

118TH CONGRESS
1ST SESSION

S. 362

To require the Federal financial institutions regulatory agencies to take risk profiles and business models of institutions into account when taking regulatory actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2023

Mr. ROUNDS (for himself, Ms. LUMMIS, Mr. TILLIS, Mr. HAGERTY, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the Federal financial institutions regulatory agencies to take risk profiles and business models of institutions into account when taking regulatory actions, 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 “Taking Account of In-
5 stitutions with Low Operation Risk Act of 2023” or the
6 “TAILOR Act of 2023”.

1 **SEC. 2. TAILORING REGULATION TO BUSINESS MODEL AND**
2 **RISK.**

3 (a) DEFINITIONS.—In this section—

4 (1) the term “Federal financial institutions reg-
5 ulatory agency” means the Office of the Comptroller
6 of the Currency, the Board of Governors of the Fed-
7 eral Reserve System, the Federal Deposit Insurance
8 Corporation, the National Credit Union Administra-
9 tion, and the Bureau of Consumer Financial Protec-
10 tion; and

11 (2) the term “regulatory action”—

12 (A) means any proposed, interim, or final
13 rule or regulation; and

14 (B) does not include any action taken by
15 a Federal financial institutions regulatory agen-
16 cy that is solely applicable to an individual in-
17 stitution, including an enforcement action or
18 order.

19 (b) CONSIDERATION AND TAILORING.—For any reg-
20 ulatory action occurring after the date of enactment of
21 this Act, each Federal financial institutions regulatory
22 agency shall—

23 (1) take into consideration the risk profile and
24 business models of each type of institution or class
25 of institutions subject to the regulatory action; and

1 (2) tailor the regulatory action applicable to an
2 institution, or type of institution, in a manner that
3 limits the regulatory impact, including cost, human
4 resource allocation, and other burdens, on the insti-
5 tution or type of institution as is appropriate for the
6 risk profile and business model involved.

7 (c) **FACTORS TO CONSIDER.**—In carrying out the re-
8 quirements of subsection (b), each Federal financial insti-
9 tutions regulatory agency shall consider—

10 (1) the aggregate impact of all applicable regu-
11 latory action on the ability of institutions to flexibly
12 serve their customers and local markets on and after
13 the date of enactment of this Act;

14 (2) the potential impact that efforts to imple-
15 ment the regulatory action and third-party service
16 provider actions may work to undercut efforts to tai-
17 lor the regulatory action described in subsection
18 (b)(2); and

19 (3) the statutory provision authorizing the reg-
20 ulatory action, the congressional intent with respect
21 to the statutory provision, and the underlying policy
22 objectives of the regulatory action.

23 (d) **NOTICE OF PROPOSED AND FINAL RULE-**
24 **MAKING.**—Each Federal financial institutions regulatory
25 agency shall disclose and document in every notice of pro-

1 posed rulemaking and in any final rulemaking for a regu-
 2 latory action how the agency has applied subsections (b)
 3 and (c).

4 (e) REPORTS TO CONGRESS.—

5 (1) INDIVIDUAL AGENCY REPORTS.—Not later
 6 than 1 year after the date of enactment of this Act
 7 and annually thereafter, each Federal financial insti-
 8 tutions regulatory agency shall submit to the Com-
 9 mittee on Banking, Housing, and Urban Affairs of
 10 the Senate and the Committee on Financial Services
 11 of the House of Representatives a report on the spe-
 12 cific actions taken to tailor the regulatory actions of
 13 the Federal financial institutions regulatory agency
 14 pursuant to the requirements of this section.

15 (f) LIMITED LOOK-BACK APPLICATION.—

16 (1) IN GENERAL.—Each Federal financial insti-
 17 tutions regulatory agency shall—

18 (A) conduct a review of all regulations
 19 issued in final form pursuant to statutes en-
 20 acted during the period beginning on the date
 21 that is 7 years before the date on which this
 22 Act is introduced in the Senate and ending on
 23 the date of enactment of this Act; and

1 (B) apply the requirements of this section
2 to the regulations described in subparagraph
3 (A).

4 (2) REVISION.—Any regulation revised under
5 paragraph (1) shall be revised not later than 3 years
6 after the date of enactment of this Act.

7 **SEC. 3. SHORT-FORM CALL REPORTS FOR ALL BANKS ELI-**
8 **GIBLE FOR THE COMMUNITY BANK LEVER-**
9 **AGE RATIO.**

10 The appropriate Federal banking agencies, as defined
11 in section 3 of the Federal Deposit Insurance Act (12
12 U.S.C. 1813), shall promulgate regulations establishing a
13 reduced reporting requirement for all banks eligible for the
14 Community Bank Leverage Ratio, as defined in section
15 201(a) of the Economic Growth, Regulatory Relief, and
16 Consumer Protection Act (12 U.S.C. 5371 note), when
17 making the first and third report of condition of a year
18 as required by section 7(a) of the Federal Deposit Insur-
19 ance Act (12 U.S.C. 1817(a)).

20 **SEC. 4. REPORT TO CONGRESS ON MODERNIZATION OF SU-**
21 **PERVISION.**

22 Not later than 18 months after the date of enactment
23 of this Act, the appropriate Federal banking agencies, as
24 defined in section 3 of the Federal Deposit Insurance Act
25 (12 U.S.C. 1813), in consultation with State bank super-

1 visors, shall submit to the Committee on Banking, Hous-
2 ing, and Urban Affairs of the Senate and the Committee
3 on Financial Services of the House of Representatives a
4 report on the modernization of bank supervision, including
5 the following factors:

6 (1) Changing bank business models.

7 (2) Examiner workforce and training.

8 (3) The structure of supervisory activities with-
9 in banking agencies.

10 (4) Improving bank-supervisor communication
11 and collaboration.

12 (5) The use of supervisory technology.

13 (6) Supervisory factors uniquely applicable to
14 community banks.

15 (7) Changes in statutes necessary to achieve
16 more effective supervision.

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