to the publication of a notice of
16 proposed rulemaking in the Federal Register, work with
17 the Office in assessing the potential effects of the rule on
18 eligible FinTech startups. Each Office shall also advise the
19 applicable Federal financial regulator on possible alter-
20 natives that may lessen the burden on eligible FinTech
21 startups without meaningfully affecting the rule's ability
22 to achieve its purpose.

23 **SEC. 4. REGULATORY HARMONIZATION FOR FINTECH.**

24 (a) HARMONIZATION.—Each Designated Financial
25 Regulator shall, in taking any covered action, harmonize

1 and coordinate with the other Designated Financial Regu-
2 lators in order to eliminate duplication and conflicting reg-
3 ulations that will impact eligible FinTech startups.

4 (b) ADVISORY COUNCIL OF FINTECH DIRECTORS.—

5 (1) ESTABLISHMENT.—

6 (A) IN GENERAL.—There is established the
7 Advisory Council of FinTech Directors, which
8 shall consist of—

9 (i) the Director of each Office of Fi-
10 nancial Innovation; and

11 (ii) an independent member appointed
12 by the Secretary of the Treasury, having
13 State-banking regulatory expertise.

14 (B) COMPENSATION.—All members of the
15 Advisory Council who are officers or employees
16 of the United States shall serve without com-
17 pensation in addition to that received for their
18 services as officers or employees of the United
19 States.

20 (2) PURPOSE.—The purpose of the Advisory
21 Council is to provide each Federal financial regu-
22 lator with advice on its rules, regulations, and poli-
23 cies with regard to how financial innovation is re-
24 shaping the regulatory landscape of the financial
25 services marketplace and whether there is any dupli-

1 cation in supervision or material failure in super-
2 vision of eligible FinTech startups that is limiting
3 responsible innovation for eligible FinTech startups.

4 (3) DUTIES.—The Advisory Council shall func-
5 tion solely as an advisory body. Its duties shall ex-
6 tend only to providing advice, including advice in the
7 form of recommendations, to each Federal financial
8 regulator. Each Federal financial regulator shall re-
9 tain full authority to determine actions to be taken
10 and policies to be expressed with respect to matters
11 within its jurisdiction upon which the Council may
12 provide advice.

13 (4) REPORTS.—

14 (A) ANNUAL REPORT.—The Advisory
15 Council shall annually report to Congress on
16 the activities of the Council and any significant
17 financial market and regulatory developments
18 that might impact eligible FinTech startups.

19 (B) ADVICE.—The Advisory Council shall
20 provide its advice to the Federal financial regu-
21 lators through the Secretary of the Treasury.
22 The Advisory Council need not reach consensus
23 on every issue, and may choose to provide the
24 Federal financial regulators with differing views
25 or a range of view.

1 (5) MEETINGS.—The Advisory Council of
2 FinTech Directors shall meet at the call of the Sec-
3 retary of the Treasury or a majority of the members
4 then serving, but not less frequently than annually.

5 (6) RECORDKEEPING.—The official records
6 generated by or for the Advisory Council shall be
7 handled in accordance with General Records Sched-
8 ule 6.2, or another approved agency records disposi-
9 tion schedule. These records shall be available for
10 public inspection and copying, subject to section 552
11 of title 5, United States Code (commonly known as
12 the “Freedom of Information Act”).

13 **SEC. 5. DEFINITIONS.**

14 For purposes of this Act:

15 (1) COVERED ACTION.—The term “covered ac-
16 tion” means any regulations, guidance, interpretive
17 rules, interim final rules, bulletins, statement of pol-
18 icy, letters, examination manuals, frequently asked
19 questions, notices, directives, or any other authori-
20 tative action that would impact an eligible FinTech
21 startup.

22 (2) DESIGNATED FINANCIAL REGULATOR.—The
23 term “Designated Financial Regulator” means—

24 (A) any Federal financial regulator or reg-
25 ulators that have been designated under section

1 2(e)(2) with respect to any eligible FinTech
2 startup; and

3 (B) with respect to an eligible FinTech
4 startup, the specific Federal financial regulator
5 or regulators designated under section 2(e)(2)
6 for such eligible FinTech startup.

7 (3) ELIGIBLE FINTECH STARTUP.—The term
8 “eligible FinTech startup” means an entity that—

9 (A) provides an application or product and
10 has no more than 10,000 total users of such
11 application or product;

12 (B) has no more than 15 employees;

13 (C) has received less than 5 rounds of ven-
14 ture capital; and

15 (D) has not yet partnered with an insured
16 depository institution (as defined under section
17 3 of the Federal Deposit Insurance Act).

18 (4) FEDERAL FINANCIAL REGULATOR.—The
19 term “Federal financial regulator” means each of
20 the Board of Governors of the Federal Reserve Sys-
21 tem, the Bureau of Consumer Financial Protection,
22 the Commodity Futures Trading Commission, the
23 Department of Housing and Urban Development,
24 the Department of the Treasury, the Farm Credit
25 Administration, the Federal Communications Com-

1 mission, the Federal Deposit Insurance Corporation,
2 the Federal Housing Finance Agency, the Federal
3 Trade Commission, the National Credit Union Ad-
4 ministration Board, the Office of the Comptroller of
5 the Currency, and the Securities and Exchange
6 Commission.

○