

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8337
OFFERED BY MR. BARR OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Bank Resilience and Regulatory Improvement Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—FINANCIAL INSTITUTION REGULATORY TAILORING
ENHANCEMENT

Sec. 101. Increased asset thresholds.

TITLE II—BANK FAILURE PREVENTION

Sec. 201. Complete record on an application.

TITLE III—STRESS TESTING ACCOUNTABILITY AND
TRANSPARENCY

Sec. 301. Rulemaking related to stress capital buffer requirements.

Sec. 302. Rulemaking relating to stress testing.

Sec. 303. GAO report.

TITLE IV—BANK SUPERVISION APPEALS IMPROVEMENT

Sec. 401. Timeliness of examinations and required permission, regulatory, and reporting guidance.

Sec. 402. Update of independent intra-agency appellate process for reviewing material supervisory determinations.

Sec. 403. Review of resolution actions resulting in a material loss.

TITLE V—REVIEW OF DISCOUNT WINDOW OPERATIONS

Sec. 501. Review of discount window operations.

TITLE VI—SMALL BANK HOLDING COMPANY RELIEF

Sec. 601. Changes required to the Small Bank Holding Company and Savings and Loan Holding Company Policy Statement.

1 **TITLE I—FINANCIAL INSTITU-**
2 **TION REGULATORY TAI-**
3 **LORING ENHANCEMENT**

4 **SEC. 101. INCREASED ASSET THRESHOLDS.**

5 (a) BUREAU SUPERVISION.—Section 1025(a) of the
6 Consumer Financial Protection Act of 2010 (12 U.S.C.
7 5515) is amended by striking “\$10,000,000,000” each
8 place it occurs and inserting “\$50,000,000,000”.

9 (b) DURBIN AMENDMENT REQUIREMENTS.—Section
10 921(a)(6) of the Electronic Fund Transfer Act (15 U.S.C.
11 1693o–2(a)(6)) is amended by striking
12 “\$10,000,000,000” and inserting “\$50,000,000,000”.

13 (c) VOLKER RULE REQUIREMENTS.—Section
14 13(h)(1)(B)(i) of the Bank Holding Company Act of 1956
15 (12 U.S.C. 1851(h)(1)(B)(i)) is amended by striking
16 “\$10,000,000,000” and inserting “\$50,000,000,000”.

17 (d) QUALIFIED MORTGAGE REQUIREMENTS.—Sec-
18 tion 129C(b)(F)(i) of the Truth in Lending Act (15
19 U.S.C. 1639c(b)(F)(i)) is amended by striking
20 “\$10,000,000,000” and inserting “\$50,000,000,000”.

21 (e) LEVERAGE AND RISK-BASED CAPITAL REQUIRE-
22 MENTS.—Section 201(a)(3)(A) of the Economic Growth,
23 Regulatory Relief, and Consumer Protection Act (12

1 U.S.C. 5371 note (a)(3)(A)) is amended by striking
2 “\$10,000,000,000” and inserting “\$50,000,000,000”.

3 **TITLE II—BANK FAILURE**
4 **PREVENTION**

5 **SEC. 201. COMPLETE RECORD ON AN APPLICATION.**

6 (a) BANK HOLDING COMPANIES.—Section 3(b)(1) of
7 the Bank Holding Company Act of 1956 (12 U.S.C.
8 1842(b)(1)) is amended—

9 (1) by striking “Upon receiving” and inserting
10 the following:

11 “(A) IN GENERAL.—Upon receiving”;

12 (2) by striking “required” and inserting “ac-
13 quired”;

14 (3) by striking “In the event of the failure of
15 the Board to act on any application for approval
16 under this section within the ninety-one-day period
17 which begins on the date of submission to the Board
18 of the complete record on that application, the appli-
19 cation shall be deemed to have been granted.”; and

20 (4) by adding at the end the following:

21 “(B) COMPLETE RECORD ON AN APPLICA-
22 TION.—

23 “(i) NOTICE TO APPLICANT.—Not later
24 than 30 days after the date on which the Board
25 receives an application for approval under this

1 section, the Board shall transmit to the appli-
2 cant a letter that either—

3 “(I) confirms the record on the appli-
4 cation is complete; or

5 “(II) details all additional information
6 that is required for the record on that ap-
7 plication to be complete.

8 “(ii) EXTENSION OF NOTICE.—Notwith-
9 standing clause (i), the Board may, if an appli-
10 cation is complex, extend the 30-day period de-
11 scribed under clause (i) for an additional 30
12 days.

13 “(iii) RECEIPT OF RESPONSE; DEEMING OF
14 COMPLETE RECORD.—Upon receipt of a re-
15 sponse from an applicant to a notice requesting
16 additional information described under clause
17 (i)(II), the record on the application shall be
18 deemed complete unless the Board—

19 “(I) determines that the applicant’s
20 response was materially deficient; and

21 “(II) not later than 30 days after the
22 date on which the Board received the re-
23 sponse, provides the applicant a detailed
24 notice describing the deficiencies.

1 “(iv) TREATMENT OF THIRD-PARTY INFOR-
2 MATION.—In determining whether the record on
3 an application is complete, the Board may take
4 into account only information provided by the
5 applicant, and may not base the determination
6 of completeness on any information (including
7 reports, views, or recommendations) provided by
8 third parties.

9 “(C) DEADLINE FOR DETERMINATION.—

10 “(i) IN GENERAL.—Notwithstanding sub-
11 paragraphs (A) and (B), the Board shall grant
12 or deny an application submitted under this
13 section not later than 90 days after the date on
14 which the application was initially submitted to
15 the Board, regardless of whether the record on
16 such initial application was complete.

17 “(ii) FAILURE TO MAKE A DETERMINA-
18 TION.—If the Board does not grant or deny an
19 application within the time period described
20 under clause (i), such application shall be
21 deemed to have been granted.

22 “(iii) TOLLING OF PERIOD.—The Board
23 may at any time extend the deadline described
24 under clause (i) at the request of the applicant,
25 but may not extend the deadline more than 30

1 days past the deadline described under clause
2 (i).”.

3 (b) SAVINGS AND LOAN HOLDING COMPANIES.—Sec-
4 tion 10(e) of the Home Owners’ Loan Act (12 U.S.C.
5 1467a(e)) is amended—

6 (1) in paragraph (2), by striking “, and shall
7 render a decision within 90 days after submission to
8 the Board of the complete record on the applica-
9 tion”;

10 (2) by redesignating paragraph (7) as para-
11 graph (9); and

12 (3) by inserting after paragraph (6) the fol-
13 lowing:

14 “(7) COMPLETE RECORD ON AN APPLICA-
15 TION.—

16 “(A) NOTICE TO APPLICANT.—Not later
17 than 30 days after the date on which the Board
18 receives an application for approval under this
19 subsection, the Board shall transmit to the ap-
20 plicant a letter that either—

21 “(i) confirms the record on the appli-
22 cation is complete; or

23 “(ii) details all additional information
24 that is required for the record on that ap-
25 plication to be complete.

1 “(B) EXTENSION OF NOTICE.—Notwith-
2 standing subparagraph (A), the Board may, if
3 an application is complex, extend the 30-day pe-
4 riod described under subparagraph (A) for an
5 additional 30 days.

6 “(C) RECEIPT OF RESPONSE; DEEMING OF
7 COMPLETE RECORD.—Upon receipt of a re-
8 sponse from an applicant to a notice requesting
9 additional information described under subpara-
10 graph (A)(ii), the record on the application
11 shall be deemed complete unless the Board—

12 “(i) determines that the applicant’s
13 response was materially deficient; and

14 “(ii) not later than 30 days after the
15 date on which the Board received the re-
16 sponse, provides the applicant a detailed
17 notice describing the deficiencies.

18 “(D) TREATMENT OF THIRD-PARTY IN-
19 FORMATION.—In determining whether the
20 record on an application is complete, the Board
21 may take into account only information pro-
22 vided by the applicant, and may not base the
23 determination of completeness on any informa-
24 tion (including reports, views, or recommenda-
25 tions) provided by third parties.

1 “(8) DEADLINE FOR DETERMINATION.—

2 “(A) IN GENERAL.—Notwithstanding any
3 other provision of this subsection, the Board
4 shall grant or deny an application submitted
5 under this subsection not later than 90 days
6 after the date on which the application was ini-
7 tially submitted to the Board, regardless of
8 whether the record on such initial application
9 was complete.

10 “(B) FAILURE TO MAKE A DETERMINA-
11 TION.—If the Board does not grant or deny an
12 application within the time period described
13 under subparagraph (A), such application shall
14 be deemed to have been granted.

15 “(C) TOLLING OF PERIOD.—The Board
16 may at any time extend the deadline described
17 under subparagraph (A) at the request of the
18 applicant, but may not extend the deadline
19 more than 30 days past the deadline described
20 under subparagraph (A).”.

21 (c) INSURED DEPOSITORY INSTITUTIONS.—Section
22 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
23 1828(c)) is amended by adding at the end the following:

24 “(14) COMPLETE RECORD ON AN APPLICATION.—

1 “(A) NOTICE TO APPLICANT.—Not later than
2 30 days after the date on which the responsible
3 agency receives a merger application for approval
4 under this subsection, the responsible agency shall
5 transmit to the applicant a letter that either—

6 “(i) confirms the record on the application
7 is complete; or

8 “(ii) details all additional information that
9 is required for the record on that application to
10 be complete.

11 “(B) EXTENSION OF NOTICE.—Notwith-
12 standing subparagraph (A), the responsible agency
13 may, if an application is unusually complex, extend
14 the 30-day period described under subparagraph (A)
15 for an additional 30 days.

16 “(C) RECEIPT OF RESPONSE; DEEMING OF
17 COMPLETE RECORD.—Upon receipt of a response
18 from an applicant to a notice requesting additional
19 information described under subparagraph (A)(ii),
20 the record on the application shall be deemed com-
21 plete unless the responsible agency—

22 “(i) determines that the applicant’s re-
23 sponse was materially deficient; and

24 “(ii) not later than 30 days after the date
25 on which the responsible agency received the re-

1 sponse, provides the applicant a detailed notice
2 describing the deficiencies.

3 “(D) TREATMENT OF THIRD-PARTY INFORMA-
4 TION.—In determining whether the record on an ap-
5 plication is complete, the responsible agency may
6 take into account only information provided by the
7 applicant, and may not base the determination of
8 completeness on any information (including reports,
9 views, or recommendations) provided by third par-
10 ties.

11 “(15) DEADLINE FOR DETERMINATION.—

12 “(A) IN GENERAL.—Notwithstanding any other
13 provision of this subsection, the responsible agency
14 shall grant or deny a merger application submitted
15 under this subsection not later than 90 days after
16 the date on which the application was initially sub-
17 mitted to the responsible agency, regardless of
18 whether the record on such initial application was
19 complete.

20 “(B) FAILURE TO MAKE A DETERMINATION.—

21 If the responsible agency does not grant or deny an
22 application within the time period described under
23 subparagraph (A), such application shall be deemed
24 to have been granted.

1 “(C) TOLLING OF PERIOD.—The responsible
2 agency may at any time extend the deadline de-
3 scribed under subparagraph (A) at the request of
4 the applicant, but may not extend the deadline more
5 than 30 days past the deadline described under sub-
6 paragraph (A).”.

7 **TITLE III—STRESS TESTING AC-**
8 **COUNTABILITY AND TRANS-**
9 **PARENCY**

10 **SEC. 301. RULEMAKING RELATED TO STRESS CAPITAL**
11 **BUFFER REQUIREMENTS.**

12 (a) IN GENERAL.—Not later than 90 days after the
13 date of the enactment of this section, the Board of Gov-
14 ernors of the Federal Reserve System (in this title referred
15 to as the “Board”) shall issue a rule to establish any mod-
16 els, assumptions, formulas, or other decisional methodolo-
17 gies that are used to determine any component or sub-
18 component of the stress capital buffer requirement for a
19 bank holding company.

20 (b) CHANGES.—The Board may only make changes
21 to the rule issued under subsection (a) through notice and
22 comment rulemaking.

23 (c) STRESS CAPITAL BUFFER REQUIREMENT DE-
24 FINED.—The term “stress capital buffer requirement” has

1 the meaning given the term in section 225.8(e) of title
2 12 of the Code of Federal Regulations.

3 **SEC. 302. RULEMAKING RELATING TO STRESS TESTING.**

4 (a) IN GENERAL.—Beginning in the first calendar
5 year after the date of the enactment of this section, the
6 Board shall, not less than 30 days before conducting a
7 stress test pursuant to section 165(i) of the Financial Sta-
8 bility Act of 2010, issue a rule to establish each scenario
9 to be used in such stress test.

10 (b) PROHIBITION.—The Board may not, by rule or
11 otherwise, subject any nonbank financial company to a cli-
12 mate-related stress test using the authority provided in
13 section 165(i) of the Financial Stability Act of 2010.

14 **SEC. 303. GAO REPORT.**

15 (a) IN GENERAL.—The Comptroller General of the
16 United States shall, every 3 years, conduct a study and
17 submit a report to the Congress with respect to the stress
18 tests conducted by the Board under section 165(i) of the
19 Financial Stability Act of 2010 in the 3 most recent cal-
20 endar years.

21 (b) CONTENTS.—The report submitted to the Con-
22 gress under subsection (a) shall consider the effectiveness
23 of the stress tests in evaluating the—

24 (1) the safety and soundness of the nonbank fi-
25 nancial institutions subjected to stress tests;

1 (2) the stability of the United States financial
2 system.

3 **TITLE IV—BANK SUPERVISION**
4 **APPEALS IMPROVEMENT**

5 **SEC. 401. TIMELINESS OF EXAMINATIONS AND REQUIRED**
6 **PERMISSION, REGULATORY, AND REPORTING**
7 **GUIDANCE.**

8 (a) EXIT INTERVIEW REQUIREMENT; TIMELINESS
9 OF EXAMINATIONS.—

10 (1) INSURED DEPOSITORY INSTITUTIONS.—Sec-
11 tion 10(d) of the Federal Deposit Insurance Act (12
12 U.S.C. 1820(d)) is amended by adding at the end
13 the following:

14 “(11) EXAMINATION TIMELINESS.—The appro-
15 priate Federal banking agency shall complete any
16 examination of an insured depository institution
17 within 270 days of commencing the examination, ex-
18 cept that such period may be extended by the appro-
19 priate Federal banking agency by providing written
20 notice to the insured depository institution describ-
21 ing with particularity the reasons that a longer pe-
22 riod is needed.

23 “(12) EXIT INTERVIEW REQUIREMENT.—With-
24 in 30 days of completing an examination, the appro-
25 priate Federal banking agency shall conduct an exit

1 interview with the insured depository institution's
2 senior management and board of directors.

3 “(13) TIMELINESS OF EXAMINATION RE-
4 PORTS.—

5 “(A) FINAL EXAMINATION REPORT.—With
6 respect to an examination of an insured depository
7 institution by an appropriate Federal
8 banking agency, the appropriate Federal bank-
9 ing agency shall provide a final examination re-
10 port to the insured depository institution not
11 later than 60 days after the later of—

12 “(i) the exit interview for the exam-
13 ination; or

14 “(ii) the provision of additional infor-
15 mation by the insured depository institu-
16 tion relating to the examination.

17 “(B) EXAMINATION MATERIALS.—Upon
18 the request of an insured depository institution,
19 the appropriate Federal banking agency shall
20 include with a final examination report an ap-
21 pendix listing all materials relied upon by the
22 agency in support of all material supervisory
23 determinations.

24 “(C) MATERIAL SUPERVISORY DETER-
25 MINATION DEFINED.—In this paragraph, the

1 term ‘material supervisory determination’ has
2 the meaning given such term in section 309(i)
3 of the Riegle Community Development and
4 Regulatory Improvement Act of 1994.”.

5 (2) INSURED CREDIT UNIONS.—Section 204 of
6 the Federal Credit Union Act (12 U.S.C. 1784) is
7 amended by adding at the end the following:

8 “(h) EXIT INTERVIEW REQUIREMENT; TIMELINESS
9 OF EXAMINATIONS.—

10 “(1) EXAMINATION TIMELINESS.—The Board
11 shall complete any examination of an insured credit
12 union within 270 days of commencing the examina-
13 tion, except that such period may be extended by the
14 Board by providing written notice to the insured
15 credit union describing with particularity the reasons
16 that a longer period is needed.

17 “(2) EXIT INTERVIEW REQUIREMENT.—Within
18 30 days of completing an examination, the Board
19 shall conduct an exit interview with the insured
20 credit union’s senior management and board of di-
21 rectors.

22 “(3) TIMELINESS OF EXAMINATION RE-
23 PORTS.—

24 “(A) FINAL EXAMINATION REPORT.—With
25 respect to an examination of an insured credit

1 union, the Board shall provide a final examina-
2 tion report to the insured credit union not later
3 than 60 days after the later of—

4 “(i) the exit interview for the exam-
5 ination; or

6 “(ii) the provision of additional infor-
7 mation by the insured credit union relating
8 to the examination.

9 “(B) EXAMINATION MATERIALS.—Upon
10 the request of an insured credit union, the
11 Board shall include with a final examination re-
12 port an appendix listing all materials relied
13 upon by the Board in support of all material
14 supervisory determinations.

15 “(C) MATERIAL SUPERVISORY DETER-
16 MINATION DEFINED.—In this paragraph, the
17 term ‘material supervisory determination’ has
18 the meaning given such term in section 309(i)
19 of the Riegle Community Development and
20 Regulatory Improvement Act of 1994.”.

21 (b) TIMELINESS OF REQUIRED PERMISSION, REGU-
22 LATORY, AND REPORTING GUIDANCE.—

23 (1) INSURED DEPOSITORY INSTITUTIONS.—Sec-
24 tion 10 of the Federal Deposit Insurance Act (12

1 U.S.C. 1820) is amended by adding at the end the
2 following:

3 “(1) TIMELINESS OF REQUIRED PERMISSION, REGU-
4 LATORY, AND REPORTING GUIDANCE.—

5 “(1) REQUEST FOR PERMISSION OR GUID-
6 ANCE.—An insured depository institution may re-
7 quest a written determination by the appropriate
8 Federal banking agency of—

9 “(A) the agency’s permission to take a
10 particular action;

11 “(B) the agency’s interpretation of a law
12 or regulation; and

13 “(C) the agency’s interpretation of gen-
14 erally accepted accounting principles or ac-
15 counting objectives, standards, and require-
16 ments under section 37.

17 “(2) CONTENTS OF REQUEST.—A request made
18 under paragraph (1) shall be in writing and con-
19 tain—

20 “(A) the nature of the request;

21 “(B) applicable facts relating to the mat-
22 ter;

23 “(C) applicable law, regulation, or gen-
24 erally accepted accounting principles relating to
25 the matter; and

1 “(D) a summary of the request.

2 “(3) RESPONSE TO REQUEST.—A Federal
3 banking agency receiving a request under paragraph
4 (1) shall, not later than 30 days after receiving the
5 request—

6 “(A) provide the insured depository institu-
7 tion making the request with written notifica-
8 tion that the agency received the request and
9 stating whether the request contains the infor-
10 mation required under paragraph (2); and

11 “(B) if the request does not contain the in-
12 formation required under paragraph (2), pro-
13 vide the insured depository institution with an
14 explanation of what information is missing.

15 “(4) PROVIDING MISSING INFORMATION.—If a
16 Federal banking agency informs the insured depository
17 institution under paragraph (3) that the re-
18 quest does not contain all the information required
19 under paragraph (2), the insured depository institu-
20 tion may provide the missing information to the
21 Federal banking agency during the 30-day period
22 beginning on the date the insured depository institu-
23 tion receives the explanation of the missing informa-
24 tion under paragraph (3).

1 “(5) DETERMINATION.—A Federal banking
2 agency receiving a request under paragraph (1) shall
3 make a determination on the request and provide
4 the insured depository institution with a written no-
5 tice of such determination—

6 “(A) if the initial request contains the in-
7 formation required under paragraph (2), not
8 later than the end of the 60-day period begin-
9 ning on the date the Federal banking agency
10 notifies the insured depository institution of the
11 receipt of the request under paragraph (3); or

12 “(B) if the initial request does not contain
13 the information required under paragraph (2)—

14 “(i) not later than the end of the 60-
15 day period beginning on the date that the
16 insured depository institution provides the
17 Federal banking agency with the missing
18 information under paragraph (4); or

19 “(ii) if the insured depository institu-
20 tion does not provide the Federal banking
21 agency with the missing information within
22 the 30-day period described under para-
23 graph (4), not later than the end of the
24 60-day period beginning on the end of such
25 30-day period.

1 “(6) REPORTS AND PUBLICATION.—Each Fed-
2 eral banking agency shall, within 120 days after
3 making a determination under paragraph (5), pub-
4 lish a summary of the determination on the public
5 website of the Federal banking agency. Each Fed-
6 eral banking agency shall redact any confidential su-
7 pervisory information about the insured depository
8 institution, any identifying facts about the institu-
9 tion, and any sensitive personally identifiable infor-
10 mation.”.

11 (2) INSURED CREDIT UNIONS.—Section 209 of
12 the Federal Credit Union Act (12 U.S.C. 1789) is
13 amended by adding at the end the following:

14 “(c) TIMELINESS OF REQUIRED PERMISSION, REGU-
15 LATORY, AND REPORTING GUIDANCE.—

16 “(1) REQUEST FOR PERMISSION OR GUID-
17 ANCE.—An insured credit union may request a writ-
18 ten determination by the Board of—

19 “(A) the Board’s permission to take a par-
20 ticular action;

21 “(B) the Board’s interpretation of a law or
22 regulation; and

23 “(C) the Board’s interpretation of gen-
24 erally accepted accounting principles or other

1 accounting objectives, standards, and require-
2 ments.

3 “(2) CONTENTS OF REQUEST.—A request made
4 under paragraph (1) shall be in writing and con-
5 tain—

6 “(A) the nature of the request;

7 “(B) applicable facts relating to the mat-
8 ter;

9 “(C) applicable law, regulation, or gen-
10 erally accepted accounting principles relating to
11 the matter; and

12 “(D) a summary of the request.

13 “(3) RESPONSE TO REQUEST.—The Board,
14 upon receiving a request under paragraph (1) shall,
15 not later than 30 days after receiving the request—

16 “(A) provide the insured credit union mak-
17 ing the request with written notification that
18 the Board received the request and stating
19 whether the request contains the information
20 required under paragraph (2); and

21 “(B) if the request does not contain the in-
22 formation required under paragraph (2), pro-
23 vide the insured credit union with an expla-
24 nation of what information is missing.

1 “(4) PROVIDING MISSING INFORMATION.—If
2 the Board informs the insured credit union under
3 paragraph (3) that the request does not contain all
4 the information required under paragraph (2), the
5 insured credit union may provide the missing infor-
6 mation to the Board during the 30-day period begin-
7 ning on the date the insured credit union receives
8 the explanation of the missing information under
9 paragraph (3).

10 “(5) DETERMINATION.—The Board shall make
11 a determination on a request made under paragraph
12 (1) and provide the insured credit union with a writ-
13 ten notice of such determination—

14 “(A) if the initial request contains the in-
15 formation required under paragraph (2), not
16 later than the end of the 60-day period begin-
17 ning on the date the Board notifies the insured
18 credit union of the receipt of the request under
19 paragraph (3); or

20 “(B) if the initial request does not contain
21 the information required under paragraph (2)—

22 “(i) not later than the end of the 60-
23 day period beginning on the date that the
24 insured credit union provides the Board

1 with the missing information under para-
2 graph (4); or

3 “(ii) if the insured credit union does
4 not provide the Board with the missing in-
5 formation within the 30-day period de-
6 scribed under paragraph (4), not later
7 than the end of the 60-day period begin-
8 ning on the end of such 30-day period.

9 “(6) REPORTS AND PUBLICATION.—The Board
10 shall, within 120 days after making a determination
11 under paragraph (5), publish a summary of the de-
12 termination on the public website of the Board. The
13 Board shall redact any confidential supervisory in-
14 formation about the insured credit union, any identi-
15 fying facts about the credit union, and any sensitive
16 personally identifiable information.”.

17 **SEC. 402. UPDATE OF INDEPENDENT INTRA-AGENCY AP-**
18 **PELLATE PROCESS FOR REVIEWING MATE-**
19 **RIAL SUPERVISORY DETERMINATIONS.**

20 (a) UPDATE OF INDEPENDENT INTRA-AGENCY AP-
21 PELLATE PROCESS.—Not later than 180 days after the
22 date of enactment of this Act, the Board of Governors of
23 the Federal Reserve System, the Comptroller of the Cur-
24 rency, the Federal Deposit Insurance Corporation Board,
25 and the National Credit Union Administration Board shall

1 revise the independent intra-agency appellate process re-
2 quired under section 309(a) of the Riegle Community De-
3 velopment and Regulatory Improvement Act of 1994 (12
4 U.S.C. 4806(a)).

5 (b) OFFICE OF SUPERVISORY APPEALS; APPEALS
6 PROCESS.—Section 309 of the Riegle Community Devel-
7 opment and Regulatory Improvement Act of 1994 (12
8 U.S.C. 4806) is amended—

9 (1) by redesignating subsection (f) as sub-
10 section (i); and

11 (2) by inserting after subsection (e) the fol-
12 lowing:

13 “(f) OFFICE OF SUPERVISORY APPEALS.—The Fed-
14 eral banking agencies and the National Credit Union Ad-
15 ministration shall each establish an Office of Supervisory
16 Appeals to carry out the independent intra-agency appel-
17 late process required under this section.

18 “(g) APPEALS OFFICIALS.—

19 “(1) APPOINTMENT.—The head of each of the
20 Federal banking agencies and the National Credit
21 Union Administration shall appoint appeals officials,
22 in a number sufficient to fully staff the panels de-
23 scribed under subsection (h), from among the fol-
24 lowing classes of individuals:

1 “(A) Individuals who have financial insti-
2 tutions regulatory agency experience.

3 “(B) Individuals who—

4 “(i) are a licensed attorney or a cer-
5 tified public accountant authorized to prac-
6 tice under the laws of a State, the District
7 of Columbia, or a territory of the United
8 States;

9 “(ii) have either academic or private
10 sector experience;

11 “(iii) have relevant subject matter
12 knowledge or work-related experience in
13 the financial services sector, as determined
14 by the agency making the appointment;
15 and

16 “(iv) are not, and were not during the
17 previous 10-year period, employed by a
18 Federal banking agency, a Federal reserve
19 bank, or the National Credit Union Ad-
20 ministration.

21 “(C) Individuals—

22 “(i) with at least 10 years private sec-
23 tor financial services senior management-
24 level experience; and

25 “(ii) recommended by—

1 “(I) an insured depository insti-
2 tution;

3 “(II) an insured credit union; or

4 “(III) a trade association for
5 such institutions or credit unions.

6 “(2) TERM.—

7 “(A) IN GENERAL.—Each appeals official
8 appointed under paragraph (1) shall serve for a
9 term of 3 years.

10 “(B) TERM LIMITATION.—No individual
11 may be appointed under paragraph (1) to serve
12 more than 2 full terms.

13 “(C) DISMISSAL.—An appeals official ap-
14 pointed under paragraph (1) may be removed
15 at any time by the appointing agency.

16 “(h) APPEALS PROCESS AND PANEL HEARING OF
17 MATERIAL SUPERVISORY DETERMINATIONS.—

18 “(1) APPEAL TO THE HEAD OF SUPERVISION.—

19 “(A) IN GENERAL.—An institution seeking
20 an appeal of a material supervisory determina-
21 tion shall—

22 “(i) file a written appeal to the head
23 of supervision for the agency not later than
24 30 days after receiving the material super-
25 visory determination from the agency; and

1 “(ii) include in the appeal—

2 “(I) a clear and complete state-
3 ment of all relevant facts and issues;

4 “(II) all arguments that the in-
5 stitution wishes to present; and

6 “(III) all relevant and material
7 documents that the institution wishes
8 to be considered.

9 “(B) EXTENSION.—The institution may
10 file a written request with the head of super-
11 vision for an extension of the 30-day time pe-
12 riod described under subparagraph (A)(i),
13 which shall state good cause for granting the
14 extension. Such request shall be granted in the
15 sole discretion of the head of supervision.

16 “(C) INFORMATION MADE AVAILABLE TO
17 INSTITUTION.—An institution seeking an ap-
18 peal of a material supervisory determination
19 may, not later than 7 days after receiving the
20 material supervisory determination, request that
21 the agency provide the institution with any in-
22 formation relied upon by the agency in making
23 the material supervisory determination. The
24 agency shall provide that information to the in-

1 stitution not later than 14 days after receiving
2 the request.

3 “(2) CONSIDERATION OF APPEAL BY THE HEAD
4 OF SUPERVISION.—

5 “(A) IN GENERAL.—A head of supervision
6 receiving an appeal under paragraph (1) shall,
7 after reviewing the information provided by the
8 institution in such appeal—

9 “(i) grant the appeal;

10 “(ii) refer the appeal to a panel ap-
11 pointed under paragraph (3) for a rec-
12 ommendation; or

13 “(iii) deny the appeal.

14 “(B) NOTIFICATION.—A head of super-
15 vision shall promptly inform the institution and
16 the head of the agency after granting, referring,
17 or denying an appeal under subparagraph (A).

18 “(C) RIGHT TO APPEAL DENIAL.—An in-
19 stitution that has an appeal denied by the head
20 of supervision under subparagraph (A) may ap-
21 peal such denial directly to a panel appointed
22 under paragraph (3).

23 “(3) APPOINTMENT OF PANEL.—

24 “(A) IN GENERAL.—With respect to each
25 appeal referred by a head of supervision under

1 paragraph (2)(A)(ii) or appealed by an institu-
2 tion after a denial under paragraph (2)(A)(iii),
3 the agency shall appoint a panel of 3 appeals
4 officials to provide a recommendation on such
5 appeal, with 1 of the 3 appeals officials being
6 appointed to the panel from individuals in each
7 of the classes described under subparagraphs
8 (A), (B), and (C) of subsection (g)(1).

9 “(B) REPORTING PROHIBITION.—An ap-
10 peals official may not be appointed to a panel
11 under subparagraph (A) if the appeals official
12 is reporting, or has reported, directly or indi-
13 rectly in the past 5 years, to the agency official
14 who made the material supervisory determina-
15 tion under review.

16 “(4) PANEL HEARINGS.—

17 “(A) REQUEST FOR HEARING.—An institu-
18 tion may request a hearing with the panel on
19 the institution’s appeal by—

20 “(i) making such request not later
21 than 7 days after the date on which the in-
22 stitution is informed the head of super-
23 vision referred an appeal to a panel under
24 paragraph (2); or

1 “(ii) including the request in the insti-
2 tution’s appeal of a denial under para-
3 graph (2).

4 “(B) TIMING OF HEARING.—If an institu-
5 tion requests a hearing, as described under sub-
6 paragraph (A), the panel shall provide the insti-
7 tution with a hearing on the institution’s appeal
8 not later than 30 days after the date the hear-
9 ing is requested, except the panel may, in the
10 discretion of the panel or upon good cause
11 shown, extend such deadline by up to 15 days.

12 “(C) RULEMAKING.—The Federal banking
13 agencies and the National Credit Union Admin-
14 istration shall each issue rules to establish pro-
15 cedures for panel hearings described under this
16 paragraph, including that—

17 “(i) the institution may appear at the
18 hearing personally or through counsel;

19 “(ii) the institution may provide an
20 oral and written presentation at the hear-
21 ing;

22 “(iii) the panel may ask questions of
23 any person participating in the hearing;

24 “(iv) the hearing may not involve—

25 “(I) taking testimony;

1 “(II) a cross-examination; and

2 “(III) discovery;

3 “(v) the hearing shall not governed by
4 formal rules of evidence; and

5 “(vi) the panel shall have a verbatim
6 transcript of the hearing prepared.

7 “(5) RECOMMENDATION BY PANEL.—

8 “(A) IN GENERAL.—A panel making a rec-
9 ommendation on an appeal under this sub-
10 section shall make the recommendation not
11 later than—

12 “(i) 90 days after the date on which
13 the appeal was referred by a head of su-
14 pervision under paragraph (2)(A)(ii) or ap-
15 pealed by an institution after a denial
16 under paragraph (2)(A); or

17 “(ii) if the institution requested a
18 hearing under paragraph (4), 60 days after
19 the date on which the hearing concluded.

20 “(B) FORM OF RECOMMENDATION.—The
21 panel may recommend—

22 “(i) that the material supervisory de-
23 termination be continued, terminated, or
24 otherwise modified; or

1 “(ii) that the material supervisory de-
2 termination be remanded to the examiners
3 to allow the examiners to consider addi-
4 tional information presented in connection
5 with the appeal.

6 “(C) NOTICE.—After a recommendation is
7 made under subparagraph (A), the panel shall
8 promptly notify the institution, the head of su-
9 pervision of the agency, and the head of the
10 agency of the recommendation, which shall con-
11 tain a statement of the basis for the panel’s
12 recommendation and identify the information
13 on which the panel relied in reaching the rec-
14 ommendation.

15 “(D) PUBLICATION.—A copy of each panel
16 recommendation shall be posted on the agency’s
17 public website as soon as practicable, with ex-
18 empt information redacted. If the panel deter-
19 mines that redaction is insufficient to prevent
20 improper disclosure, the recommendation may
21 be presented in summary form.

22 “(E) STANDARD OF REVIEW.—A panel’s
23 review of a material supervisory determination
24 being appealed under this subsection shall be de
25 novo.

1 “(F) NO AUTHORITY TO DELAY OR STAY
2 ORDERS.—A panel shall have no authority to
3 delay or stay the implementation of any formal
4 order from the applicable agency.

5 “(6) REVIEW BY THE HEAD OF THE AGENCY.—

6 “(A) RESPONSE BY INSTITUTION.—Not
7 later than 15 days after receiving a notice of a
8 recommendation under paragraph (5)(C), the
9 institution may submit to the head of the agen-
10 cy written exceptions to the recommended deci-
11 sion.

12 “(B) REVIEW BY HEAD OF THE AGEN-
13 CY.—Not later than 45 days after receiving a
14 notice of a recommendation under paragraph
15 (5)(C), the head of an agency shall review such
16 decision and either ratify or reject the panel’s
17 decision.

18 “(C) REVIEW MAY NOT BE DELEGATED.—
19 A review by the head of an agency under this
20 paragraph may not be delegated to any other
21 employee of the agency and, in the case of an
22 agency that is headed by a body made up of
23 multiple individuals, all such individuals shall
24 participate in the review.

1 “(D) REPORTS TO CONGRESS.—The Fed-
2 eral banking agencies and the National Credit
3 Union Administration shall each, not later than
4 90 days after the end of each calendar year,
5 issue a report to the Committee on Financial
6 Services of the House of Representatives and
7 the Committee on Banking, Housing, and
8 Urban Affairs of the Senate describing the ac-
9 tions taken by the agency under this paragraph
10 during such calendar year, including informa-
11 tion on each of the panel decisions reviewed,
12 after redacting any confidential supervisory in-
13 formation.

14 “(E) PUBLICATION.—A copy of each deci-
15 sion by the head of the agency under this para-
16 graph shall be posted on the agency’s public
17 website as soon as practicable, with any infor-
18 mation identifying the appealing institution re-
19 dacted. If the head of the agency determinates
20 that redaction is insufficient to prevent im-
21 proper disclosure, the decision may be presented
22 in summary form.

23 “(7) RIGHT TO JUDICIAL REVIEW.—An institu-
24 tion shall have the right to petition for review of an
25 agency head’s decision under paragraph (6) by filing

1 a petition for review not later than 60 days after the
2 date on which the decision was made in the United
3 States Court of Appeals for the District of Columbia
4 Circuit or the circuit in which the institution is lo-
5 cated.

6 “(8) RETALIATION PROHIBITED.—The Federal
7 banking agencies and the National Credit Union Ad-
8 ministration may not—

9 “(A) retaliate against an insured deposi-
10 tory institution or insured credit union, or a
11 service provider or institution-affiliated party of
12 an insured depository institution or insured
13 credit union, for exercising rights under this
14 subsection; or

15 “(B) delay or deny any agency action that
16 would benefit an insured depository institution
17 or insured credit union, or a service provider or
18 institution-affiliated party of an insured deposi-
19 tory institution or insured credit union, on the
20 basis that a matter under this section is pend-
21 ing under this section.

22 “(9) DEFINITIONS.—With respect to the appeal
23 of a material supervisory determination under this
24 subsection:

1 “(A) AGENCY.—The term ‘agency’ means
2 the Federal agency, either a Federal banking
3 agency or the National Credit Union Adminis-
4 tration, that made the material supervisory de-
5 termination.

6 “(B) INSTITUTION.—The term ‘institution’
7 means the company, either an insured deposi-
8 tory institution or an insured credit union, with
9 respect to which the material supervisory deter-
10 mination was made.”.

11 **SEC. 403. REVIEW OF RESOLUTION ACTIONS RESULTING IN**
12 **A MATERIAL LOSS.**

13 Section 38(k) of the Federal Deposit Insurance Act
14 (12 U.S.C. 1831o(k)) is amended by adding at the end
15 the following:

16 “(7) REVIEW OF RESOLUTION ACTIONS BY COR-
17 PORATION INSPECTOR GENERAL.—

18 “(A) IN GENERAL.—If the Deposit Insur-
19 ance Fund incurs a material loss with respect
20 to an insured depository institution, the inspec-
21 tor general of the Corporation shall—

22 “(i) review the Corporation’s resolu-
23 tion of the institution to determine whether
24 the material loss to the Deposit Insurance
25 Fund could have been avoided by the Cor-

1 poration when resolving the institution;
2 and

3 “(ii) make a written report to the
4 Corporation and the Congress containing
5 the results of such review and any rec-
6 ommendations for preventing a material
7 loss to the Deposit Insurance Fund in the
8 future when resolving an institution.

9 “(B) TESTIMONY TO CONGRESS.—If the
10 inspector general of the Corporation deter-
11 mines, in a review carried out under subpara-
12 graph (A) that the Corporation’s resolution of
13 an institution caused a material loss to the De-
14 posit Insurance Fund, but such resolution could
15 have been carried out in a manner to avoid
16 such a material loss, the Chairperson of the
17 Corporation shall testify before the Committee
18 on Financial Services of the House of Rep-
19 resentatives and the Committee on Banking,
20 Housing, and Urban Affairs of the Senate to
21 explain why the material loss occurred.”.

1 **TITLE V—REVIEW OF DISCOUNT**
2 **WINDOW OPERATIONS**

3 **SEC. 501. REVIEW OF DISCOUNT WINDOW OPERATIONS.**

4 Section 10 of the Federal Reserve Act (12 U.S.C. 241
5 et seq.) is amended—

6 (1) by redesignating paragraph (12) as para-
7 graph (11); and

8 (2) by adding at the end the following:

9 “(12) REVIEW OF DISCOUNT WINDOW OPER-
10 ATIONS.—

11 “(A) IN GENERAL.—Not later than 60
12 days after the date of enactment of this para-
13 graph, the Board of Governors shall commence
14 a review of the discount window lending pro-
15 grams of the Federal reserve banks (the ‘dis-
16 count window’), and shall complete such review
17 not later than 240 days after the date of enact-
18 ment of this paragraph.

19 “(B) CONTENTS.—The review required by
20 subparagraph (A) shall include a consideration
21 of—

22 “(i) the effectiveness of the discount
23 window in providing liquidity to financial
24 institutions, including in times of financial
25 stress;

1 “(ii) whether the technology infra-
2 structure, including means of communica-
3 tions, are sufficient to support the timely
4 provision of liquidity, including in times of
5 financial stress;

6 “(iii) the effectiveness of cybersecurity
7 measures;

8 “(iv) the effectiveness of communica-
9 tions between Federal reserve banks re-
10 garding discount window operations;

11 “(v) the effectiveness of the Board of
12 Governors in providing oversight of the
13 discount window;

14 “(vi) how the discount window inter-
15 acts with other providers of liquidity, in-
16 cluding the Federal Home Loan Banks,
17 during both normal operations and times
18 of financial distress; and

19 “(vii) the effectiveness of existing dis-
20 count window operating hours and whether
21 such hours should be expanded, taking into
22 account the interaction between discount
23 window operating hours and the operating
24 hours of payment systems of the Board of

1 Governors and Federal reserve banks, such
2 as FedWire and FedNow.

3 “(C) PUBLIC COMMENT.—In carrying out
4 the review required by subparagraph (A), the
5 Board of Governors shall provide the public
6 with an opportunity to comment on the effec-
7 tiveness of discount window operations and to
8 offer suggestions for improving operations.

9 “(D) REMEDIATION PLAN.—After com-
10 pleting the review required by subparagraph (A)
11 and considering any public comments received
12 pursuant to subparagraph (C), the Board of
13 Governors shall develop, and approve by a vote
14 of the Board of Governors, a written plan to re-
15 mediate any identified deficiencies or areas for
16 enhancing effectiveness of the discount window,
17 which shall include—

18 “(i) an identification of actions that
19 the Board of Governors will take to reme-
20 diate those deficiencies;

21 “(ii) timelines and milestones for im-
22 plementing the plan and measures to dem-
23 onstrate how the Board of Governors will
24 maintain implemented improvements on an
25 ongoing basis; and

1 “(iii) measures of managing and con-
2 trolling deficiencies until the plan is imple-
3 mented in full.

4 “(E) REPORT TO CONGRESS ON REVIEW
5 AND PLAN.—

6 “(i) IN GENERAL.—Not later than
7 365 days after the date of enactment of
8 this paragraph, the Board of Governors
9 shall, after approval by a vote of the Board
10 of Governors, submit a report to the Com-
11 mittee on Financial Services of the House
12 of Representatives and the Committee on
13 Banking, Housing, and Urban Affairs of
14 the Senate containing—

15 “(I) the findings of the review re-
16 quired by subparagraph (A); and

17 “(II) the remediation plan re-
18 quired by subparagraph (D);

19 “(ii) CONSULTATION.—Before submit-
20 ting the report required by clause (i), the
21 Board of Governors shall—

22 “(I) provide a copy of the pro-
23 posed report to the Comptroller Gen-
24 eral of the United States and the In-
25 specter General of the Board of Gov-

1 errors of the Federal Reserve System
2 and the Bureau of Consumer Finan-
3 cial Protection; and

4 “(II) provide the Comptroller
5 General and Inspector General with
6 an opportunity to provide feedback on
7 the report.

8 “(iii) TESTIMONY.—The Chairman of
9 the Board of Governors shall testify before
10 the Committee on Financial Services of the
11 House of Representatives and the Com-
12 mittee on Banking, Housing, and Urban
13 Affairs of the Senate with respect to the
14 contents of the report required under this
15 subparagraph.

16 “(F) ANNUAL REPORTS TO CONGRESS.—

17 “(i) REPORTS BY THE BOARD.—The
18 Board of Governors shall submit an annual
19 report to the Committee on Financial Serv-
20 ices of the House of Representatives and
21 the Committee on Banking, Housing, and
22 Urban Affairs of the Senate containing a
23 review of the effectiveness of discount win-
24 dow operations.

1 “(ii) REPORTS BY THE INSPECTOR
2 GENERAL.—The Inspector General of the
3 Board of Governors of the Federal Reserve
4 System and the Bureau of Consumer Fi-
5 nancial Protection shall submit an annual
6 report to the Committee on Financial Serv-
7 ices of the House of Representatives and
8 the Committee on Banking, Housing, and
9 Urban Affairs of the Senate containing a
10 report on the progress of the Board of
11 Governors in implementing the remediation
12 plan required by subparagraph (D).

13 “(G) CONFIDENTIAL REPORT INFORMA-
14 TION.—Any report required under this para-
15 graph may contain a confidential annex con-
16 taining information that details any cybersecu-
17 rity deficiencies or any deficiencies which, if
18 made public, could cause financial instability.”.

19 **TITLE VI—SMALL BANK**
20 **HOLDING COMPANY RELIEF**

21 **SEC. 601. CHANGES REQUIRED TO THE SMALL BANK HOLD-**
22 **ING COMPANY AND SAVINGS AND LOAN**
23 **HOLDING COMPANY POLICY STATEMENT.**

24 Not later than 180 days after the date of enactment
25 of this Act, the Board of Governors of the Federal Reserve

1 System shall revise appendix C to part 225 of title 12,
2 Code of Federal Regulations (commonly known as the
3 “Small Bank Holding Company and Savings and Loan
4 Holding Company Policy Statement”), to raise the consoli-
5 dated asset threshold under that appendix to
6 \$10,000,000,000 for any bank holding company or savings
7 and loan holding company.

