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117TH CONGRESS
1ST SESSION

H. R. 3571

To require the Board of Governors of the Federal Reserve System, in consultation with the heads of other relevant Federal agencies, to develop and conduct financial risk analyses relating to climate change, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2021

Mr. CASTEN (for himself, Mr. PETERS, Mr. LEVIN of California, Mr. QUIGLEY, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To require the Board of Governors of the Federal Reserve System, in consultation with the heads of other relevant Federal agencies, to develop and conduct financial risk analyses relating to climate change, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Climate Change Financial Risk Act of 2021''.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) if current trends continue, average global temperatures are likely to reach 1.5 degrees Celsius above pre-industrial levels between 2030 and 2050;

(2) global temperature rise has already resulted in an increased number of heavy rainstorms, coastal flooding events, heat waves, wildfires, and other extreme events;

(3) since 1980—

(A) the number of extreme weather events per year that cost the people of the United States more than $1,000,000,000 per event, accounting for inflation, has increased significantly; and

(B) the total cost of extreme weather events in the United States has exceeded $1,875,000,000,000;

(4) as physical impacts from climate change are manifested across multiple sectors of the economy of the United States—

(A) climate-related economic risks will continue to increase;

(B) climate-related extreme weather events will disrupt energy and transportation systems in the United States, which will result in more frequent and longer-lasting power outages, fuel shortages, and service disruptions in critical sectors across the economy of the United States;

(C) projected increases in extreme heat conditions will lead to decreases in labor productivity in agriculture, construction, and other critical economic sectors;

(D) food and livestock production will be impacted in regions that experience increases in heat and drought and small rural communities will struggle to find the resources needed to adapt to those changes; and

(E) sea level rise and more frequent and intense extreme weather events will—

(i) increasingly disrupt and damage private property and critical infrastructure; and

(ii) drastically increase insured and uninsured losses;

(5) advances in energy efficiency and renewable energy technologies, as well as climate policies and shifting societal preferences, will—

(A) reduce global demand for fossil fuels; and

(B) expose transition risks for fossil fuel companies and investors, and for companies and investors in other energy-intensive industries, which could include trillions of dollars of stranded assets around the world;

(6) climate change poses uniquely far-reaching risks to the financial services industry, including with respect to credit, counterparty, and market risks, due to the number of sectors and locations impacted and the potentially irreversible scale of damage;

(7) financial institutions must take a consistent approach to assessing climate-related financial risks and incorporating those risks into existing risk management practices, which should be informed by scenario analysis;

(8) the Board of Governors conducts annual assessments of the capital adequacy and capital planning practices of the largest and most complex banking organizations (referred to in this section as "stress tests") in order to promote a safe, sound, and efficient banking and financial system;

(9) as of the date of enactment of this Act, the stress tests conducted by the Board of Governors are

not designed to reflect the physical risks or transition risks posed by climate change;

(10) the Board of Governors—

(A) has the authority to take into account the potentially systemic impact of climate-related risks on the financial system; and

(B) should develop new analytical tools with longer time horizons to accurately assess and manage the risks described in subparagraph (A); and

(11) the Climate-Related Market Risk Subcommittee of the Commodity Futures Trading Commission has identified the importance of researching ''climate-related 'sub-systemic' shocks to financial markets and institutions in particular sectors and regions of the United States''.

SEC. 3. DEFINITIONS.

In this Act:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the meaning given the term in section 102(a) of the Financial Stability Act of 2010 (12 U.S.C. 5311(a)).

(2) BOARD OF GOVERNORS.—The term ''Board of Governors'' means the Board of Governors of the Federal Reserve System.

(3) CLIMATE SCIENCE LEADS.—The term ''climate science leads'' means—

(A) the Administrator of the National Oceanic and Atmospheric Administration;

(B) the Administrator of the Environmental Protection Agency;

(C) the Secretary of Energy;

(D) the Administrator of the National Aeronautics and Space Administration;

(E) the Director of the United States Geological Survey;

(F) the Secretary of the Interior; and

(G) the head of any other Federal agency that the Board of Governors determines to be appropriate.

(4) COVERED ENTITY.—The term ''covered entity'' means—

(A) a nonbank financial company or bank holding company that has not less than $250,000,000,000 in total consolidated assets; and

(B) a nonbank financial company or bank holding company—

(i) that has not less than \$100,000,000,000 in total consolidated assets; and

(ii) with respect to which the Board of Governors determines the application of subparagraph (C) of section 165(i)(1) of the Financial Stability Act of 2010 (12 U.S.C. 5365(i)(1)), as added by section 6 of this Act, is appropriate—

(I) to—

(aa) prevent or mitigate risks to the financial stability of the United States; or

(bb) promote the safety and soundness of the company; and

(II) after taking into consideration—

(aa) the capital structure, riskiness, complexity, financial activities, and size of the company, including the financial activities of any subsidiary of the company; and

(bb) any other risk-related factor that the Board of Governors determines to be appropriate.

(5) NONBANK FINANCIAL COMPANY.—The term ''nonbank financial company'' has the meaning given the term in section 102(a)(4)(C) of the Financial Stability Act of 2010 (12 U.S.C. 5311(a)(4)(C)).

(6) PHYSICAL RISKS.—The term ''physical risks'' means financial risks to assets, locations, operations, or value chains that result from exposure to physical climate-related effects, including—

(A) increased average global temperatures;

(B) increased severity and frequency of extreme weather events;

(C) increased flooding;

(D) sea level rise;

(E) ocean acidification;

(F) increased severity and frequency of heat waves;

(G) increased frequency of wildfires;

(H) decreased arability of farmland; and

(I) decreased availability of fresh water.

(7) SURVEYED ENTITY.—The term ''surveyed entity'' means a nonbank financial company supervised by the Board of Governors, or a bank holding company, that—

(A) has total consolidated assets of not less than $10,000,000,000; and

(B) is not a covered entity.

(8) TECHNICAL DEVELOPMENT GROUP.—The term ''Technical Development Group'' means the Climate Risk Scenario Technical Development Group established under section 4.

(9) TRANSITION RISKS.—The term ''transition risks'' means financial risks that are attributable to climate change mitigation and adaptation, including efforts to reduce greenhouse gas emissions and strengthen resilience to the impacts of climate change, including—

(A) costs relating to—

(i) international treaties and agreements;

(ii) Federal, State, and local policies;

(iii) new technologies;

(iv) changing markets;

(v) reputational impacts relevant to changing consumer behavior; and

(vi) litigation; and

(B) a loss in the value, or the stranding, of assets due to any of the costs described in clauses (i) through (vi) of subparagraph (A).

(10) VALUE CHAIN.—The term "value chain"—

(A) means the total lifecycle of a product or service, both before and after production of the product or service, as applicable; and

(B) may include the sourcing of materials, production, and disposal with respect to the product or service described in subparagraph (A).

SEC. 4. CLIMATE RISK SCENARIO TECHNICAL DEVELOPMENT GROUP.

(a) ESTABLISHMENT.—The Board of Governors shall establish a technical advisory group to be known as the Climate Risk Scenario Technical Development Group.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Technical Development Group shall be composed of 10 members—

(A) 5 of whom shall be climate scientists; and

(B) 5 of whom shall be economists, with expertise in either the United States financial system or the risks posed by climate change.

(2) SELECTION.—The Board of Governors shall select the members of the Technical Development Group after consultation with the climate science leads.

(c) DUTIES.—The Technical Development Group shall—

(1) provide recommendations to the Board of Governors regarding the development of, and updates to, the climate change risk scenarios under section 5;

(2) after the establishment of the climate change risk scenarios under section 5, determine the financial and economic risks resulting from those scenarios;

(3) make any final work product and any data sets or other inputs used in the development of the final work product, publicly available; and

(4) provide technical assistance to covered entities in assessing physical risks or transition risks.

(d) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Technical Development Group.

SEC. 5. DEVELOPMENT AND UPDATING OF CLIMATE CHANGE RISK SCENARIOS.

(a) IN GENERAL.—

(1) INITIAL DEVELOPMENT.—Not later than 1 year after the date of enactment of this Act, the Board of Governors, in coordination with the climate

science leads, and taking into consideration the recommendations of the Technical Development Group, shall develop 3 separate climate change risk scenarios as follows:

(A) One scenario that assumes an average increase in global temperatures of 1.5 degrees Celsius above pre-industrial levels.

(B) One scenario that assumes an average increase in global temperatures of 2 degrees Celsius above pre-industrial levels.

(C) One scenario that—

(i) assumes the likely and very likely average increase in global temperatures that can be expected, taking into consideration the extent to which national policies and actions relating to climate change have been implemented, as of the date on which the scenario is developed, or on which the scenario is updated under paragraph (2), as applicable; and

(ii) does not take into consideration commitments for policies and actions relating to climate change that, as of the applicable date described in clause (i), have not been implemented.

(2) UPDATES.—After the initial development of the climate change risk scenarios under paragraph (1), the Board of Governors, in coordination with the climate science leads, and taking into consideration the recommendations of the Technical Development Group, shall update those scenarios once every 3 years.

(3) INTERNATIONAL COORDINATION.—In developing and updating the 3 scenarios required under this subsection, the Board of Governors shall take into consideration analytic tools and best practices developed by international banking supervisors relating to climate risks and scenario analysis in an effort to develop consistent and comparable data-driven scenarios.

(4) RECOMMENDATIONS.—If the Technical Development Group determines that the average increase in global temperatures described in subparagraph (A) or (B) of paragraph (1) is no longer scientifically valid, the Technical Development Group may recommend that the Board of Governors, in coordination with the climate science leads, update the average increase in global temperatures described in the applicable subparagraph to reflect the most current assessment of climate change science.

(b) CONSIDERATIONS.—In developing and updating each of the 3 scenarios required under subsection (a), the Board of Governors, in coordination with the climate science leads, shall account for physical risks and transition risks that may disrupt business operations across the global economy, including through—

(1) disruptions with respect to—

(A) the sourcing of materials;

(B) production; and

(C) the disposal of products and services;

(2) changes in the availability and prices of raw materials and other inputs;

(3) changes in agricultural production and with respect to food security;

(4) direct damages to fixed assets;

(5) increases in costs associated with insured or uninsured losses;

(6) changes in asset values;

(7) impacts on—

(A) aggregate demand for products and services;

(B) labor productivity;

(C) asset liquidity; and

(D) credit availability;

(8) mass migration and increases in disease and mortality rates;

(9) international conflict, as such conflict relates to global economic activity and output; and

(10) changes in any other microeconomic or macroeconomic condition that the Board of Governors, in coordination with the climate science leads, determines to be relevant.

SEC. 6. CLIMATE-RELATED ENHANCED SUPERVISION FOR CERTAIN NONBANK FINANCIAL COMPANIES AND BANK HOLDING COMPANIES.

Section 165(i)(1) of the Financial Stability Act of 2010 (12 U.S.C. 5365(i)(1)) is amended—

(1) in subparagraph (B)(i), by inserting ''except as provided in subparagraph (C)(ii)(I),'' before ''shall provide''; and

(2) by adding at the end the following:

''(C) BIENNIAL TESTS REQUIRED.—

''(i) DEFINITIONS.—In this subparagraph—

''(I) the term 'capital distribution' has the meaning given the term in section 225.8(d)(4) of title 12, Code of Federal Regulations, as in effect on the date of enactment of this subparagraph;

"(II) the term 'capital policy' has the meaning given the term in section 225.8(d)(7) of title 12, Code of Federal Regulations, as in effect on the date of enactment of this subparagraph; and

"(III) the terms 'climate science leads' and 'covered entity' have the meanings given those terms in section 3 of the Climate Change Financial Risk Act of 2021.

"(ii) TESTS.—

"(I) IN GENERAL.—Subject to the other requirements of this clause, the Board of Governors, in coordination with the appropriate primary financial regulatory agencies and the climate science leads, shall conduct biennial analyses in which each covered entity is subject to evaluation, under an adverse set of conditions, of whether that covered entity has the capital, on a total consolidated basis, necessary to absorb financial losses that would arise under each climate change risk scenario developed under section 5 of the Climate Change Financial Risk Act of 2021.

"(II) INITIAL TESTS.—With respect to each of the first 3 analyses conducted under subclause (I)—

"(aa) the covered entity to which such an analysis applies shall not be subject to any adverse consequences as a result of the analysis; and

"(bb) the Board of Governors shall—

"(AA) not later than 60 days after the date on which the Board of Governors completes each such analysis, make a summary of the analysis publicly available; and

"(BB) submit a copy of the results of the analysis to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

"(III) CLIMATE RISK REMEDIATION PLAN.—

"(aa) IN GENERAL.—Except with respect to the first analysis conducted under subclause (I), each covered entity shall, before being subject to an analysis under that subclause, submit to the Board of Governors a remediation plan with respect to climate risk planning (referred to in this subclause as a 'climate risk remediation plan'), which shall be based on the results of the most recently conducted analysis of the covered entity under that subclause.

"(bb) CONTENTS.—Each climate risk remediation plan required under item (aa) shall include—

"(AA) a capital policy with respect to climate risk planning; and

"(BB) qualitative and quantitative targets for balance sheet and off-balance sheet exposures, and other business operations, that remedy vulnerabilities identified in the most recently conducted analysis of the applicable covered entity under subclause (I).

"(cc) REJECTION.—Except as provided in subclause (II)(aa), the Board of Governors may object to a climate risk remediation plan submitted by a covered entity under item (aa) if the Board of Governors determines that—

"(AA) the covered entity has not demonstrated a reasonable plan to maintain capital above each minimum regulatory capital ratio on a pro forma basis under the adverse set of conditions described in subclause (I);

"(BB) the climate risk remediation plan is otherwise not reasonable or appropriate;

"(CC) the assumptions and analysis underlying the climate risk remediation plan, or the methodologies and practices that support the climate risk remediation plan, are not reasonable or appropriate; or

"(DD) the climate risk remediation plan otherwise constitutes an unsafe or unsound practice.

"(dd) GENERAL DISTRIBUTION LIMITATION.—If the Board of Governors, under item (cc), objects to a climate risk remediation plan submitted by a covered entity under item (aa), the covered entity may not make any capital distribution, other than a capital distribution arising from the issuance of a regulatory capital instrument eligible for inclusion in the numerator of a minimum regulatory capital ratio.''.

SEC. 7. SUB-SYSTEMIC EXPLORATORY SURVEY.

(a) DEVELOPMENT OF SURVEY.—The Board of Governors, in consultation with the Comptroller of the Currency and the Board of Directors of the Federal Deposit Insurance Corporation, shall develop an exploratory survey to assess—

(1) the ability of surveyed entities, including agricultural banks, community banks, and other financial institutions with a significant concentration of business activities in certain geographical areas or industries, to withstand each climate risk scenario developed under section 5; and

(2) how surveyed entities plan to make adaptations to the business models and capital planning of those entities in response to the risks presented in

each climate change risk scenario developed under section 5.

(b) ADMINISTRATION OF SURVEY.—

(1) INITIAL ADMINISTRATION.—

(A) IN GENERAL.—Not later than 1 year after the completion of the first analysis under subparagraph (C) of section 165(i)(1) of the Financial Stability Act of 2010 (12 U.S.C. 5365(i)(1)), as added by section 6 of this Act, the Board of Governors shall administer the survey developed under subsection (a) to each surveyed entity.

(B) ASSESSMENT AND REPORT.—Not later than 18 months after the date on which the Board of Governors completes the administration of the survey under subparagraph (A), the Board of Governors shall—

(i) assess the responses to the survey; and

(ii) publicly release a report that summarizes the results of the survey, which shall include the analysis of the Board of Governors regarding whether the planned actions of the surveyed entities to which the survey was administered, in the aggregate—

(I) are plausible; and

(II) would be effective.

(2) SUBSEQUENT ADMINISTRATION.—

(A) IN GENERAL.—After the release of the report required under paragraph (1)(B)(ii), the Board of Governors shall, on a biennial basis, administer to each surveyed entity the survey developed under subsection (a).

(B) SUBSEQUENT REPORT.—Not later than 180 days after the date on which each survey administered under subparagraph (A) is completed, the Board of Governors shall publicly release a report that summarizes the results of the survey, which shall include the analysis described in paragraph (1)(B)(ii).

(c) EFFECT OF SURVEY PARTICIPATION.—

(1) IN GENERAL.—With respect to a surveyed entity to which any survey under this section is administered—

(A) subject to paragraph (2), the entity shall not be subject to any adverse consequence on the basis of a response provided by the entity to the survey; and

(B) in any report released with respect to the survey, the Board of Governors may not identify any individual response submitted by the entity to the survey.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1)(A) may be construed to preclude the Board of Governors from pursuing an enforcement action against a surveyed entity because of a violation discovered by the Board of Governors during an examination of the surveyed entity that is independent of a survey administered under this section.

SEC. 8. FINANCIAL STABILITY OVERSIGHT COUNCIL.

(a) IN GENERAL.—The Financial Stability Oversight Council shall establish a committee of the Council that shall support the Council in identifying risks to, and in responding to emerging threats to, the stability of the United States financial system as a result of climate change.

(b) RESPONSIBILITIES.—

(1) COMMITTEE.—The committee established under subsection (a) shall, not later than 1 year after the completion of the first analysis required under subparagraph (C) of section 165(i)(1) of the Financial Stability Act of 2010 (12 U.S.C. 5365(i)(1)), as added by section 6 of this Act, and

in consultation with the Office of Financial Research, submit to Congress an assessment of the risk posed by climate change to the efficiency, competitiveness, and stability of the United States financial system as a whole.

(2) COUNCIL.—For each year after the year in which the assessment required under paragraph (1) is submitted, the Financial Stability Oversight Council shall include in the annual report required under section 112(a)(2)(N) of the Financial Stability Act of 2010 (12 U.S.C. 5322(a)(2)(N)) an update to that assessment.

(c) COMPOSITION.—The committee established under subsection (a) shall be composed of—

(1) the Chairman of the Board of Governors;

(2) the Secretary of the Treasury;

(3) the Comptroller of the Currency;

(4) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(5) the Chairman of the Securities and Exchange Commission;

(6) the Chairperson of the Commodity Futures Trading Commission; and

(7) any other voting or nonvoting members that the Financial Stability Oversight Council determines to be appropriate.

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