

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 2702**  
**OFFERED BY MR. BARR OF KENTUCKY**

Strike all after the enacting clause and insert the following:

**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;

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

5           (5) the use of reputational risk in supervisory  
6       frameworks encourages Federal banking agencies to  
7       regulate depository institutions based on the subjec-  
8       tive view of negative publicity and provides cover for  
9       the agencies to implement their own political agenda  
10      unrelated to the safety and soundness of a deposi-  
11      tory institution;

12          (6) Federal banking agencies have in fact used  
13      reputational risk to limit access of federally legal  
14      businesses and law-abiding citizens to financial serv-  
15      ices in 2018 when the Federal Deposit Insurance  
16      Corporation acknowledged that the agency used  
17      reputational risk reviews to limit access to financial  
18      services by certain industries, commonly known as  
19      “Operation Choke Point”; and

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

24   **SEC. 3. DEFINITIONS.**

25      In this Act:

1 (1) DEPOSITORY INSTITUTION.—The term “de-  
2 pository institution”—

3 (A) has the meaning given the term in sec-  
4 tion 3 of the Federal Deposit Insurance Act (12  
5 U.S.C. 1813); and

6 (B) includes an insured credit union, as  
7 such term is defined in section 101 of the Fed-  
8 eral Credit Union Act (12 U.S.C. 1752).

9 (2) FEDERAL BANKING AGENCY.—The term  
10 “Federal banking agency”—

11 (A) has the meaning given the term in sec-  
12 tion 3 of the Federal Deposit Insurance Act (12  
13 U.S.C. 1813); and

14 (B) includes—

15 (i) the National Credit Union Admin-  
16 istration; and

17 (ii) the Bureau of Consumer Financial  
18 Protection.

19 (3) REPUTATIONAL RISK.—The term  
20 “reputational risk” means the potential that nega-  
21 tive publicity or negative public opinion regarding an  
22 institution’s business practices, whether true or not,  
23 will cause a decline in confidence in the institution  
24 or a decline in the customer base, costly litigation,

1 or revenue reductions or otherwise adversely impact  
2 the depository institution.

3 **SEC. 4. REMOVAL OF REPUTATIONAL RISK AS A CONSIDER-**  
4 **ATION IN THE SUPERVISION OF DEPOSITORY**  
5 **INSTITUTIONS.**

6 Each Federal banking agency shall remove from any  
7 guidance, rule, examination manual, or similar document  
8 established by the agency any reference to reputational  
9 risk, or any term substantially similar, regarding the su-  
10 pervision of depository institutions such that reputational  
11 risk, or any term substantially similar, is no longer taken  
12 into consideration by the Federal banking agency when  
13 examining and supervising a depository institution.

14 **SEC. 5. PROHIBITION.**

15 No Federal banking agency may engage in any activ-  
16 ity concerning or related to the regulation, supervision, or  
17 examination, of the reputational risk, or any term sub-  
18 stantially similar, or the management thereof, of a deposi-  
19 tory institution, including—

20 (1) establishing any rule, regulation, require-  
21 ment, standard, or supervisory expectation con-  
22 cerning or related to the reputational risk, or any  
23 term substantially similar, or the management there-  
24 of, of a depository institution whether binding or  
25 not;

1           (2) conducting any examination, assessment,  
2           data collection, or other supervisory exercise con-  
3           cerning or related to reputational risk, or any term  
4           substantially similar, or the management thereof, of  
5           a depository institution;

6           (3) issuing any examination finding, supervisory  
7           criticism, or other supervisory or examination com-  
8           munication concerning or related to reputational  
9           risk, or any term substantially similar, or the man-  
10          agement thereof, of a depository institution;

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

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

21   **SEC. 6. REPORTS.**

22          Not later than 180 days after the date of enactment  
23          of this Act, each Federal banking agency shall submit to  
24          the Committee on Banking, Housing, and Urban Affairs

1 of the Senate and the Committee on Financial Services  
2 of the House of Representatives a report that—  
3 (1) confirms implementation of this Act; and  
4 (2) describes any changes made to internal poli-  
5 cies as a result of this Act.

