

FAIR AUDITS AND INSPECTIONS FOR REGULATORS’
EXAMS ACT

JULY 25, 2025.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HILL of Arkansas, from the Committee on Financial Services,
submitted the following

R E P O R T

MINORITY VIEWS

[To accompany H.R. 940]

The Committee on Financial Services, to whom was referred the bill (H.R. 940) to amend the Federal Financial Institutions Examination Council Act of 1978 to improve the examination of depository institutions, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Striking all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fair Audits and Inspections for Regulators’ Exams Act” or the “FAIR Exams Act”.

SEC. 2. TIMELINESS OF EXAMINATIONS AND EXAMINATION REPORTS.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end the following:

“SEC. 1012. TIMELINESS OF EXAMINATIONS AND EXAMINATION REPORTS.

“(a) **TIMELINESS OF EXAMINATIONS.**—A Federal financial institutions regulatory agency shall complete any examination of a financial institution within 270 days of commencing the examination, except that such period may be extended by the Federal financial institutions regulatory agency by providing written notice to the financial institution describing with particularity the reasons that a longer period is needed.

“(b) **FINAL EXAMINATION REPORT.**—A Federal financial institutions regulatory agency shall provide a final examination report to a financial institution not later than 90 days after the later of—

“(1) the exit interview for an examination of the institution; or

“(2) the provision of additional material information by the institution relating to the examination.

“(c) **EXIT INTERVIEW REQUIREMENT.**—Within 30 days of completing an examination, a Federal financial institutions regulatory agency shall conduct an exit interview with the financial institution’s senior management, except that such period may be extended by the Federal financial institutions regulatory agency by providing written notice to the institution and the Board describing with particularity the reasons that a longer period is needed to complete the exit interview.

“(d) **EXAMINATION MATERIALS.**—Upon the request of a financial institution, the Federal financial institutions regulatory agency shall include with the final report an appendix listing all examination or other factual information relied upon by the agency in support of a material supervisory determination.”.

SEC. 3. TIMELINESS OF REQUIRED PERMISSION, REGULATORY, AND REPORTING GUIDANCE.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended by section 2, is further amended by adding at the end the following:

“SEC. 1013. TIMELINESS OF REQUIRED PERMISSION, REGULATORY, AND REPORTING GUIDANCE.

“(a) **REQUEST FOR PERMISSION OR GUIDANCE.**—With respect to an action that a financial institution is taking or is intending to take, the financial institution may request a written determination by the applicable Federal financial institutions regulatory agency of—

“(1) the agency’s non-objection to the financial institution conducting a particular activity;

“(2) the agency’s interpretation of a law or regulation; and

“(3) the agency’s interpretation of generally accepted accounting principles or accounting objectives, standards, and requirements.

“(b) **CONTENTS OF REQUEST.**—A request made under subsection (a) shall be in writing and contain—

“(1) the nature of the request;

“(2) applicable facts relating to the matter;

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

“(4) a summary of the request.

“(c) **RESPONSE TO REQUEST.**—A Federal financial institutions regulatory agency receiving a request under subsection (a) shall, not later than 30 days after receiving the request—

“(1) provide the financial institution making the request with written notification that the agency received the request and stating whether the request contains all of the information required under subsection (b); and

“(2) if the request does not contain all of the information required under subsection (b), provide the financial institution with an explanation of what information is missing.

“(d) **PROVIDING MISSING INFORMATION.**—If a Federal financial institutions regulatory agency informs the financial institution under subsection (c) that the request does not contain all the information required under subsection (b), the financial institution may provide the missing information to the Federal financial institutions regulatory agency during the 30-day period beginning on the date the financial institution receives the explanation of the missing information under subsection (c).

“(e) DETERMINATION.—A Federal financial institutions regulatory agency receiving a request under subsection (a) shall make a determination on the request and provide the financial institution with a written notice of such determination—

“(1) if the initial request contains the information required under subsection (b), not later than the end of the 60-day period beginning on the date the Federal financial institutions regulatory agency notifies the financial institution of the receipt of the request under subsection (c); or

“(2) if the initial request does not contain the information required under subsection (b), but the financial institution provides the missing information during the 30-day period described under subsection (d), not later than the end of the 60-day period beginning on the date such missing information is provided; or

“(3) if the initial request does not contain the information required under subsection (b), and the financial institution does not provide the missing information during the 30-day period described under subsection (d), not later than the end of the 60-day period beginning on the end of such 30-day period.

“(f) REPORTS AND PUBLICATION.—Each Federal financial institutions regulatory 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 financial institutions regulatory agency. Each Federal financial institutions regulatory agency shall redact any confidential supervisory information about the financial institution, any identifying facts about the financial institution, and any sensitive personally identifiable information, and anonymize any un-redacted information that could, individually or in the aggregate, identify the financial institution.”.

SEC. 4. OFFICE OF INDEPENDENT EXAMINATION REVIEW.

(a) IN GENERAL.—The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended by section 3, is further amended by adding at the end the following:

“SEC. 1014. OFFICE OF INDEPENDENT EXAMINATION REVIEW.

“(a) ESTABLISHMENT.—There is established in the Council an Office of Independent Examination Review (the ‘Office’).

“(b) BOARD OF INDEPENDENT EXAMINATION REVIEW.—

“(1) IN GENERAL.—The head of the Office shall be the Board of Independent Examination Review, which shall be comprised of 3 members, appointed by the President, by and with the advice and consent of the Senate.

“(2) QUALIFICATIONS.—The President shall appoint the 1 member of the Board from each of the following classes of individuals:

“(A) Individuals who have been employed by a Federal financial institutions regulatory agency.

“(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 work-related experience in consumer affairs or compliance with consumer protection laws with respect to financial institutions; 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.

“(3) PROHIBITION ON CERTAIN INDIVIDUALS SERVING AS A BOARD MEMBER.—The President may not appoint an individual as a member of the Board if the individual—

“(A) is, or was during the previous 2-year period, employed by a Federal financial institutions regulatory agency or a Federal reserve bank;

“(B) is, or was during the previous 2-year period, employed by a financial institution; or

“(C) is reporting, or was reporting in the past 5 years, directly or indirectly to a Federal financial institutions regulatory agency official who makes material supervisory determinations.

“(4) CONSULTATION.—In appointing members of the Board, the President shall consult with the Federal financial institutions regulatory agencies and financial institutions.

“(5) TERM.—

“(A) IN GENERAL.—Each member of the Board shall serve for a term of 3 years.

“(B) TERM LIMITATION.—No individual may serve more than 2 full terms on the Board.

“(6) POLITICAL AFFILIATION.—Not more than 2 members of the Board shall be members of the same political party.

“(7) QUORUM.—

“(A) IN GENERAL.—3 members of the Board shall constitute a quorum.

“(B) INITIAL QUORUM.—During the 6-month period beginning on the date of enactment of this section, 1 member of the Board shall constitute a quorum until the Board has 3 members.

“(c) STAFFING.—The Board is authorized to hire staff to support the activities of the Office of Independent Examination Review. One-fifth of the costs and expenses of the Office, including the salaries of its employees, shall be paid by each of the Federal financial institutions regulatory agencies. Annual assessments for such share shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

“(d) DUTIES.—The Board shall—

“(1) receive and, at the discretion of the Board, investigate complaints from financial institutions, their representatives, or another entity acting on behalf of such institutions, concerning examinations, examination practices, or examination reports;

“(2) hold meetings, at least once every three months and in locations designed to encourage participation from all sections of the United States, with financial institutions, their representatives, or another entity acting on behalf of such institutions, to discuss examination procedures, examination practices, or examination policies;

“(3) review examination procedures of the Federal financial institutions regulatory agencies to ensure that the written examination policies of those agencies are being followed in practice and adhere to the standards for consistency;

“(4) conduct a continuing and regular program of examination quality assurance for all examination types conducted by the Federal financial institutions regulatory agencies;

“(5) carry out an independent review of any supervisory appeal initiated under section 1015; and

“(6) report annually to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Council, on the reviews carried out pursuant to paragraphs (3) and (5), including compliance with the requirements set forth in section 1013 regarding timeliness of examination reports, and the Board’s recommendations for improvements in examination procedures, practices, and policies.

“(e) CONFIDENTIALITY.—The Board and the Council shall keep confidential—

“(1) all meetings, discussions, and information provided by financial institutions and Federal financial institutions regulator agencies that involve confidential supervisory information or privileged information;

“(2) all information and communications exchanged between a financial institution and the Office of Independent Examination Review; and

“(3) all information and communications exchanged between a Federal financial institutions regulator agency and the Office of Independent Examination Review.”.

(b) DEFINITIONS.—Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302) is amended—

(1) in paragraph (2), by striking “and” at the end; and

(2) by adding at the end the following:

“(4) the term ‘Board’ means the Board of Independent Examination Review established under section 1014(b);

“(5) the term ‘material supervisory determination’ has the meaning given such term in section 309(c) of the Riegle Community Development and Regulatory Improvement Act of 1994;

“(6) the term ‘insured depository institution’ has the meaning given that term in section 3 of the Federal Deposit Insurance Act; and

“(7) the term ‘insured credit union’ has the meaning given that term in section 101 of the Federal Credit Union Act.”.

SEC. 5. RIGHT TO INDEPENDENT REVIEW OF MATERIAL SUPERVISORY DETERMINATIONS.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended by section 4, is further amended by adding at the end the following:

“SEC. 1015. RIGHT TO INDEPENDENT REVIEW OF MATERIAL SUPERVISORY DETERMINATIONS.

“(a) **IN GENERAL.**—A financial institution shall have the right to obtain an independent review, as described in this section, of a material supervisory determination contained in a final report of examination.

“(b) **NOTICE.**—

“(1) **TIMING.**—A financial institution seeking review of a material supervisory determination under this section shall file a written notice with the Board within 60 days after receiving the final report of examination that is the subject of such review.

“(2) **EXTENSION.**—The institution may file a written request with the Board for an extension of the 60-day time period described under paragraph (1), which shall state good cause for granting the extension. Such request shall be granted in the sole discretion of the Board.

“(3) **IDENTIFICATION OF DETERMINATION.**—The written notice shall—

“(A) identify the material supervisory determination that is the subject of the requested independent examination review;

“(B) state the reasons why the institution believes that the material supervisory determination is incorrect or should otherwise be modified; and

“(C) include—

“(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 in the possession of the institution that the institution wishes to be considered.

“(4) **INFORMATION MADE AVAILABLE TO INSTITUTION.**—An institution seeking an appeal of a material supervisory determination may, not later than 7 days after receiving the final examination report, request that the Federal financial institutions regulatory agency that made the material supervisory determination provide the institution with all examination and factual 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.

“(c) **DETERMINATION; RIGHT TO HEARING.**—

“(1) **IN GENERAL.**—The Board shall—

“(A) determine the merits of the appeal on the record, including whether the material supervisory determination being appealed should be upheld, canceled, or modified; or

“(B) at the election of the financial institution, conduct a hearing, which shall take place not later than 60 days after the petition for review is received by the Board.

“(2) **RIGHT TO OBTAIN TESTIMONY.**—A financial institution electing for a hearing under paragraph (1)(B) shall have the right to obtain testimony under oath from agency employees and obtain documents and other evidence at the hearing, or in advance of the hearing, according to procedures instituted by the Board consistent with those set forth under sections 556 and 557 of title 5, United States Code.

“(3) **BASIS OF DECISION.**—The Board shall issue a written decision based upon the record of the examination, supplemented by the record established at any hearing.

“(4) **STANDARD OF REVIEW.**—The Board’s review of a material supervisory determination being appealed under this subsection shall be de novo, and the Board shall not defer to the opinions of the examiner or agency, but shall independently determine the appropriateness of the agency’s material supervisory determination based upon the relevant statutes, regulations, other appropriate guidance, and the evidentiary record.

“(d) **FINAL DECISION.**—A decision by the Board on an independent review under this section shall—

“(1) be made not later than 60 days after the record has been closed; and

“(2) be deemed final agency action and shall bind the agency whose supervisory determination was the subject of the review and the financial institution requesting the review.

“(e) **RIGHT TO JUDICIAL REVIEW.**—A financial institution shall have the right to petition for review of a Board determination made under subsection (d) by filing a petition for review not later than 60 days after the date on which the decision is

made in the United States Court of Appeals for the District of Columbia Circuit or the Circuit in which the financial institution is located.

“(f) REFERRAL OF VIOLATIONS.—If the Board, in carrying out this section, determines that a financial institution has violated a law or regulation, the Board shall refer such determination to the applicable Federal financial institutions regulatory agency.

“(g) ANNUAL REPORT.—

“(1) IN GENERAL.—The Board shall report annually to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Council on actions taken under this section, including the types of issues that the Board has reviewed and the results of those reviews, including information on each final determination with respect to a material supervisory determination.

“(2) CONFIDENTIALITY.—In reporting under paragraph (1), the Board shall redact information about individual financial institutions and any confidential or privileged information shared by financial institutions, and shall anonymize any un-redacted information that could, in the aggregate, identify a financial institution.

“(h) RETALIATION PROHIBITED.—

“(1) IN GENERAL.—A Federal financial institutions regulatory agency may not—

“(A) retaliate against a financial institution, including service providers, or any institution-affiliated party, for exercising appellate rights under this section; or

“(B) delay or deny any agency action that would benefit a financial institution or any institution-affiliated party on the basis that an appeal under this section is pending under this section.

“(2) RETALIATION.—For purposes of this subsection, retaliation includes delaying consideration of, or withholding approval of, any request, notice, or application that otherwise would have been approved, but for the exercise of a financial institution’s rights under this section.

“(i) RULEMAKING.—The Board shall issue rules to establish procedures for hearings described under this section, including that—

“(1) a financial institution may appear at the hearing personally or through counsel;

“(2) a financial institution may provide an oral and written presentation at the hearing;

“(3) the Board may ask questions of any person participating in the hearing;

“(4) the hearing may not involve—

“(A) a cross-examination; or

“(B) discovery;

“(5) the hearing shall not be governed by the Federal Rules of Evidence; and

“(6) the Board shall have a verbatim transcript of the hearing prepared.

“(j) SAFETY AND SOUNDNESS EXCEPTION.—The appeal of a material supervisory determination by a financial institution under this section shall not affect the authority of a Federal financial institutions regulatory agency to enforce the material supervisory determination or to take an action based on such material supervisory determination, if the Federal financial institutions regulatory agency determines that such enforcement or action is necessary to ensure the safety and soundness of the financial institution.”.

SEC. 6. ADDITIONAL AMENDMENTS.

(a) REGULATOR APPEALS PROCESS, OMBUDSMAN, AND ALTERNATIVE DISPUTE RESOLUTION.—

(1) IN GENERAL.—Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4806) is amended—

(A) in the heading, by striking “**REGULATORY APPEALS PROCESS, OMBUDSMAN,**” and inserting “**OMBUDSMAN**” (and by conforming the item relating to such section in the table of contents in section 1(b));

(B) by striking subsections (a), (b), and (c);

(C) by redesignating subsections (d), (e), (f), and (g) as subsections (a), (b), (c), and (d), respectively;

(D) in subsection (b), as so redesignated—

(i) in paragraph (2)—

(I) in subparagraph (B), by striking “and” at the end;

(II) in subparagraph (C), by striking the period and inserting “; and”; and

(III) by adding at the end the following:

“(D) ensure that appropriate safeguards exist for protecting any party from retaliation by any agency for exercising rights under this subsection.”; and

(ii) by adding at the end the following:

“(6) RETALIATION.—For purposes of this subsection, retaliation includes delaying consideration of, or withholding approval of, any request, notice, or application that otherwise would have been approved, but for the exercise of a financial institution’s rights under this section.”; and

(E) in paragraph (1)(A) of subsection (c), as so redesignated—

(i) in clause (ii), by striking “; and” and inserting a semicolon;

(ii) in clause (iii), by striking “; and” and inserting a semicolon; and

(iii) by adding at the end the following:

“(iv) any issue specifically listed in an exam report as a matter requiring attention by the institution’s management or board of directors; and

“(v) any suspension or removal of an institution’s status as eligible for expedited processing of applications, requests, notices, or filings on the grounds of a supervisory or compliance concern, regardless of whether that concern has been cited as a basis for a material supervisory determination or matter requiring attention in an examination report, provided that the conduct at issue did not involve violation of any criminal law; and”.

(2) EFFECT.—Nothing in this subsection affects the authority of an appropriate Federal banking agency or the National Credit Union Administration Board to take enforcement or other supervisory action.

(b) FEDERAL CREDIT UNION ACT.—Section 205(j) of the Federal Credit Union Act (12 U.S.C. 1785(j)) is amended by inserting “the Bureau of Consumer Financial Protection,” before “the Administration” each place that term appears.

(c) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT.—The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended by sections 2 through 4 of this Act, is further amended—

(1) in section 1003 (12 U.S.C. 3302)—

(A) by striking paragraph (1) and inserting the following:

“(1) the term ‘Federal financial institutions regulatory agencies’—

“(A) means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration; and

“(B) includes the Bureau of Consumer Financial Protection for purposes of sections 1012 through 1015;” and

(B) in paragraph (3), by striking the semicolon at the end and inserting “, except that for purposes of sections 1012 through 1015, the term ‘financial institution’ does not include a credit union that is not an insured credit union;”;

(2) in section 1004(a)(4) (12 U.S.C. 3303), by striking “Consumer Financial Protection Bureau” and inserting “Bureau of Consumer Financial Protection”; and

(3) in section 1005 (12 U.S.C. 3304)—

(A) by striking “One-fifth” and inserting “One-fourth”; and

(B) by inserting “described under section 1003(1)(A)” after “agencies”.

PURPOSE AND SUMMARY

H.R. 940, the *Fair Audits and Inspections for Regulators’ (FAIR) Exams Act*, was introduced on February 4, 2025 by Chairman French Hill (AR–02). H.R. 940 establishes an Office of Independent Examination Review within the Federal Financial Institutions Examination Council (FFIEC) to review material supervisory determinations issued by the federal banking agencies. The bill allows all financial institutions—including community banks, rural banks, and credit unions—to appeal supervisory findings without fear of retaliation. It requires bank examiners to complete examinations within 60 days of the exit interview and to share all materials used to support the supervisory determination with the institution under review.

BACKGROUND AND NEED FOR LEGISLATION

Section 309 of the *Riegle Community Development and Regulatory Improvement Act of 1994* (Riegle Act) directed each federal banking agency and the National Credit Union Administration (NCUA) to create an intra-agency process for reviewing material supervisory determinations. However, the law provided little guidance on implementation, and in practice, the resulting appeals processes have proven opaque, inconsistent, and largely ineffective. Agencies narrowly define what qualifies for appeal, and decisions overwhelmingly favor examiners, resulting in minimal accountability.

Between 2018 and 2022, the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and Federal Reserve received only 24 appeals combined. Of those, just four were decided partially in favor of the institution, according to the Government Accountability Office. The rest were either denied or withdrawn—illustrating a systemic failure in the current framework. This lack of meaningful recourse undermines financial institutions’ trust in supervision, particularly among small, community-focused banks that often lack the legal and financial resources to navigate prolonged disputes.

H.R. 940 addresses these shortcomings by creating a truly independent review body and ensuring timely and transparent examination procedures. By improving fairness and reducing examiner overreach, the bill strengthens—not weakens—prudential supervision.

COMMITTEE CONSIDERATION

119TH CONGRESS

On February 4, 2025, Chairman Hill introduced H.R. 940, the *Fair Audits and Inspections for Regulators’ (FAIR) Exams Act*, with Representatives Dan Meuser (R-PA), Ann Wagner (R-MO), Bill Huizenga (R-MI), William Timmons (R-SC), Tim Moore (R-NC), and Roger Williams (R-TX), as original cosponsors. Representatives Mike Haridopolos (R-FL), Pete Sessions (R-TX), David Scott (D-GA), and Cleo Fields (D-LA) were added subsequently as cosponsors.

The bill was referred solely to the Committee on Financial Services. The bill was attached to the February 5, 2025 hearing titled “Make Community Banking Great Again.”

On May 21, 2025, the Committee met in open session to consider, among others, H.R. 940. The Committee favorably reported H.R. 940, as amended to the House of Representatives.

118TH CONGRESS

On April 18, 2024, Representative Hill introduced H.R. 8071, the *Fair Audits and Inspections for Regulators’ Exams Act*, with Representative Scott (D-GA) as an original cosponsor. This bill is an earlier iteration of H.R. 940. The bill was referred solely to the Committee on Financial Services. In addition, Senator Jerry Moran (R-KS) introduced S. 3541, a companion bill to H.R. 8071 with Senators Joe Manchin (D-WV), Bill Hagerty (R-TN), and Thom Tillis (R-NC) as original cosponsors.

RELATED HEARINGS

Pursuant to clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the following hearing was used to develop H.R. 940:

The Full Committee held a hearing on February 5, 2025 entitled “Make Community Banking Great Again.” A discussion draft version of the bill was attached to the hearing. The following witnesses testified: Ms. Cathy Owen, Executive Chairman, Eagle Bank & Trust Company; Ms. Susannah Marshall, Bank Commissioner, Arkansas State Bank Department; Ms. Rebeca Romero Rainey, President and CEO, Independent Community Bankers of America; Mr. Patrick J. Kennedy, Jr., Founding Partner, Kennedy Sutherland LLP; and Ms. Mitria Spotser, Vice President, Federal Policy, Center for Responsible Lending.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

On May 21, 2025, the Committee ordered H.R. 940, as amended, to be reported favorably to the House by a recorded vote of 35 yeas and 17 nays, a quorum being present. (Record Vote No. FC-132).

The Committee considered the following amendments to H.R. 940:

- Chairman Hill offered an amendment in the nature of a substitute, which included several changes, including: improving accountability around timeliness throughout the examination process, such as extending the deadline for final exam reports from 60 days to 90 days; restructured the Office of Independent Examination Review to be led by a three-member board rather than a single director and including explicit prohibitions to avoid conflicts of interest; and enhanced protections against retaliation, clarifying reporting obligations to ensure that Congress remains informed while safeguarding the confidentiality of financial institutions. This amendment was adopted by a voice vote.
- Representative Maxine Waters (D-CA) offered an amendment (No. 8), designated WATERS_069. This amendment directs the Federal banking agencies to design a strategic plan on how the agencies will escalate matters and hold large banks accountable when such an institution engages in a pattern of compliance failures. This strategic plan would include an outline of penalties and require a report to Congress. This amendment failed by a recorded vote of 23 yeas and 29 nays, a quorum being present. (Record Vote No. FC-129).
- Representative Scott offered an amendment (No. 9), designated HR940_5. This amendment modifies the qualifications for individuals to serve on the new Board of Independent Examination Review, requires the three-member Board to not have more than two members of the same political party, and clarifies when the Board constitutes a quorum to align with

other federal financial regulatory agencies. This amendment was agreed to by a recorded vote of 52 yeas and 0 nays, a quorum being present. (Record Vote No. FC-130).

- Representative Waters offered an amendment (No. 10), designated AMENDHR 940 4. This amendment prevents any individual affiliated with the Department of Government Efficiency (DOGE) from accessing confidential supervisory information. This amendment failed by a recorded vote of 23 yeas and 29 nays, a quorum being present. (Record Vote No. FC-131).

Committee on Financial Services

Markup 4

Bill: H.R. 940

May 21, 2025

Measure: ANS to H.R. 940

Amdt. WATERS_069 (Waters 5)

Record Vote No.

Motion: to adopt the amendment

FC-129

Disposition:

NOT AGREED TO (23-29)

Member	Yea	Nay	Not Voting	Member	Yea	Nay	Not Voting
Chairman Hill		X		Ranking Member Waters	X		
Mr. Lucas		X		Ms. Velázquez	X		
Mr. Sessions		X		Mr. Sherman	X		
Mr. Huizenga		X		Mr. Meeks	X		
Mrs. Wagner		X		Mr. Scott	X		
Mr. Barr		X		Mr. Lynch	X		
Mr. Williams (TX)		X		Mr. Green (TX)	X		
Mr. Emmer			X	Mr. Cleaver	X		
Mr. Loudermilk		X		Mr. Himes			X
Mr. Davidson		X		Mr. Foster	X		
Mr. Rose		X		Mrs. Beatty	X		
Mr. Steil		X		Mr. Vargas	X		
Mr. Timmons		X		Mr. Gottheimer	X		
Mr. Stutzman		X		Mr. Gonzalez	X		
Mr. Norman		X		Mr. Casten	X		
Mr. Meuser		X		Ms. Pressley	X		
Mrs. Kim		X		Ms. Tlaib	X		
Mr. Donalds		X		Mr. Torres (NY)	X		
Mr. Garbarino		X		Ms. Garcia (TX)	X		
Mr. Fitzgerald		X		Ms. Williams of GA	X		
Mr. Flood		X		Ms. Pettersen	X		
Mr. Lawler		X		Mr. Fields	X		
Ms. De La Cruz		X		Ms. Bynum	X		
Mr. Ogles		X		Mr. Liccardo	X		
Mr. Nunn		X					
Mrs. McClain		X					
Ms. Salazar		X					
Mr. Downing		X					
Mr. Haridopolos		X					
Mr. Moore (NC)		X					
	0	29	1		23	0	1

Committee Totals:

23	29	2
Yeas	Nays	Not Voting

Committee on Financial Services

Markup 4

Bill: H.R. 940

May 21, 2025

Measure: ANS to H.R. 940

Amdt. HR940_5 (Scott 1)

Record Vote No.

Motion: to adopt the amendment

FC-130

Disposition:

AGREED TO (52-0)

Member	Yea	Nay	Not Voting	Member	Yea	Nay	Not Voting
Chairman Hill	X			Ranking Member Waters	X		
Mr. Lucas	X			Ms. Velázquez	X		
Mr. Sessions	X			Mr. Sherman	X		
Mr. Huizenga	X			Mr. Meeks	X		
Mrs. Wagner	X			Mr. Scott	X		
Mr. Barr	X			Mr. Lynch	X		
Mr. Williams (TX)	X			Mr. Green (TX)	X		
Mr. Emmer			X	Mr. Cleaver	X		
Mr. Loudermilk	X			Mr. Himes			X
Mr. Davidson	X			Mr. Foster	X		
Mr. Rose	X			Mrs. Beatty	X		
Mr. Steil	X			Mr. Vargas	X		
Mr. Timmons	X			Mr. Gottheimer	X		
Mr. Stutzman	X			Mr. Gonzalez	X		
Mr. Norman	X			Mr. Casten	X		
Mr. Meuser	X			Ms. Pressley	X		
Mrs. Kim	X			Ms. Tlaib	X		
Mr. Donalds	X			Mr. Torres (NY)	X		
Mr. Garbarino	X			Ms. Garcia (TX)	X		
Mr. Fitzgerald	X			Ms. Williams of GA	X		
Mr. Flood	X			Ms. Pettersen	X		
Mr. Lawler	X			Mr. Fields	X		
Ms. De La Cruz	X			Ms. Bynum	X		
Mr. Ogles	X			Mr. Liccardo	X		
Mr. Nunn	X						
Mrs. McClain	X						
Ms. Salazar	X						
Mr. Downing	X						
Mr. Haridopolos	X						
Mr. Moore (NC)	X						
29	0	1		23	0	1	

Committee Totals:

52	0	2
Yeas	Nays	Not Voting

Committee on Financial Services

Markup 4

Bill: H.R. 940

May 21, 2025

Measure: ANS to H.R. 940

Amdt. AMENDHR_940_4 (Waters 6)

Record Vote No.

Motion: to adopt the amendment

FC-131

Disposition:

NOT AGREED TO (23-29)

Member	Yea	Nay	Not Voting	Member	Yea	Nay	Not Voting
Chairman Hill		X		Ranking Member Waters	X		
Mr. Lucas		X		Ms. Velázquez	X		
Mr. Sessions		X		Mr. Sherman	X		
Mr. Huizenga		X		Mr. Meeks	X		
Mrs. Wagner		X		Mr. Scott	X		
Mr. Barr		X		Mr. Lynch	X		
Mr. Williams (TX)		X		Mr. Green (TX)	X		
Mr. Emmer			X	Mr. Cleaver	X		
Mr. Loudermilk		X		Mr. Himes			X
Mr. Davidson		X		Mr. Foster	X		
Mr. Rose		X		Mrs. Beatty	X		
Mr. Steil		X		Mr. Vargas	X		
Mr. Timmons		X		Mr. Gottheimer	X		
Mr. Stutzman		X		Mr. Gonzalez	X		
Mr. Norman		X		Mr. Casten	X		
Mr. Meuser		X		Ms. Pressley	X		
Mrs. Kim		X		Ms. Tlaib	X		
Mr. Donalds		X		Mr. Torres (NY)	X		
Mr. Garbarino		X		Ms. Garcia (TX)	X		
Mr. Fitzgerald		X		Ms. Williams of GA	X		
Mr. Flood		X		Ms. Pettersen	X		
Mr. Lawler		X		Mr. Fields	X		
Ms. De La Cruz		X		Ms. Bynum	X		
Mr. Ogles		X		Mr. Liccardo	X		
Mr. Nunn		X					
Mrs. McClain		X					
Ms. Salazar		X					
Mr. Downing		X					
Mr. Haridopolos		X					
Mr. Moore (NC)		X					
	0	29	1		23	0	1

Committee Totals:

23	29	2
Yeas	Nays	Not Voting

Committee on Financial Services

Markup 4

Bill: H.R. 940

May 21, 2025

Measure: H.R. 940 (as amended)

Amdt.

Record Vote No.

Motion: to report favorably

FC-132

Disposition:

AGREED TO (35-17)

Member	Yea	Nay	Not Voting	Member	Yea	Nay	Not Voting
Chairman Hill	X			Ranking Member Waters		X	
Mr. Lucas	X			Ms. Velázquez		X	
Mr. Sessions	X			Mr. Sherman		X	
Mr. Huizenga	X			Mr. Meeks		X	
Mrs. Wagner	X			Mr. Scott	X		
Mr. Barr	X			Mr. Lynch		X	
Mr. Williams (TX)	X			Mr. Green (TX)		X	
Mr. Emmer			X	Mr. Cleaver		X	
Mr. Loudermilk	X			Mr. Himes			X
Mr. Davidson	X			Mr. Foster		X	
Mr. Rose	X			Mrs. Beatty		X	
Mr. Steil	X			Mr. Vargas		X	
Mr. Timmons	X			Mr. Gottheimer	X		
Mr. Stutzman	X			Mr. Gonzalez	X		
Mr. Norman	X			Mr. Casten		X	
Mr. Meuser	X			Ms. Pressley		X	
Mrs. Kim	X			Ms. Tlaib		X	
Mr. Donalds	X			Mr. Torres (NY)	X		
Mr. Garbarino	X			Ms. Garcia (TX)		X	
Mr. Fitzgerald	X			Ms. Williams of GA		X	
Mr. Flood	X			Ms. Pettersen		X	
Mr. Lawler	X			Mr. Fields	X		
Ms. De La Cruz	X			Ms. Bynum	X		
Mr. Ogles	X			Mr. Liccardo		X	
Mr. Nunn	X						
Mrs. McClain	X						
Ms. Salazar	X						
Mr. Downing	X						
Mr. Haridopolos	X						
Mr. Moore (NC)	X						
	29	0	1		6	17	1

Committee Totals:

35	17	2
Yeas	Nays	Not Voting

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 940 is to allow all financial institutions to appeal supervisory findings without fear of retaliation.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 940. The Committee has requested but not received a cost estimate from the Director of the Congressional Budget Office. However, pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee will adopt as its own the cost estimate by the Director of the Congressional Budget Office once it has been prepared.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, a cost estimate was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

UNFUNDED MANDATES STATEMENT

The Committee has requested but not received from the Director of the Congressional Budget Office an estimate of the Federal mandates pursuant to section 423 of the *Unfunded Mandates Reform Act*. The Committee will adopt the estimate once it has been prepared by the Director.

EARMARK STATEMENT

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the resolution and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

FEDERAL ADVISORY COMMITTEE ACT STATEMENT

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act*.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 940 as the “*Fair Audits and Inspections for Regulators’ Exams Act*” or the “*FAIR Exams Act*.”

Section 2. Timeliness of examinations and examination reports

This section amends the Federal Financial Institutions Examination Council Act of 1978 by adding a provision requiring federal financial institutions regulatory agencies to complete any examination within 270 days of commencement, except that the agency may extend this period by providing written notice to the financial institution explaining the justification for the extension. The section further mandates that the regulatory agency conduct an exit interview with the senior management of the financial institution within 30 days following the completion of the examination. Additionally, the final examination report must be delivered within 90 days of the exit interview or the receipt of any additional information from the institution, whichever is later. Upon the request of the financial institution, the agency is required to include an appendix in the final report listing all examination or other factual information used to support any material supervisory determination.

Section 3. Timeliness of required permission, regulatory, and reporting guidance

This section requires federal financial institutions regulatory agencies to respond promptly to written requests submitted by financial institutions seeking permission, regulatory interpretations, or accounting guidance. Agencies are obligated to acknowledge receipt and completeness of such requests within 30 days and to specify any missing information. If a request is deemed complete, the agency must issue a written determination within 60 days. Furthermore, the agencies must publish summaries of these determinations on their public websites within 120 days, while ensuring that any confidential or identifying information is redacted.

Section 4. Office of Independent Examination Review

This section establishes the Office of Independent Examination Review within the FFIEC to review material supervisory deter-

minations issued by federal banking agencies. The office shall be led by a three-member Board, consisting of individuals with expertise in federal regulation, law or accounting, and private sector financial management. The Board is tasked with investigating complaints related to examinations, conducting quarterly meetings, reviewing agency examination procedures, and performing quality assurance reviews to ensure the integrity and fairness of examinations.

Section 5. Right to independent review of material supervisory determinations

This section grants financial institutions the right to request an independent review of material supervisory determinations made in final examination reports. The financial institution must file a written notice of appeal with the Board within 60 days of receiving the determination, with the possibility of an extension for good cause. The Board is required to review the appeal on the record or, if requested by the institution, conduct a hearing where testimony and evidence may be presented. The Board must issue a written *de novo* decision within 60 days of the record's closure. The section also prohibits retaliation by regulators against financial institutions exercising their appeal rights. Additionally, the Board is required to submit an annual report to the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs detailing the reviews.

Section 6. Additional amendments

This section removes outdated regulatory appeals procedures from the *Riegle Community Development and Regulatory Improvement Act of 1994* and updates the role of the regulatory ombudsman to include protections against regulatory retaliation. It further amends the *Federal Credit Union Act* to incorporate the Consumer Financial Protection Bureau as a covered regulatory agency. Finally, this section updates definitions and cost-sharing provisions within the *Federal Financial Institutions Examination Council Act* to align with current regulatory frameworks.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**FEDERAL FINANCIAL INSTITUTIONS EXAMINATION
COUNCIL ACT OF 1978**

**TITLE X—FEDERAL FINANCIAL INSTITUTIONS
EXAMINATION COUNCIL**

* * * * *

DEFINITIONS

SEC. 1003. As used in this title—

【(1) the term “Federal financial institutions regulatory agencies” means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration;】

(1) the term “Federal financial institutions regulatory agencies”—

(A) means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration; and

(B) includes the Bureau of Consumer Financial Protection for purposes of sections 1012 through 1015;

(2) the term “Council” means the Financial Institutions Examination Council; 【and】

(3) the term “financial institution” means a commercial bank, a savings bank, a trust company, a savings association, a building and loan association, a homestead association, a cooperative bank, or a credit union【;】, *except that for purposes of sections 1012 through 1015, the term “financial institution” does not include a credit union that is not an insured credit union;*

(4) the term “Board” means the Board of Independent Examination Review established under section 1014(b);

(5) the term “material supervisory determination” has the meaning given such term in section 309(c) of the Riegle Community Development and Regulatory Improvement Act of 1994;

(6) the term “insured depository institution” has the meaning given that term in section 3 of the Federal Deposit Insurance Act; and

(7) the term “insured credit union” has the meaning given that term in section 101 of the Federal Credit Union Act.

ESTABLISHMENT OF THE COUNCIL

SEC. 1004. (a) There is established the Financial Institutions Examination Council which shall consist of—

(1) the Comptroller of the Currency,

(2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation,

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board,

(4) the Director of the 【Consumer Financial Protection Bureau】 *Bureau of Consumer Financial Protection,*

(5) the Chairman of the National Credit Union Administration Board, and

(6) the Chairman of the State Liaison Committee.

(b) The members of the Council shall select the first chairman of the Council. Thereafter the chairmanship shall rotate among the members of the Council.

(c) The term of the Chairman of the Council shall be two years.

(d) The members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

(e) Each member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member.

EXPENSES OF THE COUNCIL

SEC. 1005. **[One-fifth]** *One-fourth* of the costs and expenses of the Council, including the salaries of its employees, shall be paid by each of the Federal financial institutions regulatory agencies described under section 1003(1)(A). Annual assessments for such share shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

* * * * *

SEC. 1012. **TIMELINESS OF EXAMINATIONS AND EXAMINATION REPORTS.**

(a) **TIMELINESS OF EXAMINATIONS.**—A Federal financial institutions regulatory agency shall complete any examination of a financial institution within 270 days of commencing the examination, except that such period may be extended by the Federal financial institutions regulatory agency by providing written notice to the financial institution describing with particularity the reasons that a longer period is needed.

(b) **FINAL EXAMINATION REPORT.**—A Federal financial institutions regulatory agency shall provide a final examination report to a financial institution not later than 90 days after the later of—

- (1) the exit interview for an examination of the institution; or
- (2) the provision of additional material information by the institution relating to the examination.

(c) **EXIT INTERVIEW REQUIREMENT.**—Within 30 days of completing an examination, a Federal financial institutions regulatory agency shall conduct an exit interview with the financial institution's senior management, except that such period may be extended by the Federal financial institutions regulatory agency by providing written notice to the institution and the Board describing with particularity the reasons that a longer period is needed to complete the exit interview.

(d) **EXAMINATION MATERIALS.**—Upon the request of a financial institution, the Federal financial institutions regulatory agency shall include with the final report an appendix listing all examination or other factual information relied upon by the agency in support of a material supervisory determination.

SEC. 1013. **TIMELINESS OF REQUIRED PERMISSION, REGULATORY, AND REPORTING GUIDANCE.**

(a) **REQUEST FOR PERMISSION OR GUIDANCE.**—With respect to an action that a financial institution is taking or is intending to take, the financial institution may request a written determination by the applicable Federal financial institutions regulatory agency of—

- (1) the agency's non-objection to the financial institution conducting a particular activity;
- (2) the agency's interpretation of a law or regulation; and
- (3) the agency's interpretation of generally accepted accounting principles or accounting objectives, standards, and requirements.

(b) *CONTENTS OF REQUEST.*—A request made under subsection (a) shall be in writing and contain—

- (1) the nature of the request;
- (2) applicable facts relating to the matter;
- (3) applicable law, regulation, or generally accepted accounting principles relating to the matter; and
- (4) a summary of the request.

(c) *RESPONSE TO REQUEST.*—A Federal financial institutions regulatory agency receiving a request under subsection (a) shall, not later than 30 days after receiving the request—

- (1) provide the financial institution making the request with written notification that the agency received the request and stating whether the request contains all of the information required under subsection (b); and
- (2) if the request does not contain all of the information required under subsection (b), provide the financial institution with an explanation of what information is missing.

(d) *PROVIDING MISSING INFORMATION.*—If a Federal financial institutions regulatory agency informs the financial institution under subsection (c) that the request does not contain all the information required under subsection (b), the financial institution may provide the missing information to the Federal financial institutions regulatory agency during the 30-day period beginning on the date the financial institution receives the explanation of the missing information under subsection (c).

(e) *DETERMINATION.*—A Federal financial institutions regulatory agency receiving a request under subsection (a) shall make a determination on the request and provide the financial institution with a written notice of such determination—

- (1) if the initial request contains the information required under subsection (b), not later than the end of the 60-day period beginning on the date the Federal financial institutions regulatory agency notifies the financial institution of the receipt of the request under subsection (c); or
- (2) if the initial request does not contain the information required under subsection (b), but the financial institution provides the missing information during the 30-day period described under subsection (d), not later than the end of the 60-day period beginning on the date such missing information is provided; or
- (3) if the initial request does not contain the information required under subsection (b), and the financial institution does not provide the missing information during the 30-day period described under subsection (d), not later than the end of the 60-day period beginning on the end of such 30-day period.

(f) *REPORTS AND PUBLICATION.*—Each Federal financial institutions regulatory 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 financial institutions regulatory agency. Each Federal financial institutions regulatory agency shall redact any confidential supervisory information about the financial institution, any identifying facts about the financial institution, and any sensitive personally identifiable information, and anonymize any un-redacted information that could, individually or in the aggregate, identify the financial institution.

SEC. 1014. OFFICE OF INDEPENDENT EXAMINATION REVIEW.

(a) *ESTABLISHMENT.*—*There is established in the Council an Office of Independent Examination Review (the “Office”).*

(b) *BOARD OF INDEPENDENT EXAMINATION REVIEW.*—

(1) *IN GENERAL.*—*The head of the Office shall be the Board of Independent Examination Review, which shall be comprised of 3 members, appointed by the President, by and with the advice and consent of the Senate.*

(2) *QUALIFICATIONS.*—*The President shall appoint the 1 member of the Board from each of the following classes of individuals:*

(A) *Individuals who have been employed by a Federal financial institutions regulatory agency.*

(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 work-related experience in consumer affairs or compliance with consumer protection laws with respect to financial institutions; 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.*

(3) *PROHIBITION ON CERTAIN INDIVIDUALS SERVING AS A BOARD MEMBER.*—*The President may not appoint an individual as a member of the Board if the individual—*

(A) *is, or was during the previous 2-year period, employed by a Federal financial institutions regulatory agency or a Federal reserve bank;*

(B) *is, or was during the previous 2-year period, employed by a financial institution; or*

(C) *is reporting, or was reporting in the past 5 years, directly or indirectly to a Federal financial institutions regulatory agency official who makes material supervisory determinations.*

(4) *CONSULTATION.*—*In appointing members of the Board, the President shall consult with the Federal financial institutions regulatory agencies and financial institutions.*

(5) *TERM.*—

(A) *IN GENERAL.*—*Each member of the Board shall serve for a term of 3 years.*

(B) *TERM LIMITATION.*—*No individual may serve more than 2 full terms on the Board.*

(6) *POLITICAL AFFILIATION.*—Not more than 2 members of the Board shall be members of the same political party.

(7) *QUORUM.*—

(A) *IN GENERAL.*—3 members of the Board shall constitute a quorum.

(B) *INITIAL QUORUM.*—During the 6-month period beginning on the date of enactment of this section, 1 member of the Board shall constitute a quorum until the Board has 3 members.

(c) *STAFFING.*—The Board is authorized to hire staff to support the activities of the Office of Independent Examination Review. One-fifth of the costs and expenses of the Office, including the salaries of its employees, shall be paid by each of the Federal financial institutions regulatory agencies. Annual assessments for such share shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

(d) *DUTIES.*—The Board shall—

(1) receive and, at the discretion of the Board, investigate complaints from financial institutions, their representatives, or another entity acting on behalf of such institutions, concerning examinations, examination practices, or examination reports;

(2) hold meetings, at least once every three months and in locations designed to encourage participation from all sections of the United States, with financial institutions, their representatives, or another entity acting on behalf of such institutions, to discuss examination procedures, examination practices, or examination policies;

(3) review examination procedures of the Federal financial institutions regulatory agencies to ensure that the written examination policies of those agencies are being followed in practice and adhere to the standards for consistency;

(4) conduct a continuing and regular program of examination quality assurance for all examination types conducted by the Federal financial institutions regulatory agencies;

(5) carry out an independent review of any supervisory appeal initiated under section 1015; and

(6) report annually to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Council, on the reviews carried out pursuant to paragraphs (3) and (5), including compliance with the requirements set forth in section 1013 regarding timeliness of examination reports, and the Board's recommendations for improvements in examination procedures, practices, and policies.

(e) *CONFIDENTIALITY.*—The Board and the Council shall keep confidential—

(1) all meetings, discussions, and information provided by financial institutions and Federal financial institutions regulator agencies that involve confidential supervisory information or privileged information;

(2) all information and communications exchanged between a financial institution and the Office of Independent Examination Review; and

(3) *all information and communications exchanged between a Federal financial institutions regulator agency and the Office of Independent Examination Review.*

SEC. 1015. RIGHT TO INDEPENDENT REVIEW OF MATERIAL SUPERVISORY DETERMINATIONS.

(a) *IN GENERAL.*—A financial institution shall have the right to obtain an independent review, as described in this section, of a material supervisory determination contained in a final report of examination.

(b) *NOTICE.*—

(1) *TIMING.*—A financial institution seeking review of a material supervisory determination under this section shall file a written notice with the Board within 60 days after receiving the final report of examination that is the subject of such review.

(2) *EXTENSION.*—The institution may file a written request with the Board for an extension of the 60-day time period described under paragraph (1), which shall state good cause for granting the extension. Such request shall be granted in the sole discretion of the Board.

(3) *IDENTIFICATION OF DETERMINATION.*—The written notice shall—

(A) *identify the material supervisory determination that is the subject of the requested independent examination review;*

(B) *state the reasons why the institution believes that the material supervisory determination is incorrect or should otherwise be modified; and*

(C) *include—*

(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 in the possession of the institution that the institution wishes to be considered.*

(4) *INFORMATION MADE AVAILABLE TO INSTITUTION.*—An institution seeking an appeal of a material supervisory determination may, not later than 7 days after receiving the final examination report, request that the Federal financial institutions regulatory agency that made the material supervisory determination provide the institution with all examination and factual 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.

(c) *DETERMINATION; RIGHT TO HEARING.*—

(1) *IN GENERAL.*—The Board shall—

(A) *determine the merits of the appeal on the record, including whether the material supervisory determination being appealed should be upheld, canceled, or modified; or*

(B) *at the election of the financial institution, conduct a hearing, which shall take place not later than 60 days after the petition for review is received by the Board.*

(2) *RIGHT TO OBTAIN TESTIMONY.*—A financial institution electing for a hearing under paragraph (1)(B) shall have the

right the obtain testimony under oath from agency employees and obtain documents and other evidence at the hearing, or in advance of the hearing, according to procedures instituted by the Board consistent with those set forth under sections 556 and 557 of title 5, United States Code.

(3) *BASIS OF DECISION.*—The Board shall issue a written decision based upon the record of the examination, supplemented by the record established at any hearing.

(4) *STANDARD OF REVIEW.*—The Board's review of a material supervisory determination being appealed under this subsection shall be *de novo*, and the Board shall not defer to the opinions of the examiner or agency, but shall independently determine the appropriateness of the agency's material supervisory determination based upon the relevant statutes, regulations, other appropriate guidance, and the evidentiary record.

(d) *FINAL DECISION.*—A decision by the Board on an independent review under this section shall—

(1) be made not later than 60 days after the record has been closed; and

(2) be deemed final agency action and shall bind the agency whose supervisory determination was the subject of the review and the financial institution requesting the review.

(e) *RIGHT TO JUDICIAL REVIEW.*—A financial institution shall have the right to petition for review of a Board determination made under subsection (d) by filing a petition for review not later than 60 days after the date on which the decision is made in the United States Court of Appeals for the District of Columbia Circuit or the Circuit in which the financial institution is located.

(f) *REFERRAL OF VIOLATIONS.*—If the Board, in carrying out this section, determines that a financial institution has violated a law or regulation, the Board shall refer such determination to the applicable Federal financial institutions regulatory agency.

(g) *ANNUAL REPORT.*—

(1) *IN GENERAL.*—The Board shall report annually to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Council on actions taken under this section, including the types of issues that the Board has reviewed and the results of those reviews, including information on each final determination with respect to a material supervisory determination.

(2) *CONFIDENTIALITY.*—In reporting under paragraph (1), the Board shall redact information about individual financial institutions and any confidential or privileged information shared by financial institutions, and shall anonymize any un-redacted information that could, in the aggregate, identify a financial institution.

(h) *RETALIATION PROHIBITED.*—

(1) *IN GENERAL.*—A Federal financial institutions regulatory agency may not—

(A) retaliate against a financial institution, including service providers, or any institution-affiliated party, for exercising appellate rights under this section; or

(B) delay or deny any agency action that would benefit a financial institution or any institution-affiliated party on

the basis that an appeal under this section is pending under this section.

(2) *RETALIATION.—For purposes of this subsection, retaliation includes delaying consideration of, or withholding approval of, any request, notice, or application that otherwise would have been approved, but for the exercise of a financial institution’s rights under this section.*

(i) *RULEMAKING.—The Board shall issue rules to establish procedures for hearings described under this section, including that—*

(1) a financial institution may appear at the hearing personally or through counsel;

(2) a financial institution may provide an oral and written presentation at the hearing;

(3) the Board may ask questions of any person participating in the hearing;

(4) the hearing may not involve—

(A) a cross-examination; or

(B) discovery;

(5) the hearing shall not be governed by the Federal Rules of Evidence; and

(6) the Board shall have a verbatim transcript of the hearing prepared.

(j) *SAFETY AND SOUNDNESS EXCEPTION.—The appeal of a material supervisory determination by a financial institution under this section shall not affect the authority of a Federal financial institutions regulatory agency to enforce the material supervisory determination or to take an action based on such material supervisory determination, if the Federal financial institutions regulatory agency determines that such enforcement or action is necessary to ensure the safety and soundness of the financial institution.*

RIEGLE COMMUNITY DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) **SHORT TITLE.**—This Act may be cited as the “Riegle Community Development and Regulatory Improvement Act of 1994”.

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

Sec. 1. Short title; table of contents.

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TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

Sec. 301. Incorporated definitions.

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Sec. 309. **[Regulatory appeals process, ombudsman,]** *Ombudsman* and alternative dispute resolution.

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TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

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SEC. 309. [REGULATORY APPEALS PROCESS, OMBUDSMAN,] OMBUDSMAN AND ALTERNATIVE DISPUTE RESOLUTION.

[(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the agency supervises.

[(b) REVIEW PROCESS.—In establishing the independent appellate process under subsection (a), each agency shall ensure that—

[(1) any appeal of a material supervisory determination by an insured depository institution or insured credit union is heard and decided expeditiously; and

[(2) appropriate safeguards exist for protecting the appellant from retaliation by agency examiners.

[(c) COMMENT PERIOD.—Not later than 90 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall provide public notice and opportunity for comment on proposed guidelines for the establishment of an appellate process under this section.]

[(d)] (a) AGENCY OMBUDSMAN.—

(1) ESTABLISHMENT REQUIRED.—Not later than 180 days after the date of enactment of this Act, each Federal banking agency and the National Credit Union Administration Board shall appoint an ombudsman.

(2) DUTIES OF OMBUDSMAN.—The ombudsman appointed in accordance with paragraph (1) for any agency shall—

(A) act as a liaison between the agency and any affected person with respect to any problem such party may have in dealing with the agency resulting from the regulatory activities of the agency; and

(B) assure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

[(e)] (b) ALTERNATIVE DISPUTE RESOLUTION PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, each Federal banking agency and the National Credit Union Administration Board shall develop and implement a pilot program for using alternative means of dispute resolution of issues in controversy (hereafter in this section referred to as the “alternative dispute resolution program”) that is consistent with the requirements of subchapter IV of chapter 5 of title 5, United States Code, if the parties to the dispute, including the agency, agree to such proceeding.

(2) STANDARDS.—An alternative dispute resolution pilot program developed under paragraph (1) shall—

(A) be fair to all interested parties to a dispute;

(B) resolve disputes expeditiously; [and]

(C) be less costly than traditional means of dispute resolution, including litigation[.]; and

(D) ensure that appropriate safeguards exist for protecting any party from retaliation by any agency for exercising rights under this subsection.

(3) INDEPENDENT EVALUATION.—Not later than 18 months after the date on which a pilot program is implemented under

paragraph (1), the Administrative Conference of the United States shall submit to the Congress a report containing—

- (A) an evaluation of that pilot program;
- (B) the extent to which the pilot programs meet the standards established under paragraph (2);
- (C) the extent to which parties to disputes were offered alternative means of dispute resolution and the frequency with which the parties, including the agencies, accepted or declined to use such means; and
- (D) any recommendations of the Conference to improve the alternative dispute resolution procedures of the Federal banking agencies and the National Credit Union Administration Board.

(4) IMPLEMENTATION OF PROGRAM.—At any time after completion of the evaluation under paragraph (3)(A), any Federal banking agency and the National Credit Union Administration Board may implement an alternative dispute resolution program throughout the agency, taking into account the results of that evaluation.

(5) COORDINATION WITH EXISTING AGENCY ADR PROGRAMS.—

(A) EVALUATION REQUIRED.—If any Federal banking agency or the National Credit Union Administration maintains an alternative dispute resolution program as of the date of enactment of this Act under any other provision of law, the Administrative Conference of the United States shall include such program in the evaluation conducted under paragraph (3)(A).

(B) MULTIPLE ADR PROGRAMS.—No provision of this section shall be construed as precluding any Federal banking agency or the National Credit Union Administration Board from establishing more than 1 alternative means of dispute resolution.

(6) RETALIATION.—*For purposes of this subsection, retaliation includes delaying consideration of, or withholding approval of, any request, notice, or application that otherwise would have been approved, but for the exercise of a financial institution's rights under this section.*

[(f)] (c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MATERIAL SUPERVISORY DETERMINATIONS.—The term “material supervisory determinations”—

(A) includes determinations relating to—

- (i) examination ratings;
- (ii) the adequacy of loan loss reserve provisions[; and];
- (iii) loan classifications on loans that are significant to an institution[; and];
- (iv) any issue specifically listed in an exam report as a matter requiring attention by the institution's management or board of directors; and
- (v) any suspension or removal of an institution's status as eligible for expedited processing of applications, requests, notices, or filings on the grounds of a supervisory or compliance concern, regardless of whether that concern has been cited as a basis for a material

supervisory determination or matter requiring attention in an examination report, provided that the conduct at issue did not involve violation of any criminal law; and

(B) does not include a determination by a Federal banking agency or the National Credit Union Administration Board to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act or section 212 of the Federal Credit Union Act, as appropriate.

(2) INDEPENDENT APPELLATE PROCESS.—The term “independent appellate process” means a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.

(3) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—The term “alternative means of dispute resolution” has the meaning given to such term in section 571 of title 5, United States Code.

(4) ISSUES IN CONTROVERSY.—The term “issues in controversy” means—

(A) any final agency decision involving any claim against an insured depository institution or insured credit union for which the agency has been appointed conservator or receiver or for which a liquidating agent has been appointed, as the case may be;

(B) any final action taken by an agency in the agency’s capacity as conservator or receiver for an insured depository institution or by the liquidating agent appointed for an insured credit union; and

(C) any other issue for which the appropriate Federal banking agency or the National Credit Union Administration Board determines that alternative means of dispute resolution would be appropriate.

[(g)] (d) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall affect the authority of an appropriate Federal banking agency or the National Credit Union Administration Board to take enforcement or supervisory action.

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FEDERAL CREDIT UNION ACT

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TITLE II—SHARE INSURANCE

* * * * *

REQUIREMENTS GOVERNING INSURED CREDIT UNIONS

SEC. 205. (a) INSURANCE LOGO.—

(1) INSURED CREDIT UNIONS.—

(A) IN GENERAL.—Each insured credit union shall display at each place of business maintained by that credit

union a sign or signs relating to the insurance of the share accounts of the institution, in accordance with regulations to be prescribed by the Board.

(B) STATEMENT TO BE INCLUDED.—Each sign required under subparagraph (A) shall include a statement that insured share accounts are backed by the full faith and credit of the United States Government.

(2) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

(3) PENALTIES.—For each day that an insured credit union continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than \$100, which the Board may recover for its use.

(b)(1) Except as provided in paragraph (2), no insured credit union shall, without the prior approval of the Board—

(A) merge or consolidate with any noninsured credit union or institution;

(B) assume liability to pay any member accounts in, or similar liabilities of, any noninsured credit union or institution;

(C) transfer assets to any noninsured credit union or institution in consideration of the assumption of liabilities for any portion of the member accounts in such insured credit union; or

(D) convert into a noninsured credit union or institution.

(2) CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), an insured credit union may convert to a mutual savings bank or savings association (if the savings association is in mutual form), as those terms are defined in section 3 of the Federal Deposit Insurance Act, without the prior approval of the Board, subject to the requirements and procedures set forth in the laws and regulations governing mutual savings banks and savings associations.

(B) CONVERSION PROPOSAL.—A proposal for a conversion described in subparagraph (A) shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on that date or by written ballot to be filed on or before that date), by a majority of the directors of the insured credit union. Approval of the proposal for conversion shall be by the affirmative vote of a majority of the members of the insured credit union who vote on the proposal.

(C) NOTICE OF PROPOSAL TO MEMBERS.—An insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) shall submit notice to each of its members who is eligible to vote on the matter of its intent to convert—

(i) 90 days before the date of the member vote on the conversion;

(ii) 60 days before the date of the member vote on the conversion; and

(iii) 30 days before the date of the member vote on the conversion.

(D) NOTICE OF PROPOSAL TO BOARD.—The Board may require an insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) to submit a notice to the Board of its intent to convert during the 90-day period preceding the date of the completion of the conversion.

(E) INAPPLICABILITY OF ACT UPON CONVERSION.—Upon completion of a conversion described in subparagraph (A), the credit union shall no longer be subject to any of the provisions of this Act.

(F) LIMIT ON COMPENSATION OF OFFICIALS.—

(i) IN GENERAL.—No director or senior management official of an insured credit union may receive any economic benefit in connection with a conversion of the credit union as described in subparagraph (A), other than—

(I) director fees; and

(II) compensation and other benefits paid to directors or senior management officials of the converted institution in the ordinary course of business.

(ii) SENIOR MANAGEMENT OFFICIAL.—For purposes of this subparagraph, the term “senior management official” means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32 (f) of the Federal Deposit Insurance Act).

(G) CONSISTENT RULES.—

(i) IN GENERAL.—Not later than 6 months after the date of enactment of the Credit Union Membership Access Act, the Administration shall promulgate final rules applicable to charter conversions described in this paragraph that are consistent with rules promulgated by other financial regulators, including the Office of the Comptroller of the Currency. The rules required by this clause shall provide that charter conversion by an insured credit union shall be subject to regulation that is no more or less restrictive than that applicable to charter conversions by other financial institutions.

(ii) OVERSIGHT OF MEMBER VOTE.—The member vote concerning charter conversion under this paragraph shall be administered by the Administration, and shall be verified by the Federal or State regulatory agency that would have jurisdiction over the institution after the conversion. If either the Administration or that regulatory agency disapproves of the methods by which the member vote was taken or procedures applicable to the member vote, the member vote shall be taken again, as directed by the Administration or the agency.

(3) Except with the prior written approval of the Board, no insured credit union shall merge or consolidate with any other insured credit union or, either directly or indirectly, acquire the assets of, or assume liability to pay any member accounts in, any other insured credit union.

(c) In granting or withholding approval or consent under subsection (b) of this section, the Board shall consider—

(1) the history, financial condition, and management policies of the credit union;

(2) the adequacy of the credit union's reserves;

(3) the economic advisability of the transaction;

(4) the general character and fitness of the credit union's management;

(5) the convenience and needs of the members to be served by the credit union; and

(6) whether the credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

(d) PROHIBITION.—

(1) IN GENERAL.—Except with prior written consent of the Board—

(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

(i) an offense under—

(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than \$1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.

(4) EXCEPTIONS.—

(A) CERTAIN OLDER OFFENSES.—

(i) IN GENERAL.—With respect to an individual, paragraph (1) shall not apply to an offense if—

(I) it has been 7 years or more since the offense occurred; or

(II) the individual was incarcerated with respect to the offense and it has been 5 years or more since the individual was released from incarceration.

(ii) OFFENSES COMMITTED BY INDIVIDUALS 21 OR YOUNGER.—For individuals who committed an offense when they were 21 years of age or younger, paragraph (1) shall not apply to the offense if it has been more than 30 months since the sentencing occurred.

(iii) LIMITATION.—This subparagraph shall not apply to an offense described under paragraph (1)(B).

(B) EXPUNGEMENT AND SEALING.—With respect to an individual, paragraph (1) shall not apply to an offense if—

(i) there is an order of expungement, sealing, or dismissal that has been issued in regard to the conviction in connection with such offense; and

(ii) it is intended by the language in the order itself, or in the legislative provisions under which the order was issued, that the conviction shall be destroyed or sealed from the individual's State, Tribal, or Federal record, even if exceptions allow the record to be considered for certain character and fitness evaluation purposes.

(C) DE MINIMIS EXEMPTION.—

(i) IN GENERAL.—Paragraph (1) shall not apply to such de minimis offenses as the Board determines, by rule.

(ii) CONFINEMENT CRITERIA.—In issuing rules under clause (i), the Board shall include a requirement that the offense was punishable by a term of three years or less confined in a correctional facility, where such confinement—

(I) is calculated based on the time an individual spent incarcerated as a punishment or a sanction, not as pretrial detention; and

(II) does not include probation or parole where an individual was restricted to a particular jurisdiction or was required to report occasionally to an individual or a specific location.

(iii) BAD CHECK CRITERIA.—In setting the criteria for de minimis offenses under clause (i), if the Board establishes criteria with respect to insufficient funds checks, the Board shall require that the aggregate total face value of all insufficient funds checks across all convictions or program entries related to insufficient funds checks is \$2,000 or less.

(iv) DESIGNATED LESSER OFFENSES.—Paragraph (1) shall not apply to certain lesser offenses (including the use of a fake ID, shoplifting, trespass, fare evasion, driving with an expired license or tag, and such other low-risk offenses as the Board may designate) if 1 year or more has passed since the applicable conviction or program entry.

(5) CONSENT APPLICATIONS.—

(A) IN GENERAL.—The Board shall accept consent applications from an individual and from an insured credit union on behalf of an individual that are filed separately or contemporaneously with a regional office of the Board.

(B) SPONSORED APPLICATIONS FILED WITH REGIONAL OFFICES.—Consent applications filed at a regional office of the Board by an insured credit union on behalf of an individual—

(i) shall be reviewed by such office;

(ii) may be approved or denied by such office, if such authority has been delegated to such office by the Board; and

(iii) may only be denied by such office if the general counsel of the Board (or a designee) certifies that the denial is consistent with this section.

(C) INDIVIDUAL APPLICATIONS FILED WITH REGIONAL OFFICES.—Consent applications filed at a regional office by an individual—

(i) shall be reviewed by such office; and

(ii) may be approved or denied by such office, if such authority has been delegated to such office by the Board, except with respect to—

(I) cases involving an offense described under paragraph (1)(B); and

(II) such other high-level security cases as may be designated by the Board.

(D) NATIONAL OFFICE REVIEW.—The national office of the Board shall—

(i) review any consent application with respect to which a regional office is not authorized to approve or deny the application; and

(ii) review any consent application that is denied by a regional office, if the individual requests a review by the national office.

(E) FORMS AND INSTRUCTIONS.—

(i) AVAILABILITY.—The Board shall make all forms and instructions related to consent applications available to the public, including on the website of the Board.

(ii) CONTENTS.—The forms and instructions described under clause (i) shall provide a sample cover letter and a comprehensive list of items that may accompany the application, including clear guidance on evidence that may support a finding of rehabilitation.

(F) CONSIDERATION OF CRIMINAL HISTORY.—

(i) REGIONAL OFFICE CONSIDERATION.—In reviewing a consent application, a regional office shall—

(I) primarily rely on the criminal history record of the Federal Bureau of Investigation; and

(II) provide such record to the applicant to review for accuracy.

(ii) CERTIFIED COPIES.—The Board may not require an applicant to provide certified copies of criminal history records unless the Board determines that there is a clear and compelling justification to require additional information to verify the accuracy of the criminal history record of the Federal Bureau of Investigation.

(G) CONSIDERATION OF REHABILITATION.—Consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Board shall—

(i) conduct an individualized assessment when evaluating consent applications that takes into account evidence of rehabilitation, the applicant's age at the time of the conviction or program entry, the time that has elapsed since conviction or program entry, and the relationship of individual's offense to the responsibilities of the applicable position;

(ii) consider the individual's employment history, letters of recommendation, certificates documenting participation in substance abuse programs, successful participating in job preparation and educational programs, and other relevant mitigating evidence; and

(iii) consider any additional information the Board determines necessary for safety and soundness.

(H) SCOPE OF EMPLOYMENT.—With respect to an approved consent application filed by an insured credit union on behalf of an individual, if the Board determines it appropriate, such approved consent application shall allow the individual to work for the same employer (without restrictions on the location) and across positions, except that the prior consent of the Board (which may require a new application) shall be required for any proposed significant changes in the individual's security-related duties or responsibilities, such as promotion to an officer or other positions that the employer determines will require higher security screening credentials.

(I) COORDINATION WITH FDIC.—In carrying out this subsection, the Board shall consult and coordinate with the

Federal Deposit Insurance Corporation as needed to promote consistent implementation where appropriate.

(6) DEFINITIONS.—In this subsection:

(A) CONSENT APPLICATION.—The term “consent application” means an application filed with Board by an individual (or by an insured credit union on behalf of an individual) seeking the written consent of the Board under paragraph (1)(A).

(B) CRIMINAL OFFENSE INVOLVING DISHONESTY.—The term “criminal offense involving dishonesty”—

(i) means an offense under which an individual, directly or indirectly—

(I) cheats or defrauds; or

(II) wrongfully takes property belonging to another in violation of a criminal statute;

(ii) includes an offense that Federal, State, or local law defines as dishonest, or for which dishonesty is an element of the offense; and

(iii) does not include—

(I) a misdemeanor criminal offense committed more than one year before the date on which an individual files a consent application, excluding any period of incarceration; or

(II) an offense involving the possession of controlled substances.

(C) PRETRIAL DIVERSION OR SIMILAR PROGRAM.—The term “pretrial diversion or similar program” means a program characterized by a suspension or eventual dismissal or reversal of charges or criminal prosecution upon agreement by the accused to restitution, drug or alcohol rehabilitation, anger management, or community service.

(e)(1) The Board shall promulgate rules establishing minimum standards with which each insured credit union must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts.

(2) The rules shall establish the time limits within which insured credit unions shall comply with the standards and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures.

(3) An insured credit union which violates a rule promulgated pursuant to this subsection shall be subject to a civil penalty which shall not exceed \$100 for each day of the violation.

(f)(1) Every insured credit union is authorized to maintain, and make loans with respect to, share draft accounts in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft accounts and may permit the owners of such share draft accounts to make withdrawals by negotiable or transferable instruments or other orders for the purpose of making transfers to third parties.

(2) Paragraph (1) shall apply only with respect to share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated

primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.

(g)(1) If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such insured credit union is located or at the rate allowed by the laws of the State, territory, or district where such credit union is located, whichever may be greater.

(2) If the rate prescribed in paragraph (1) exceeds the rate such credit union would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the credit union taking or receiving such interest.

(h) Notwithstanding any other provision of law, the Board may authorize a merger or consolidation of an insured credit union which is insolvent or is in danger of insolvency with any other insured credit union or may authorize an insured credit union to purchase any of the assets of, or assume any of the liabilities of, any other insured credit union which is insolvent or in danger of insolvency if the Board is satisfied that—

- (1) an emergency requiring expeditious action exists with respect to such other insured credit union;
- (2) other alternatives are not reasonably available; and
- (3) the public interest would best be served by approval of such merger, consolidation, purchase, or assumption.

(i)(1) Notwithstanding any other provision of this Act or of State law, the Board may authorize an institution whose deposits or accounts are insured by the Federal Deposit Insurance Corporation to purchase any of the assets of or assume any of the liabilities of an insured credit union which is insolvent or in danger of insolvency, except that prior to exercising this authority the Board must attempt to effect the merger or consolidation of an insured credit union which is insolvent or in danger of insolvency with another insured credit union, as provided in subsection (h).

(2) For purposes of the authority contained in paragraph (1), insured accounts of the credit union may upon consummation of the purchase and assumption be converted to insured deposits or other comparable accounts in the acquiring institution, and the Board

and the National Credit Union Share Insurance Fund shall be absolved of any liability to the credit union's members with respect to those accounts.

(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.—

(1) IN GENERAL.—The submission by any person of any information to *the Bureau of Consumer Financial Protection*, the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

(2) RULE OF CONSTRUCTION.—No provision of paragraph (1) may be construed as implying or establishing that—

(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

(B) any person would waive any privilege applicable to any information by submitting the information to *the Bureau of Consumer Financial Protection*, the Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.

* * * * *

MINORITY VIEWS

This bill would impose certain timelines for examiners from the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), National Credit Union Administration (NCUA), and Consumer Financial Protection Bureau (CFPB) to share exam reports, as well as all supporting documentation, with a financial institution they supervise following an exam. This bill would also establish an Office of Independent Examination Review (OIER) within the Federal Financial Institutions Examination Council (FFIEC) to review appeals of material supervisory determinations (MSD) issued by these Federal agencies for financial institutions they supervise, including the largest banks and large nonbank financial companies (e.g. big tech payment providers, nonbank mortgage companies, credit bureaus, etc.), which would further be subject to judicial review.

The Fed, FDIC, OCC, NCUA, and CFPB would be required to defer to OIER rulings even though this office has no mandate to ensure the safety and soundness of depository institutions, consumer protection, or financial stability. Moreover, the bill would allow not just small community banks and credit unions, but also the largest banks and other financial institutions, to challenge any MSD a regulator may give, which could interfere with ensuring the institution promptly addresses compliance problems that could become bigger safety and soundness or consumer protection problems if not promptly addressed.

For example, consider the multiple supervisory warnings Silicon Valley Bank received in the lead up to their failure in 2023. GAO and other experts said the problem was not due process, but rather, that supervisory concerns were not elevated quickly enough to ensure they were addressed.¹ The Committee found similar dynamics at Wells Fargo, as the bank received various citations that snowballed into significant and repeated consumer harm.² Accordingly, this bill would weaken the supervisory framework and undermine consumer protection as well as the safety and soundness of depository institutions.

Consumer groups including Americans for Financial Reform (AFR) and Public Citizen oppose the bill. In a statement opposing a similar measure in 2018, AFR explained: “This new appeals process is an addition to formal appeals processes and ombudsmen already present at the banking agencies. The agencies affected by this legislation—including the CFPB, FDIC, OCC, Federal Reserve, and National Credit Union Administration—each already have an

¹Id. Also see GAO, *Bank Supervision: More Timely Escalation of Supervisory Action Needed* (Mar. 6, 2024).

²FSC, *Waters Releases Staff Report on Pattern of Consumer Abuse from Wells Fargo* (Sep. 29, 2017); and FSC, *In Advance of Wells Fargo Hearings, Waters and Green Release Investigative Report Exposing Failures of Megabank’s Management, Board, and Regulators* (Mar. 4, 2020).

agency ombudsman and an intra-agency formal review and appeals process. In addition, banks are already free to bring a court challenge to any formal regulatory enforcement action. By layering an entirely new appeals process on top of existing processes, this bill would greatly increase the ability of banks to resist supervisory oversight and ignore or delay changes called for by supervisors. The impact would be most pronounced at the largest banks, which can receive dozens or hundreds of material findings from every examination. The ability to appeal every one of those material supervisory findings, or just to threaten to appeal them, would create an enormous new barrier to effective supervision of big banks.”³ (*emphasis added*)

The Committee previously passed a bill last Congress, H.R. 8337 (118th), the “Bank Resilience and Regulatory Improvement Act,” that included similar provisions, by a 24–22 party-line vote.⁴ Before that, in 2018, the Committee considered another similar bill, H.R. 1515 (115th Cong.), which passed the House though did not advance further in the Senate.⁵

During the debate, several amendments were considered. Ranking Member Maxine Waters (D–CA) offered an amendment that would require Federal banking regulators to develop a strategic plan on how they will escalate supervisory matters to promptly address compliance deficiencies concerns. This would help ensure we don’t have a repeat of Silicon Valley Bank, when matters were not escalated fast enough. Ranking Member Waters offered another amendment, in light of DOGE recently visiting FDIC and the Federal Reserve Bank of Kansas City, to prohibit DOGE employees from accessing confidential bank held by Federal regulators, including bank exam files. These amendments were rejected by Republicans.

Rep. David Scott (D–GA) offered an amendment that attempts to ensure that there is consumer protection expertise on the appeals oversight board to review appeals that banks may have on supervisory outcomes. This amendment would also prevent more than two members of the board from being part of the same political party. These changes, which were adopted by the Committee, make some modest improvements to the underlying bill, though as Ranking Member Waters discussed, there would need to be further modifications to ensure they cannot be gamed, as President Trump is doing now, for example by firing individuals from a different political party serving on a bipartisan Federal board. Moreover, these changes do not fix many of the underlying concerns that the bill will have to make it harder to hold the biggest banks accountable for their actions and delay remediation for harmed consumers.

For these reasons, we oppose H.R. 940.

Sincerely,

MAXINE WATERS,
Ranking Member.
 NYDIA M. VELÁZQUEZ,

³ AFR, *Statement on H.R. 4545, the “Financial Institutions Examination Fairness and Reform Act,”* (Mar. 12, 2018).

⁴ FSC, *Markup of H.R. 758, H.R. 3161, H.R. 8337, H.R. 8338, H.R. 8339, H.R. 4551, H.J. Res. 100, H.R. 8302, H.R. 3507, H.R. 7480, H.R. 8340* (May 16, 2024).

⁵ H.R. 4545 (115th Cong.), the “Financial Institutions Examination Fairness and Reform Act” (Tipton).

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