II

Calendar No. 32

119TH CONGRESS
1ST SESSION

S. 875

To curtail the political weaponization of Federal banking agencies by eliminating reputational risk as a component of the supervision of depository institutions.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2025

Mr. SCOTT of South Carolina (for himself, Mr. CRAPO, Mr. ROUNDS, Mr. TILLIS, Mr. KENNEDY, Mr. HAGERTY, Ms. LUMMIS, Mrs. BRITT, Mr. RICKETTS, Mr. CRAMER, Mr. MORENO, Mr. MCCORMICK, and Mr. BANKS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

MARCH 18, 2025

Reported under authority of the order of the Senate of March 14, 2025, by Mr. SCOTT of South Carolina, with an amendment

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

A BILL

To curtail the political weaponization of Federal banking agencies by eliminating reputational risk as a component of the supervision of depository institutions.

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 "Financial Integrity and Regulation Management Act" or the "FIRM Act".~~

~~**SEC. 2. FINDINGS; PURPOSES.**~~

~~(a) FINDINGS.—Congress finds that—~~

~~(1) the primary objective of financial regulation and supervision by the Federal banking agencies is to promote safety and soundness of depository institutions;~~

~~(2) all federally legal businesses and law-abiding citizens regardless of political ideology should have equal opportunity to obtain financial services and should not face unlawful discrimination in obtaining such services;~~

~~(3) financial service providers are private entities entitled to provide services to whichever customers they so choose, provided that those decisions do not violate the law;~~

~~(4) financial service providers should strive to ensure that all business decisions are based on factors free from unlawful prejudice or political influence;~~

~~(5) the use of reputational risk in supervisory frameworks encourages Federal banking agencies to regulate depository institutions based on the subjective view of negative publicity and provides cover for~~

~~the agencies to implement their own political agenda unrelated to the safety and soundness of a depository institution;~~

~~(6) Federal banking agencies have in fact used reputational risk to limit access of federally legal businesses and law-abiding citizens to financial services in 2018 when the Federal Deposit Insurance Corporation acknowledged that the agency used reputational risk reviews to limit access to financial services by certain industries, commonly known as "Operation Choke Point";~~

~~(7) reputational risk does not appear in any statute and is an unnecessary and improper use of supervisory authority that does not contribute to the safety and soundness of the financial system.~~

~~SEC. 3. DEFINITIONS.~~

~~In this Act:~~

~~(1) DEPOSITORY INSTITUTION.—The term "depository institution"—~~

~~(A) has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and~~

~~(B) includes an insured credit union.~~

~~(2) FEDERAL BANKING AGENCY.—The term "Federal banking agency"—~~

~~(A) has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and~~

~~(B) includes—~~

~~(i) the National Credit Union Administration; and~~

~~(ii) the Bureau of Consumer Financial Protection.~~

~~(3) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given the term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).~~

~~(4) REPUTATIONAL RISK.—The term "reputational risk" means the potential that negative publicity or negative public opinion regarding an institution's business practices, whether true or not, will cause a decline in confidence in the institution or a decline in the customer base, costly litigation, or revenue reductions or otherwise adversely impact the depository institution.~~

~~SEC. 4. REMOVAL OF REPUTATIONAL RISK AS A CONSIDERATION IN THE SUPERVISION OF DEPOSITORY INSTITUTIONS.~~

~~Each Federal banking agency shall remove from any guidance, rule, examination manual, or similar document~~

~~established by the agency any reference to reputational risk, or any term substantially similar, regarding the supervision of depository institutions such that reputational risk, or any term substantially similar, is no longer taken into consideration by the Federal banking agency when examining and supervising a depository institution.~~

~~SEC. 5. PROHIBITION.~~

~~No Federal banking agency may engage in any activity concerning or related to the regulation, supervision, or examination, of the reputational risk, or any term substantially similar, or the management thereof, of a depository institution, including—~~

~~(1) establishing any rule, regulation, requirement, standard, or supervisory expectation concerning or related to the reputational risk, or any term substantially similar, or the management thereof, of a depository institution whether binding or not;~~

~~(2) conducting any examination, assessment, data collection, or other supervisory exercise concerning or related to reputational risk, or any term substantially similar, or the management thereof, of a depository institution;~~

~~(3) issuing any examination finding, supervisory criticism, or other supervisory or examination com-~~

~~munication concerning or related to reputational risk, or any term substantially similar, or the management thereof, of a depository institution;~~

~~(4) making any supervisory ratings decision or determination that is based, in whole or in part, on any matter concerning or related to reputational risk, or any term substantially similar, or the management thereof, of a depository institution; and~~

~~(5) taking any formal or informal enforcement action that is based, in whole or in part, on any matter concerning or related to reputational risk, or any term substantially similar, or the management thereof, of a depository institution.~~

~~SEC. 6. REPORTS.~~

~~Not later than 180 days after the date of enactment of this Act, each Federal banking agency shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—~~

~~(1) confirms implementation of this Act; and~~

~~(2) describes any changes made to internal policies as a result of this Act.~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Integrity and Regulation Management Act" or the "FIRM Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the primary objective of financial regulation and supervision by the Federal banking agencies is to promote the safety and soundness of depository institutions;

(2) all federally legal businesses and law-abiding citizens regardless of political ideology should have equal opportunity to obtain financial services and should not face unlawful discrimination in obtaining such services;

(3) financial service providers are private entities entitled to provide services to whichever customers they so choose, provided that those decisions do not violate the law;

(4) financial service providers should strive to ensure that all business decisions are based on factors free from unlawful prejudice or political influence;

(5) the use of reputational risk in supervisory frameworks encourages Federal banking agencies to regulate depository institutions based on the subjective view of negative publicity and provides cover for the agencies to implement their own political agenda unrelated to the safety and soundness of a depository institution;

(6) Federal banking agencies have in fact used reputational risk to limit access of federally legal businesses and law-abiding citizens to financial services in 2018 when the Federal Deposit Insurance Corporation acknowledged that the agency used reputational risk reviews to limit access to financial services by certain industries, commonly known as "Operation Choke Point"; and

(7) reputational risk does not appear in any statute and is an unnecessary and improper use of supervisory authority that does not contribute to the safety and soundness of the financial system.

SEC. 3. DEFINITIONS.

In this Act:

(1) DEPOSITORY INSTITUTION.—The term "depository institution"—

(A) has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(B) includes an insured credit union.

(2) FEDERAL BANKING AGENCY.—The term "Federal banking agency"—

(A) has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(B) includes—

(i) the National Credit Union Administration; and

(ii) the Bureau of Consumer Financial Protection.

(3) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given the term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(4) REPUTATIONAL RISK.—The term "reputational risk" means the potential that negative publicity or negative public opinion regarding an institution's business practices, whether true or not, will cause a decline in confidence in the institution or a decline in the customer base, costly litigation, or revenue reductions or otherwise adversely impact the depository institution.

SEC. 4. REMOVAL OF REPUTATIONAL RISK AS A CONSIDERATION IN THE SUPERVISION OF DEPOSITORY INSTITUTIONS.

Each Federal banking agency shall remove from any guidance, rule, examination manual, or similar document established by the agency any reference to reputational risk, or any term substantially similar, regarding the supervision of depository institutions such that reputational risk, *or any term substantially similar, is no longer taken into consideration by the Federal banking agency when examining and supervising a depository institution.*

SEC. 5. PROHIBITION.

No Federal banking agency may engage in any activity concerning or related to the regulation, supervision, or examination, of the reputational risk, or any term substantially similar, or the management thereof, of a depository institution, including by—

(1) establishing any rule, regulation, requirement, standard, or supervisory expectation concerning or related to the reputational risk, or any term substantially similar, or the management thereof, of a depository institution whether binding or not;

(2) conducting any examination, assessment, data collection, or other supervisory exercise concerning or related to reputational risk, or any term substantially similar, or the management thereof, of a depository institution;

(3) issuing any examination finding, supervisory criticism, or other supervisory or examination communication concerning or related to reputational risk, or any term substantially similar, or the management thereof, of a depository institution;

(4) making any supervisory ratings decision or determination that is based, in whole or in part, on any matter concerning or related to reputational risk, or any term substantially similar, or the management thereof, of a depository institution; and

(5) taking any formal or informal enforcement action that is based, in whole or in part, on any matter concerning or related to reputational risk, or any term substantially similar, or the management thereof, of a depository institution.

SEC. 6. TAKING ACCOUNT OF INSTITUTIONS WITH LOW OPERATIONAL RISK.

(a) TAILORING REGULATION TO BUSINESS MODEL AND RISK.—

(1) DEFINITIONS.—In this subsection—

(A) the term "Federal financial institutions regulatory agency" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Bureau of Consumer Financial Protection; and

(B) the term "regulatory action"—

(i) means any proposed, interim, or final rule or regulation; and

(ii) does not include any action taken by a Federal financial institutions regulatory agency that is solely applicable to an individual institution, including an enforcement action or order.

(2) CONSIDERATION AND TAILORING.—For any regulatory action occurring after the date of enactment of this Act, each Federal financial institutions regulatory agency shall—

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

(B) tailor the regulatory action applicable to an institution, or type of institution, in a manner that limits the regulatory impact, including cost, human resource allocation, and other burdens, on the institution or type of institution as is appropriate for the risk profile and business model involved.

(3) FACTORS TO CONSIDER.—In carrying out the requirements of paragraph (2), each Federal financial institutions regulatory agency shall consider—

(A) the aggregate impact of all applicable regulatory actions on the ability of institutions

to flexibly serve their customers and local markets after the date of enactment of this Act;

(B) the potential impact that efforts to implement the applicable regulatory action and third-party service provider actions may work to undercut efforts to tailor the regulatory action described in paragraph (2)(B); and

(C) the statutory provision authorizing the applicable regulatory action, the congressional intent with respect to the statutory provision, and the underlying policy objectives of the regulatory action.

(4) NOTICE OF PROPOSED AND FINAL RULEMAKING.—Each Federal financial institutions regulatory agency shall disclose and document in every notice of proposed rulemaking and in every final rulemaking for a regulatory action how the agency has applied paragraphs (2) and (3).

(5) LIMITED LOOK-BACK APPLICATION.—

(A) IN GENERAL.—Each Federal financial institutions regulatory agency shall—

(i) conduct a review of all regulations issued in final form pursuant to statutes enacted during the period beginning on the date that is 7 years before the date on which

this Act is introduced in the Senate and ending on the date of enactment of this Act; and

(ii) apply the requirements of this subsection to the regulations described in clause (i).

(B) REVISION.—Any regulation revised under subparagraph (A) shall be revised not later than 3 years after the date of enactment of this Act.

(6) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, each Federal financial institutions regulatory agency shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the specific actions taken to tailor the regulatory actions of the Federal financial institutions regulatory agency pursuant to the requirements of this subsection.

(b) SHORT-FORM CALL REPORTS FOR ALL BANKS ELIGIBLE FOR THE COMMUNITY BANK LEVERAGE RATIO.—The appropriate Federal banking agencies, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall promulgate regulations establishing a reduced report-

ing requirement for all banks eligible for the Community Bank Leverage Ratio, as defined in section 201(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (12 U.S.C. 5371 note), when making the first and third report of condition of a year, as required by section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)).

(c) REPORT TO CONGRESS ON MODERNIZATION OF SUPERVISION.—Not later than 18 months after the date of enactment of this Act, the appropriate Federal banking agencies, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), in consultation with State bank supervisors, shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the modernization of bank supervision, including the following factors:

(1) Changing bank business models.

(2) Examiner workforce and training.

(3) The structure of supervisory activities within banking agencies.

(4) Improving bank-supervisor communication and collaboration.

(5) The use of supervisory technology.

(6) Supervisory factors uniquely applicable to community banks.

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

SEC. 7. REPORTS.

Not later than 180 days after the date of enactment of this Act, each Federal banking agency shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(1) confirms implementation of this Act; and

(2) describes any changes made to internal policies as a result of this Act.

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