IB

Union Calendar No. 651

118TH CONGRESS
2D SESSION

H. R. 8337

[Report No. 118–788]

To amend the Federal banking laws to improve the safety and soundness of the United States banking system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2024

Mr. BARR introduced the following bill; which was referred to the Committee on Financial Services

DECEMBER 3, 2024

Additional sponsor: Mr. FITZGERALD

DECEMBER 3, 2024

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 10, 2024]

A BILL

To amend the Federal banking laws to improve the safety and soundness of the United States banking system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bank Resilience and Regulatory Improvement Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FINANCIAL INSTITUTION REGULATORY TAILORING ENHANCEMENT

SEC. 101. INCREASED ASSET THRESHOLDS.

(a) BUREAU SUPERVISION.—Section 1025(a) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5515) is amended by striking "$10,000,000,000" each place it occurs and inserting "$50,000,000,000".

(b) DURBIN AMENDMENT REQUIREMENTS.—Section 921(a)(6) of the Electronic Fund Transfer Act (15 U.S.C. 1693o–2(a)(6)) is amended by striking "$10,000,000,000" and inserting "$50,000,000,000".

(c) VOLKER RULE REQUIREMENTS.—Section 13(h)(1)(B)(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(1)(B)(i)) is amended by striking "$10,000,000,000" and inserting "$50,000,000,000".

(d) QUALIFIED MORTGAGE REQUIREMENTS.—Section 129C(b)(F)(i) of the Truth in Lending Act (15 U.S.C. 1639c(b)(F)(i)) is amended by striking "$10,000,000,000" and inserting "$50,000,000,000".

(e) LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.—Section 201(a)(3)(A) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (12 U.S.C. 5371 note (a)(3)(A)) is amended by striking "$10,000,000,000" and inserting "$50,000,000,000".

TITLE II—BANK FAILURE PREVENTION

SEC. 201. COMPLETE RECORD ON AN APPLICATION.

(a) BANK HOLDING COMPANIES.—Section 3(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(b)(1)) is amended—

(1) by striking "Upon receiving" and inserting the following:

"(A) IN GENERAL.—Upon receiving";

(2) by striking "required" and inserting "acquired";

(3) by striking "In the event of the failure of the Board to act on any application for approval under this section within the ninety-one-day period which begins on the date of submission to the Board of the complete record on that application, the application shall be deemed to have been granted."; and

(4) by adding at the end the following:

"(B) COMPLETE RECORD ON AN APPLICATION.—

"(i) NOTICE TO APPLICANT.—Not later than 30 days after the date on which the Board receives an application for approval under this section, the Board shall transmit to the applicant a letter that either—

"(I) confirms the record on the application is complete; or

"(II) details all additional information that is required for the record on that application to be complete.

"(ii) EXTENSION OF NOTICE.—Notwithstanding clause (i), the Board may, if an application is complex, extend the 30-day period described under clause (i) for an additional 30 days.

"(iii) RECEIPT OF RESPONSE; DEEMING OF COMPLETE RECORD.—Upon receipt of a response from an applicant to a notice requesting additional information described under clause (i)(II), the record on the application shall be deemed complete unless the Board—

"(I) determines that the applicant's response was materially deficient; and

"(II) not later than 30 days after the date on which the Board received the response, provides the applicant a detailed notice describing the deficiencies.

"(iv) TREATMENT OF THIRD-PARTY INFORMATION.—In determining whether the record on an application is complete, the Board may take

into account only information provided by the applicant, and may not base the determination of completeness on any information (including reports, views, or recommendations) provided by third parties.

"(C) DEADLINE FOR DETERMINATION.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Board shall grant or deny an application submitted under this section not later than 90 days after the date on which the application was initially submitted to the Board, regardless of whether the record on such initial application was complete.

"(ii) FAILURE TO MAKE A DETERMINATION.—If the Board does not grant or deny an application within the time period described under clause (i), such application shall be deemed to have been granted.

"(iii) TOLLING OF PERIOD.—The Board may at any time extend the deadline described under clause (i) at the request of the applicant, but may not extend the deadline more than 30 days past the deadline described under clause (i).".

(b) SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (2), by striking ", and shall render a decision within 90 days after submission to the Board of the complete record on the application";

(2) by redesignating paragraph (7) as paragraph (9); and

(3) by inserting after paragraph (6) the following:

"(7) COMPLETE RECORD ON AN APPLICATION.—

"(A) NOTICE TO APPLICANT.—Not later than 30 days after the date on which the Board receives an application for approval under this subsection, the Board shall transmit to the applicant a letter that either—

"(i) confirms the record on the application is complete; or

"(ii) details all additional information that is required for the record on that application to be complete.

"(B) EXTENSION OF NOTICE.—Notwithstanding subparagraph (A), the Board may, if an application is complex, extend the 30-day pe-

riod described under subparagraph (A) for an additional 30 days.

"(C) RECEIPT OF RESPONSE; DEEMING OF COMPLETE RECORD.—Upon receipt of a response from an applicant to a notice requesting additional information described under subparagraph (A)(ii), the record on the application shall be deemed complete unless the Board—

"(i) determines that the applicant's response was materially deficient; and

"(ii) not later than 30 days after the date on which the Board received the response, provides the applicant a detailed notice describing the deficiencies.

"(D) TREATMENT OF THIRD-PARTY INFORMATION.—In determining whether the record on an application is complete, the Board may take into account only information provided by the applicant, and may not base the determination of completeness on any information (including reports, views, or recommendations) provided by third parties.

"(8) DEADLINE FOR DETERMINATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Board shall

grant or deny an application submitted under this subsection not later than 90 days after the date on which the application was initially submitted to the Board, regardless of whether the record on such initial application was complete.

"(B) FAILURE TO MAKE A DETERMINATION.—If the Board does not grant or deny an application within the time period described under subparagraph (A), such application shall be deemed to have been granted.

"(C) TOLLING OF PERIOD.—The Board may at any time extend the deadline described under subparagraph (A) at the request of the applicant, but may not extend the deadline more than 30 days past the deadline described under subparagraph (A).".

(c) INSURED DEPOSITORY INSTITUTIONS.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following:

"(14) COMPLETE RECORD ON AN APPLICATION.—

"(A) NOTICE TO APPLICANT.—Not later than 30 days after the date on which the responsible agency receives a merger application for approval under this subsection, the responsible agency shall transmit to the applicant a letter that either—

"(i) confirms the record on the application is complete; or

"(ii) details all additional information that is required for the record on that application to be complete.

"(B) EXTENSION OF NOTICE.—Notwithstanding subparagraph (A), the responsible agency may, if an application is unusually complex, extend the 30-day period described under subparagraph (A) for an additional 30 days.

"(C) RECEIPT OF RESPONSE; DEEMING OF COMPLETE RECORD.—Upon receipt of a response from an applicant to a notice requesting additional information described under subparagraph (A)(ii), the record on the application shall be deemed complete unless the responsible agency—

"(i) determines that the applicant's response was materially deficient; and

"(ii) not later than 30 days after the date on which the responsible agency received the response, provides the applicant a detailed notice describing the deficiencies.

"(D) TREATMENT OF THIRD-PARTY INFORMATION.—In determining whether the record on an application is complete, the responsible agency may take

into account only information provided by the applicant, and may not base the determination of completeness on any information (including reports, views, or recommendations) provided by third parties.

"(15) DEADLINE FOR DETERMINATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the responsible agency shall grant or deny a merger application submitted under this subsection not later than 90 days after the date on which the application was initially submitted to the responsible agency, regardless of whether the record on such initial application was complete.

"(B) FAILURE TO MAKE A DETERMINATION.—If the responsible agency does not grant or deny an application within the time period described under subparagraph (A), such application shall be deemed to have been granted.

"(C) TOLLING OF PERIOD.—The responsible agency may at any time extend the deadline described under subparagraph (A) at the request of the applicant, but may not extend the deadline more than 30 days past the deadline described under subparagraph (A).".

TITLE III—STRESS TESTING ACCOUNTABILITY AND TRANSPARENCY

SEC. 301. RULEMAKING RELATED TO STRESS CAPITAL BUFFER REQUIREMENTS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this section, the Board of Governors of the Federal Reserve System (in this title referred to as the "Board") shall issue a rule to establish any models, assumptions, formulas, or other decisional methodologies that are used to determine any component or subcomponent of the stress capital buffer requirement for a bank holding company.

(b) CHANGES.—The Board may only make changes to the rule issued under subsection (a) through notice and comment rulemaking.

(c) STRESS CAPITAL BUFFER REQUIREMENT DEFINED.—The term "stress capital buffer requirement" has the meaning given the term in section 225.8(c) of title 12 of the Code of Federal Regulations.

SEC. 302. RULEMAKING RELATING TO STRESS TESTING.

(a) IN GENERAL.—Beginning in the first calendar year beginning after the date of the enactment of this section, the Board shall, not less than 30 days before conducting a stress test pursuant to section 165(i) of the Fi-

nancial Stability Act of 2010, issue a rule to establish each scenario to be used in such stress test.

(b) PROHIBITION.—The Board may not, by rule or otherwise, subject any nonbank financial company to a climate-related stress test using the authority provided in section 165(i) of the Financial Stability Act of 2010.

SEC. 303. GAO REPORT.

(a) IN GENERAL.—The Comptroller General of the United States shall, every 3 years, conduct a study and submit a report to the Congress with respect to the stress tests conducted by the Board under section 165(i) of the Financial Stability Act of 2010 in the 3 most recent calendar years.

(b) CONTENTS.—The report submitted to the Congress under subsection (a) shall consider the effectiveness of the stress tests in evaluating—

(1) the safety and soundness of the nonbank financial institutions subjected to stress tests;

(2) the stability of the United States financial system.

TITLE IV—BANK SUPERVISION APPEALS IMPROVEMENT

SEC. 401. TIMELINESS OF EXAMINATIONS AND REQUIRED PERMISSION, REGULATORY, AND REPORTING GUIDANCE.

(a) EXIT INTERVIEW REQUIREMENT; TIMELINESS OF EXAMINATIONS.—

(1) INSURED DEPOSITORY INSTITUTIONS.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following:

"(11) EXAMINATION TIMELINESS.—The appropriate Federal banking agency shall complete any examination of an insured depository institution within 270 days of commencing the examination, except that such period may be extended by the appropriate Federal banking agency by providing written notice to the insured depository institution describing with particularity the reasons that a longer period is needed.

"(12) EXIT INTERVIEW REQUIREMENT.—Within 30 days of completing an examination, the appropriate Federal banking agency shall conduct an exit interview with the insured depository institution's senior management and board of directors.

"(13) TIMELINESS OF EXAMINATION REPORTS.—

"(A) FINAL EXAMINATION REPORT.—With respect to an examination of an insured depository institution by an appropriate Federal banking agency, the appropriate Federal banking agency shall provide a final examination report to the insured depository institution not later than 60 days after the later of—

"(i) the exit interview for the examination; or

"(ii) the provision of additional information by the insured depository institution relating to the examination.

"(B) EXAMINATION MATERIALS.—Upon the request of an insured depository institution, the appropriate Federal banking agency shall include with a final examination report an appendix listing all materials relied upon by the agency in support of all material supervisory determinations.

"(C) MATERIAL SUPERVISORY DETERMINATION DEFINED.—In this paragraph, the term 'material supervisory determination' has the meaning given such term in section 309(i) of the

Riegle Community Development and Regulatory Improvement Act of 1994.''.

(2) INSURED CREDIT UNIONS.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following:

''(h) EXIT INTERVIEW REQUIREMENT; TIMELINESS OF EXAMINATIONS.—

''(1) EXAMINATION TIMELINESS.—The Board shall complete any examination of an insured credit union within 270 days of commencing the examination, except that such period may be extended by the Board by providing written notice to the insured credit union describing with particularity the reasons that a longer period is needed.

''(2) EXIT INTERVIEW REQUIREMENT.—Within 30 days of completing an examination, the Board shall conduct an exit interview with the insured credit union's senior management and board of directors.

''(3) TIMELINESS OF EXAMINATION REPORTS.—

''(A) FINAL EXAMINATION REPORT.—With respect to an examination of an insured credit union, the Board shall provide a final examination report to the insured credit union not later than 60 days after the later of—

"(i) the exit interview for the examination; or

"(ii) the provision of additional information by the insured credit union relating to the examination.

"(B) EXAMINATION MATERIALS.—Upon the request of an insured credit union, the Board shall include with a final examination report an appendix listing all materials relied upon by the Board in support of all material supervisory determinations.

"(C) MATERIAL SUPERVISORY DETERMINATION DEFINED.—In this paragraph, the term 'material supervisory determination' has the meaning given such term in section 309(i) of the Riegle Community Development and Regulatory Improvement Act of 1994.".

(b) TIMELINESS OF REQUIRED PERMISSION, REGULATORY, AND REPORTING GUIDANCE.—

(1) INSURED DEPOSITORY INSTITUTIONS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(l) TIMELINESS OF REQUIRED PERMISSION, REGULATORY, AND REPORTING GUIDANCE.—

"(1) REQUEST FOR PERMISSION OR GUIDANCE.—An insured depository institution may request a written determination by the appropriate Federal banking agency of—

"(A) the agency's permission to take a particular action;

"(B) the agency's interpretation of a law or regulation; and

"(C) the agency's interpretation of generally accepted accounting principles or accounting objectives, standards, and requirements under section 37.

"(2) CONTENTS OF REQUEST.—A request made under paragraph (1) shall be in writing and contain—

"(A) the nature of the request;

"(B) applicable facts relating to the matter;

"(C) applicable law, regulation, or generally accepted accounting principles relating to the matter; and

"(D) a summary of the request.

"(3) RESPONSE TO REQUEST.—A Federal banking agency receiving a request under paragraph (1) shall, not later than 30 days after receiving the request—

"(A) provide the insured depository institution making the request with written notification that the agency received the request and stating whether the request contains the information required under paragraph (2); and

"(B) if the request does not contain the information required under paragraph (2), provide the insured depository institution with an explanation of what information is missing.

"(4) PROVIDING MISSING INFORMATION.—If a Federal banking agency informs the insured depository institution under paragraph (3) that the request does not contain all the information required under paragraph (2), the insured depository institution may provide the missing information to the Federal banking agency during the 30-day period beginning on the date the insured depository institution receives the explanation of the missing information under paragraph (3).

"(5) DETERMINATION.—A Federal banking agency receiving a request under paragraph (1) shall make a determination on the request and provide the insured depository institution with a written notice of such determination—

"(A) if the initial request contains the information required under paragraph (2), not later than the end of the 60-day period beginning on the date the Federal banking agency notifies the insured depository institution of the receipt of the request under paragraph (3); or

"(B) if the initial request does not contain the information required under paragraph (2)—

"(i) not later than the end of the 60-day period beginning on the date that the insured depository institution provides the Federal banking agency with the missing information under paragraph (4); or

"(ii) if the insured depository institution does not provide the Federal banking agency with the missing information within the 30-day period described under paragraph (4), not later than the end of the 60-day period beginning on the end of such 30-day period.

"(6) REPORTS AND PUBLICATION.—Each Federal banking agency shall, within 120 days after making a determination under paragraph (5), publish a summary of the determination on the public website of the Federal banking agency. Each Federal banking agen-

cy shall redact any confidential supervisory information about the insured depository institution, any identifying facts about the institution, and any sensitive personally identifiable information.".

(2) INSURED CREDIT UNIONS.—Section 209 of the Federal Credit Union Act (12 U.S.C. 1789) is amended by adding at the end the following:

"(c) TIMELINESS OF REQUIRED PERMISSION, REGULATORY, AND REPORTING GUIDANCE.—

"(1) REQUEST FOR PERMISSION OR GUIDANCE.— An insured credit union may request a written determination by the Board of—

"(A) the Board's permission to take a particular action;

"(B) the Board's interpretation of a law or regulation; and

"(C) the Board's interpretation of generally accepted accounting principles or other accounting objectives, standards, and requirements.

"(2) CONTENTS OF REQUEST.—A request made under paragraph (1) shall be in writing and contain—

"(A) the nature of the request;

"(B) applicable facts relating to the matter;

"(C) applicable law, regulation, or generally accepted accounting principles relating to the matter; and

"(D) a summary of the request.

"(3) RESPONSE TO REQUEST.—The Board, upon receiving a request under paragraph (1) shall, not later than 30 days after receiving the request—

"(A) provide the insured credit union making the request with written notification that the Board received the request and stating whether the request contains the information required under paragraph (2); and

"(B) if the request does not contain the information required under paragraph (2), provide the insured credit union with an explanation of what information is missing.

"(4) PROVIDING MISSING INFORMATION.—If the Board informs the insured credit union under paragraph (3) that the request does not contain all the information required under paragraph (2), the insured credit union may provide the missing information to the Board during the 30-day period beginning on the date the insured credit union receives the explanation of the missing information under paragraph (3).

"(5) DETERMINATION.—The Board shall make a determination on a request made under paragraph (1) and provide the insured credit union with a written notice of such determination—

"(A) if the initial request contains the information required under paragraph (2), not later than the end of the 60-day period beginning on the date the Board notifies the insured credit union of the receipt of the request under paragraph (3); or

"(B) if the initial request does not contain the information required under paragraph (2)—

"(i) not later than the end of the 60-day period beginning on the date that the insured credit union provides the Board with the missing information under paragraph (4); or

"(ii) if the insured credit union does not provide the Board with the missing information within the 30-day period described under paragraph (4), not later than the end of the 60-day period beginning on the end of such 30-day period.

"(6) REPORTS AND PUBLICATION.—The Board shall, within 120 days after making a determination

under paragraph (5), publish a summary of the determination on the public website of the Board. The Board shall redact any confidential supervisory information about the insured credit union, any identifying facts about the credit union, and any sensitive personally identifiable information.''.

SEC. 402. UPDATE OF INDEPENDENT INTRA-AGENCY APPELLATE PROCESS FOR REVIEWING MATERIAL SUPERVISORY DETERMINATIONS.

(a) UPDATE OF INDEPENDENT INTRA-AGENCY APPELLATE PROCESS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation Board, and the National Credit Union Administration Board shall revise the independent intra-agency appellate process required under section 309(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4806(a)).

(b) OFFICE OF SUPERVISORY APPEALS; APPEALS PROCESS.—Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4806) is amended—

(1) by redesignating subsection (f) as subsection (i); and

(2) by inserting after subsection (e) the following:

"(f) OFFICE OF SUPERVISORY APPEALS.—The Federal banking agencies and the National Credit Union Administration shall each establish an Office of Supervisory Appeals to carry out the independent intra-agency appellate process required under this section.

"(g) APPEALS OFFICIALS.—

"(1) APPOINTMENT.—The head of each of the Federal banking agencies and the National Credit Union Administration shall appoint appeals officials, in a number sufficient to fully staff the panels described under subsection (h), from among the following classes of individuals:

"(A) Individuals who have financial institutions regulatory agency experience.

"(B) Individuals who—

"(i) are a licensed attorney or a certified public accountant authorized to practice under the laws of a State, the District of Columbia, or a territory of the United States;

"(ii) have either academic or private sector experience;

"(iii) have relevant subject matter knowledge or work-related experience in the

financial services sector, as determined by the agency making the appointment; and

"(iv) are not, and were not during the previous 10-year period, employed by a Federal banking agency, a Federal reserve bank, or the National Credit Union Administration.

"(C) Individuals—

"(i) with at least 10 years private sector financial services senior management-level experience; and

"(ii) recommended by—

"(I) an insured depository institution;

"(II) an insured credit union; or

"(III) a trade association for such institutions or credit unions.

"(2) Term.—

"(A) In general.—Each appeals official appointed under paragraph (1) shall serve for a term of 3 years.

"(B) Term limitation.—No individual may be appointed under paragraph (1) to serve more than 2 full terms.

"(C) DISMISSAL.—An appeals official appointed under paragraph (1) may be removed at any time by the appointing agency.

"(h) APPEALS PROCESS AND PANEL HEARING OF MATERIAL SUPERVISORY DETERMINATIONS.—

"(1) APPEAL TO THE HEAD OF SUPERVISION.—

"(A) IN GENERAL.—An institution seeking an appeal of a material supervisory determination shall—

"(i) file a written appeal to the head of supervision for the agency not later than 30 days after receiving the material supervisory determination from the agency; and

"(ii) include in the appeal—

"(I) a clear and complete statement of all relevant facts and issues;

"(II) all arguments that the institution wishes to present; and

"(III) all relevant and material documents that the institution wishes to be considered.

"(B) EXTENSION.—The institution may file a written request with the head of supervision for an extension of the 30-day time period described under subparagraph (A)(i), which shall state

good cause for granting the extension. Such request shall be granted in the sole discretion of the head of supervision.

"(C) INFORMATION MADE AVAILABLE TO INSTITUTION.—An institution seeking an appeal of a material supervisory determination may, not later than 7 days after receiving the material supervisory determination, request that the agency provide the institution with any information relied upon by the agency in making the material supervisory determination. The agency shall provide that information to the institution not later than 14 days after receiving the request.

"(2) CONSIDERATION OF APPEAL BY THE HEAD OF SUPERVISION.—

"(A) IN GENERAL.—A head of supervision receiving an appeal under paragraph (1) shall, after reviewing the information provided by the institution in such appeal—

"(i) grant the appeal;

"(ii) refer the appeal to a panel appointed under paragraph (3) for a recommendation; or

"(iii) deny the appeal.

"(B) NOTIFICATION.—A head of supervision shall promptly inform the institution and the head of the agency after granting, referring, or denying an appeal under subparagraph (A).

"(C) RIGHT TO APPEAL DENIAL.—An institution that has an appeal denied by the head of supervision under subparagraph (A) may appeal such denial directly to a panel appointed under paragraph (3).

"(3) APPOINTMENT OF PANEL.—

"(A) IN GENERAL.—With respect to each appeal referred by a head of supervision under paragraph (2)(A)(ii) or appealed by an institution after a denial under paragraph (2)(A)(iii), the agency shall appoint a panel of 3 appeals officials to provide a recommendation on such appeal, with 1 of the 3 appeals officials being appointed to the panel from individuals in each of the classes described under subparagraphs (A), (B), and (C) of subsection (g)(1).

"(B) REPORTING PROHIBITION.—An appeals official may not be appointed to a panel under subparagraph (A) if the appeals official is reporting, or has reported, directly or indirectly in the past 5 years, to the agency official who

made the material supervisory determination under review.

"(4) PANEL HEARINGS.—

"(A) REQUEST FOR HEARING.—An institution may request a hearing with the panel on the institution's appeal by—

"(i) making such request not later than 7 days after the date on which the institution is informed that the head of supervision referred an appeal to a panel under paragraph (2); or

"(ii) including the request in the institution's appeal of a denial under paragraph (2).

"(B) TIMING OF HEARING.—If an institution requests a hearing, as described under subparagraph (A), the panel shall provide the institution with a hearing on the institution's appeal not later than 30 days after the date the hearing is requested, except the panel may, in the discretion of the panel or upon good cause shown, extend such deadline by up to 15 days.

"(C) RULEMAKING.—The Federal banking agencies and the National Credit Union Administration shall each issue rules to establish proce-

dures for panel hearings described under this paragraph, including that—

“(i) the institution may appear at the hearing personally or through counsel;

“(ii) the institution may provide an oral and written presentation at the hearing;

“(iii) the panel may ask questions of any person participating in the hearing;

“(iv) the hearing may not involve—

“(I) taking testimony;

“(II) a cross-examination; and

“(III) discovery;

“(v) the hearing shall not be governed by formal rules of evidence; and

“(vi) the panel shall have a verbatim transcript of the hearing prepared.

“(5) RECOMMENDATION BY PANEL.—

“(A) IN GENERAL.—A panel making a recommendation on an appeal under this subsection shall make the recommendation not later than—

“(i) 90 days after the date on which the appeal was referred by a head of supervision under paragraph (2)(A)(ii) or ap-

pealed by an institution after a denial under paragraph (2)(A); or

"(ii) if the institution requested a hearing under paragraph (4), 60 days after the date on which the hearing concluded.

"(B) FORM OF RECOMMENDATION.—The panel may recommend—

"(i) that the material supervisory determination be continued, terminated, or otherwise modified; or

"(ii) that the material supervisory determination be remanded to the examiners to allow the examiners to consider additional information presented in connection with the appeal.

"(C) NOTICE.—After a recommendation is made under subparagraph (A), the panel shall promptly notify the institution, the head of supervision of the agency, and the head of the agency of the recommendation, which shall contain a statement of the basis for the panel's recommendation and identify the information on which the panel relied in reaching the recommendation.

"(D) PUBLICATION.—A copy of each panel recommendation shall be posted on the agency's public website as soon as practicable, with exempt information redacted. If the panel determines that redaction is insufficient to prevent improper disclosure, the recommendation may be presented in summary form.

"(E) STANDARD OF REVIEW.—A panel's review of a material supervisory determination being appealed under this subsection shall be de novo.

"(F) NO AUTHORITY TO DELAY OR STAY ORDERS.—A panel shall have no authority to delay or stay the implementation of any formal order from the applicable agency.

"(6) REVIEW BY THE HEAD OF THE AGENCY.—

"(A) RESPONSE BY INSTITUTION.—Not later than 15 days after receiving a notice of a recommendation under paragraph (5)(C), the institution may submit to the head of the agency written exceptions to the recommended decision.

"(B) REVIEW BY HEAD OF THE AGENCY.—Not later than 45 days after receiving a notice of a recommendation under paragraph (5)(C),

the head of an agency shall review such decision and either ratify or reject the panel's decision.

"(C) REVIEW MAY NOT BE DELEGATED.—A review by the head of an agency under this paragraph may not be delegated to any other employee of the agency and, in the case of an agency that is headed by a body made up of multiple individuals, all such individuals shall participate in the review.

"(D) REPORTS TO CONGRESS.—The Federal banking agencies and the National Credit Union Administration shall each, not later than 90 days after the end of each calendar year, issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the actions taken by the agency under this paragraph during such calendar year, including information on each of the panel decisions reviewed, after redacting any confidential supervisory information.

"(E) PUBLICATION.—A copy of each decision by the head of the agency under this paragraph shall be posted on the agency's public website as soon as practicable, with any infor-

mation identifying the appealing institution redacted. If the head of the agency determinates that redaction is insufficient to prevent improper disclosure, the decision may be presented in summary form.

"(7) Right to judicial review.—An institution shall have the right to petition for review of an agency head's decision under paragraph (6) by filing a petition for review not later than 60 days after the date on which the decision was made in the United States Court of Appeals for the District of Columbia Circuit or the circuit in which the institution is located.

"(8) Retaliation prohibited.—The Federal banking agencies and the National Credit Union Administration may not—

"(A) retaliate against an insured depository institution or insured credit union, or a service provider or institution-affiliated party of an insured depository institution or insured credit union, for exercising rights under this subsection; or

"(B) delay or deny any agency action that would benefit an insured depository institution or insured credit union, or a service provider or

institution-affiliated party of an insured depository institution or insured credit union, on the basis that a matter under this section is pending under this section.

"(9) DEFINITIONS.—With respect to the appeal of a material supervisory determination under this subsection:

"(A) AGENCY.—The term 'agency' means the Federal agency, either a Federal banking agency or the National Credit Union Administration, that made the material supervisory determination.

"(B) INSTITUTION.—The term 'institution' means the company, either an insured depository institution or an insured credit union, with respect to which the material supervisory determination was made.".

SEC. 403. REVIEW OF RESOLUTION ACTIONS RESULTING IN A MATERIAL LOSS.

Section 38(k) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(k)) is amended by adding at the end the following:

"(7) REVIEW OF RESOLUTION ACTIONS BY CORPORATION INSPECTOR GENERAL.—

"(A) IN GENERAL.—If the Deposit Insurance Fund incurs a material loss with respect to an insured depository institution, the inspector general of the Corporation shall—

"(i) review the Corporation's resolution of the institution to determine whether the material loss to the Deposit Insurance Fund could have been avoided by the Corporation when resolving the institution; and

"(ii) make a written report to the Corporation and the Congress containing the results of such review and any recommendations for preventing a material loss to the Deposit Insurance Fund in the future when resolving an institution.

"(B) TESTIMONY TO CONGRESS.—If the inspector general of the Corporation determines, in a review carried out under subparagraph (A) that the Corporation's resolution of an institution caused a material loss to the Deposit Insurance Fund, but such resolution could have been carried out in a manner to avoid such a material loss, the Chairperson of the Corporation shall testify before the Committee on Financial Services of the House of Representatives and the

Committee on Banking, Housing, and Urban Affairs of the Senate to explain why the material loss occurred.".

TITLE V—REVIEW OF DISCOUNT WINDOW OPERATIONS

SEC. 501. REVIEW OF DISCOUNT WINDOW OPERATIONS.

Section 10 of the Federal Reserve Act (12 U.S.C. 241 et seq.) is amended—

(1) by redesignating paragraph (12) as paragraph (11); and

(2) by adding at the end the following:

"(12) REVIEW OF DISCOUNT WINDOW OPERATIONS.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of this paragraph, the Board of Governors shall commence a review of the discount window lending programs of the Federal reserve banks (the 'discount window'), and shall complete such review not later than 240 days after the date of enactment of this paragraph.

"(B) CONTENTS.—The review required by subparagraph (A) shall include a consideration of—

"(i) the effectiveness of the discount window in providing liquidity to financial institutions, including in times of financial stress;

"(ii) whether the technology infrastructure, including means of communications, are sufficient to support the timely provision of liquidity, including in times of financial stress;

"(iii) the effectiveness of cybersecurity measures;

"(iv) the effectiveness of communications between Federal reserve banks regarding discount window operations;

"(v) the effectiveness of the Board of Governors in providing oversight of the discount window;

"(vi) how the discount window interacts with other providers of liquidity, including the Federal Home Loan Banks, during both normal operations and times of financial distress; and

"(vii) the effectiveness of existing discount window operating hours and whether such hours should be expanded, taking into

account the interaction between discount window operating hours and the operating hours of payment systems of the Board of Governors and Federal reserve banks, such as FedWire and FedNow.

"(C) PUBLIC COMMENT.—In carrying out the review required by subparagraph (A), the Board of Governors shall provide the public with an opportunity to comment on the effectiveness of discount window operations and to offer suggestions for improving operations.

"(D) REMEDIATION PLAN.—After completing the review required by subparagraph (A) and considering any public comments received pursuant to subparagraph (C), the Board of Governors shall develop, and approve by a vote of the Board of Governors, a written plan to remediate any identified deficiencies or areas for enhancing effectiveness of the discount window, which shall include—

"(i) an identification of actions that the Board of Governors will take to remediate those deficiencies;

"(ii) timelines and milestones for implementing the plan and measures to dem-

onstrate how the Board of Governors will maintain implemented improvements on an ongoing basis; and

"(iii) measures of managing and controlling deficiencies until the plan is implemented in full.

"(E) REPORT TO CONGRESS ON REVIEW AND PLAN.—

"(i) IN GENERAL.—Not later than 365 days after the date of enactment of this paragraph, the Board of Governors shall, after approval by a vote of the Board of Governors, submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

"(I) the findings of the review required by subparagraph (A); and

"(II) the remediation plan required by subparagraph (D).

"(ii) CONSULTATION.—Before submitting the report required by clause (i), the Board of Governors shall—

"(I) provide a copy of the proposed report to the Comptroller General of the United States and the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection; and

"(II) provide the Comptroller General and Inspector General with an opportunity to provide feedback on the report.

"(iii) TESTIMONY.—The Chairman of the Board of Governors shall testify before the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate with respect to the contents of the report required under this subparagraph.

"(F) ANNUAL REPORTS TO CONGRESS.—

"(i) REPORTS BY THE BOARD.—The Board of Governors shall submit an annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a

review of the effectiveness of discount window operations.

"(ii) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall submit an annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a report on the progress of the Board of Governors in implementing the remediation plan required by subparagraph (D).

"(G) CONFIDENTIAL REPORT INFORMATION.—Any report required under this paragraph may contain a confidential annex containing information that details any cybersecurity deficiencies or any deficiencies which, if made public, could cause financial instability.".

TITLE VI—SMALL BANK HOLDING COMPANY RELIEF

SEC. 601. CHANGES REQUIRED TO THE SMALL BANK HOLDING COMPANY AND SAVINGS AND LOAN HOLDING COMPANY POLICY STATEMENT.

Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall revise appendix C to part 225 of title 12, Code of Federal Regulations (commonly known as the "Small Bank Holding Company and Savings and Loan Holding Company Policy Statement"), to raise the consolidated asset threshold under that appendix to $10,000,000,000 for any bank holding company or savings and loan holding company.

Union Calendar No. 651

118TH CONGRESS
2D SESSION

H. R. 8337

[Report No. 118–788]

A BILL

To amend the Federal banking laws to improve the safety and soundness of the United States banking system, and for other purposes.

DECEMBER 3, 2024

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed