

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 *italie*]

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Financial Integrity and
3 Regulation Management Act” or the “FIRM Act”.

4 **SEC. 2. FINDINGS; PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the primary objective of financial regulation
7 and supervision by the Federal banking agencies is
8 to promote safety and soundness of depository insti-
9 tutions;

10 (2) all federally legal businesses and law-abid-
11 ing citizens regardless of political ideology should
12 have equal opportunity to obtain financial services
13 and should not face unlawful discrimination in ob-
14 taining such services;

15 (3) financial service providers are private enti-
16 ties entitled to provide services to whichever cus-
17 tomers they so choose, provided that those decisions
18 do not violate the law;

19 (4) financial service providers should strive to
20 ensure that all business decisions are based on fac-
21 tors free from unlawful prejudice or political influ-
22 ence;

23 (5) the use of reputational risk in supervisory
24 frameworks encourages Federal banking agencies to
25 regulate depository institutions based on the subjec-
26 tive 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

1 established by the agency any reference to reputational
2 risk, or any term substantially similar, regarding the su-
3 pervision of depository institutions such that reputational
4 risk, or any term substantially similar, is no longer taken
5 into consideration by the Federal banking agency when
6 examining and supervising a depository institution.

7 **SEC. 5. PROHIBITION.**

8 No Federal banking agency may engage in any activ-
9 ity concerning or related to the regulation, supervision, or
10 examination, of the reputational risk, or any term sub-
11 stantially similar, or the management thereof, of a deposi-
12 tory institution, including—

13 (1) establishing any rule, regulation, require-
14 ment, standard, or supervisory expectation con-
15 cerning or related to the reputational risk, or any
16 term substantially similar, or the management there-
17 of, of a depository institution whether binding or
18 not;

19 (2) conducting any examination, assessment,
20 data collection, or other supervisory exercise con-
21 cerning or related to reputational risk, or any term
22 substantially similar, or the management thereof, of
23 a depository institution;

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

1 munication concerning or related to reputational
 2 risk, or any term substantially similar, or the man-
 3 agement thereof, of a depository institution;

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

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

14 **SEC. 6. REPORTS.**

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

20 (1) confirms implementation of this Act; and

21 (2) describes any changes made to internal poli-
 22 cies as a result of this Act.

23 **SECTION 1. SHORT TITLE.**

24 *This Act may be cited as the “Financial Integrity and*
 25 *Regulation Management Act” or the “FIRM Act”.*

1 **SEC. 2. FINDINGS.**

2 *Congress finds that—*

3 *(1) the primary objective of financial regulation*
4 *and supervision by the Federal banking agencies is to*
5 *promote the safety and soundness of depository insti-*
6 *tutions;*

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

12 *(3) financial service providers are private enti-*
13 *ties entitled to provide services to whichever customers*
14 *they so choose, provided that those decisions do not*
15 *violate the law;*

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

19 *(5) the use of reputational risk in supervisory*
20 *frameworks encourages Federal banking agencies to*
21 *regulate depository institutions based on the subjective*
22 *view of negative publicity and provides cover for the*
23 *agencies to implement their own political agenda un-*
24 *related to the safety and soundness of a depository in-*
25 *stitution;*

(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

1 (B) includes—

2 (i) the National Credit Union Admin-
3 istration; and

4 (ii) the Bureau of Consumer Financial
5 Protection.

6 (3) *INSURED CREDIT UNION.*—The term “insured
7 credit union” has the meaning given the term in sec-
8 tion 101 of the Federal Credit Union Act (12 U.S.C.
9 1752).

10 (4) *REPUTATIONAL RISK.*—The term
11 “reputational risk” means the potential that negative
12 publicity or negative public opinion regarding an in-
13 stitution’s business practices, whether true or not, will
14 cause a decline in confidence in the institution or a
15 decline in the customer base, costly litigation, or rev-
16 enue reductions or otherwise adversely impact the de-
17 pository institution.

18 **SEC. 4. REMOVAL OF REPUTATIONAL RISK AS A CONSIDER-**
19 **ATION IN THE SUPERVISION OF DEPOSITORY**
20 **INSTITUTIONS.**

21 Each Federal banking agency shall remove from any
22 guidance, rule, examination manual, or similar document
23 established by the agency any reference to reputational risk,
24 or any term substantially similar, regarding the super-
25 vision of depository institutions such that reputational risk,

1 *or any term substantially similar, is no longer taken into*
 2 *consideration by the Federal banking agency when exam-*
 3 *ining and supervising a depository institution.*

4 **SEC. 5. PROHIBITION.**

5 *No Federal banking agency may engage in any activ-*
 6 *ity concerning or related to the regulation, supervision, or*
 7 *examination, of the reputational risk, or any term substan-*
 8 *tially similar, or the management thereof, of a depository*
 9 *institution, including by—*

10 *(1) establishing any rule, regulation, require-*
 11 *ment, standard, or supervisory expectation concerning*
 12 *or related to the reputational risk, or any term substan-*
 13 *tially similar, or the management thereof, of a*
 14 *depository institution whether binding or not;*

15 *(2) conducting any examination, assessment,*
 16 *data collection, or other supervisory exercise con-*
 17 *cerning or related to reputational risk, or any term*
 18 *substantially similar, or the management thereof, of a*
 19 *depository institution;*

20 *(3) issuing any examination finding, super-*
 21 *visory criticism, or other supervisory or examination*
 22 *communication concerning or related to reputational*
 23 *risk, or any term substantially similar, or the man-*
 24 *agement thereof, of a depository institution;*

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

6 (5) *taking any formal or informal enforcement*
 7 *action that is based, in whole or in part, on any mat-*
 8 *ter concerning or related to reputational risk, or any*
 9 *term substantially similar, or the management there-*
 10 *of, of a depository institution.*

11 **SEC. 6. TAKING ACCOUNT OF INSTITUTIONS WITH LOW**
 12 **OPERATIONAL RISK.**

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

15 (1) *DEFINITIONS.—In this subsection—*

16 (A) *the term “Federal financial institutions*
 17 *regulatory agency” means the Office of the*
 18 *Comptroller of the Currency, the Board of Gov-*
 19 *ernors of the Federal Reserve System, the Federal*
 20 *Deposit Insurance Corporation, the National*
 21 *Credit Union Administration, and the Bureau of*
 22 *Consumer Financial Protection; and*

23 (B) *the term “regulatory action”—*

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

1 (ii) does not include any action taken
 2 by a Federal financial institutions regu-
 3 latory agency that is solely applicable to an
 4 individual institution, including an en-
 5 forcement action or order.

6 (2) *CONSIDERATION AND TAILORING.*—For any
 7 regulatory action occurring after the date of enact-
 8 ment of this Act, each Federal financial institutions
 9 regulatory agency shall—

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

14 (B) tailor the regulatory action applicable
 15 to an institution, or type of institution, in a
 16 manner that limits the regulatory impact, in-
 17 cluding cost, human resource allocation, and
 18 other burdens, on the institution or type of insti-
 19 tution as is appropriate for the risk profile and
 20 business model involved.

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

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

1 *to flexibly serve their customers and local mar-*
 2 *kets after the date of enactment of this Act;*

3 *(B) the potential impact that efforts to im-*
 4 *plement the applicable regulatory action and*
 5 *third-party service provider actions may work to*
 6 *undercut efforts to tailor the regulatory action*
 7 *described in paragraph (2)(B); and*

8 *(C) the statutory provision authorizing the*
 9 *applicable regulatory action, the congressional*
 10 *intent with respect to the statutory provision,*
 11 *and the underlying policy objectives of the regu-*
 12 *latory action.*

13 *(4) NOTICE OF PROPOSED AND FINAL RULE-*
 14 *MAKING.—Each Federal financial institutions regu-*
 15 *latory agency shall disclose and document in every*
 16 *notice of proposed rulemaking and in every final*
 17 *rulemaking for a regulatory action how the agency*
 18 *has applied paragraphs (2) and (3).*

19 *(5) LIMITED LOOK-BACK APPLICATION.—*

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

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

1 *this Act is introduced in the Senate and*
 2 *ending on the date of enactment of this Act;*
 3 *and*

4 *(ii) apply the requirements of this sub-*
 5 *section to the regulations described in clause*
 6 *(i).*

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

11 *(6) REPORTS TO CONGRESS.—Not later than 1*
 12 *year after the date of enactment of this Act, and an-*
 13 *nually thereafter, each Federal financial institutions*
 14 *regulatory agency shall submit to the Committee on*
 15 *Banking, Housing, and Urban Affairs of the Senate*
 16 *and the Committee on Financial Services of the*
 17 *House of Representatives a report on the specific ac-*
 18 *tions taken to tailor the regulatory actions of the Fed-*
 19 *eral financial institutions regulatory agency pursu-*
 20 *ant to the requirements of this subsection.*

21 *(b) SHORT-FORM CALL REPORTS FOR ALL BANKS ELI-*
 22 *GIBLE FOR THE COMMUNITY BANK LEVERAGE RATIO.—The*
 23 *appropriate Federal banking agencies, as defined in section*
 24 *3 of the Federal Deposit Insurance Act (12 U.S.C. 1813),*
 25 *shall promulgate regulations establishing a reduced report-*

1 *ing requirement for all banks eligible for the Community*
 2 *Bank Leverage Ratio, as defined in section 201(a) of the*
 3 *Economic Growth, Regulatory Relief, and Consumer Pro-*
 4 *tection Act (12 U.S.C. 5371 note), when making the first*
 5 *and third report of condition of a year, as required by sec-*
 6 *tion 7(a) of the Federal Deposit Insurance Act (12 U.S.C.*
 7 *1817(a)).*

8 *(c) REPORT TO CONGRESS ON MODERNIZATION OF SU-*
 9 *PERVISION.—Not later than 18 months after the date of en-*
 10 *actment of this Act, the appropriate Federal banking agen-*
 11 *cies, as defined in section 3 of the Federal Deposit Insur-*
 12 *ance Act (12 U.S.C. 1813), in consultation with State bank*
 13 *supervisors, shall submit to the Committee on Banking,*
 14 *Housing, and Urban Affairs of the Senate and the Com-*
 15 *mittee on Financial Services of the House of Representa-*
 16 *tives a report on the modernization of bank supervision,*
 17 *including the following factors:*

- 18 *(1) Changing bank business models.*
- 19 *(2) Examiner workforce and training.*
- 20 *(3) The structure of supervisory activities within*
 21 *banking agencies.*
- 22 *(4) Improving bank-supervisor communication*
 23 *and collaboration.*
- 24 *(5) The use of supervisory technology.*

1 (6) *Supervisory factors uniquely applicable to*
2 *community banks.*

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

5 **SEC. 7. REPORTS.**

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

11 (1) *confirms implementation of this Act; and*

12 (2) *describes any changes made to internal poli-*
13 *cies as a result of this Act.*

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