

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. _____

To promote innovation in financial services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To promote innovation in financial services, and for other
purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Financial Services Innovation Act of 2023”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Agency identification of regulatory areas.
- Sec. 4. Establishment of FSIO at agencies.
- Sec. 5. FSIO Liaison Committee and chair.

- Sec. 6. Petition to agency.
- Sec. 7. Agency determination of petition.
- Sec. 8. Enforceable compliance agreement.
- Sec. 9. Report to Congress.
- Sec. 10. Funding.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions shall apply:

3 (1) AGENCY REGULATION.—The term “agency
4 regulation” means—

5 (A) a rule (as defined in section 551 of
6 title 5, United States Code) issued by an agen-
7 cy;

8 (B) guidance issued by an agency; or

9 (C) a published proposed or interim rule,
10 policy statement, directive, adjudication, or in-
11 terpretation of an agency.

12 (2) AGENCY.—The term “agency” means each
13 of the Board of Governors of the Federal Reserve
14 System, the Bureau of Consumer Financial Protec-
15 tion, the Department of Housing and Urban Devel-
16 opment, the Department of the Treasury, the Fed-
17 eral Deposit Insurance Corporation, the Federal
18 Housing Finance Agency, the National Credit Union
19 Administration Board, the Office of the Comptroller
20 of the Currency, and the Securities and Exchange
21 Commission.

22 (3) COVERED PERSON.—The term “covered
23 person” means a person that offers or intends to

1 offer a financial innovation by submitting a petition
2 to a Financial Services Innovation Office at one or
3 more agencies.

4 (4) ENFORCEABLE COMPLIANCE AGREEMENT.—The term “enforceable compliance agree-
5 ment” means an agreement described under section
6 8.
7

8 (5) FINANCIAL INNOVATION.—The term “finan-
9 cial innovation” means a financial product or service
10 (as defined in section 1002 of the Consumer Finan-
11 cial Protection Act of 2010 (12 U.S.C. 5481))—

12 (A) the delivery of which is enabled by
13 technology; and

14 (B) that is or may be subject to an agency
15 regulation or Federal statute.

16 (6) FINANCIAL SERVICES INNOVATION OFFICE;
17 FSIO.—The term “Financial Services Innovative Of-
18 fice” or “FSIO” means an office established in an
19 agency pursuant to section 4.

20 **SEC. 3. AGENCY IDENTIFICATION OF REGULATORY AREAS.**

21 Not later than 60 days after the date of the enact-
22 ment of this Act, and biannually thereafter, each agency
23 shall publish in the Federal Register a nonexclusive list
24 that identifies 3 or more areas of existing agency regula-
25 tion—

1 (1) that apply or may apply to a financial inno-
2 vation; and

3 (2) that the agency would consider modifying or
4 waiving if the agency were to receive a petition
5 under section 6 relating to that regulation.

6 **SEC. 4. ESTABLISHMENT OF FSIO AT AGENCIES.**

7 (a) IN GENERAL.—Each agency shall establish a Fi-
8 nancial Services Innovation Office to promote financial in-
9 novations and to assist a covered person with an approved
10 petition under section 7.

11 (b) DIRECTOR.—Each agency shall appoint an indi-
12 vidual to serve as the Director of the agency’s FSIO.

13 (c) DUTIES.—

14 (1) GENERAL DUTIES.—Each agency, acting
15 through the agency’s FSIO, shall—

16 (A) support the development of financial
17 innovations;

18 (B) coordinate with FSIOs at other agen-
19 cies to share information and data about finan-
20 cial innovations; and

21 (C) establish procedures to reduce the reg-
22 ulatory burden of offering a financial innovation
23 to the public and enable greater access to finan-
24 cial innovations.

1 (2) DUTIES FOR PETITIONS.—With respect to a
2 covered person with an approved petition under sec-
3 tion 7, each FSIO shall—

4 (A) work with the covered person to ad-
5 dress issues of how existing regulatory frame-
6 works apply to the financial innovation that is
7 the subject of the petition;

8 (B) assist the covered person in complying
9 with the requirements of Federal regulators of
10 the financial innovation; and

11 (C) assist the covered person in responding
12 to any challenges to a modification or a waiver
13 granted under subsection (d).

14 (d) WAIVER AUTHORITY.—An agency, acting
15 through the agency’s FSIO, may modify or waive the ap-
16 plication of an agency regulation of the agency or the Fed-
17 eral statute under which the agency has rulemaking au-
18 thority if—

19 (1) a petition of the covered person has been
20 approved under section 7; and

21 (2) the agency determines that compliance with
22 such agency regulation or Federal statute would im-
23 pede the ability of a covered person to offer the fi-
24 nancial innovation that is the subject of the petition.

1 (e) TERMINATION OF OTHER PROGRAMS; TRANSFER
2 OF AUTHORITY.—

3 (1) IN GENERAL.—Not later than 90 days after
4 the establishment of a FSIO at an agency, the agen-
5 cy shall modify any offices or programs at the agen-
6 cy that promote financial innovations or assist cov-
7 ered persons in offering financial innovations, and
8 merge or transfer the operations of such offices or
9 programs into the FSIO.

10 (2) LEGAL ACTIONS OR PROCEEDINGS.—On the
11 date that is 90 days after the establishment of a
12 FSIO at an agency, any legal action or proceeding
13 commenced by or against such office or program of
14 the agency, including no-action letters and staff ad-
15 visory opinions, shall be transferred to the FSIO of
16 that agency.

17 (f) REPORT.—Not later than 6 months after the date
18 of the enactment of this Act, and annually thereafter, each
19 agency shall present testimony to Congress and submit a
20 report to Congress and to the Financial Stability Over-
21 sight Council on the activities of the FSIO, including a
22 description of the petitions considered, the rationale for
23 acceptance or rejection of petitions, and the efforts of the
24 FSIO to encourage financial innovations.

1 (g) ELIMINATION OF FSIO.—If an agency has not
2 received a petition described in section 6 within 5 years
3 of the date of the establishment of the agency’s FSIO,
4 the agency shall eliminate the FSIO. Such agency shall
5 continue to comply with the requirements of any
6 multiparty agreement entered into pursuant to section
7 8(c) on or before the date of such elimination.

8 **SEC. 5. FSIO LIAISON COMMITTEE AND CHAIR.**

9 (a) ESTABLISHMENT.—Not later than 60 days after
10 the date of the enactment of this Act, the agencies shall
11 establish a committee to be known as the “FSIO Liaison
12 Committee”.

13 (b) MEMBERS.—The FSIO Liaison Committee shall
14 be composed of the Director of each FSIO established
15 under section 4 and a State banking supervisor selected
16 by the Conference of State Bank Supervisors (or a suc-
17 cessor organization).

18 (c) DUTIES.—The FSIO Liaison Committee shall—

19 (1) consult on the administration, coordination,
20 and oversight of each agency’s FSIO;

21 (2) facilitate the cooperation of each FSIO to
22 ensure that agencies share information and data on
23 petitions submitted under section 6;

24 (3) monitor proposals for agency regulation and
25 developments related to financial innovations;

1 (4) encourage the application of uniform prin-
2 ciples and standards at each FSIO; and

3 (5) hold public field hearings 4 times a year to
4 informally provide—

5 (A) information and advice to the public
6 and covered persons with respect to financial
7 innovations and agency regulations; and

8 (B) a forum to gather information relating
9 to financial innovations from the public and
10 covered persons.

11 (d) MEETINGS.—The FSIO Liaison Committee shall
12 meet at least twice a year.

13 (e) CHAIR.—

14 (1) ESTABLISHMENT.—The first Chair of the
15 FSIO Liaison Committee shall be elected by the
16 members. The Chair shall serve for a term of 2
17 years and thereafter the chairmanship shall rotate
18 among the members of the committee.

19 (2) POWERS OF THE CHAIR.—The Chair is au-
20 thorized to carry out the internal administration of
21 the FSIO Liaison Committee, including the appoint-
22 ment and supervision of employees and the distribu-
23 tion of tasks among members, employees, and ad-
24 ministrative units.

1 (f) TESTIMONY.—Not later than 6 months after the
2 date of the enactment of this Act, the Chair of the FSIO
3 Liaison Committee shall present testimony to Congress on
4 the activities of the FSIO Liaison Committee.

5 (g) FUNDING.—

6 (1) COMPENSATION OF MEMBERS.—Each mem-
7 ber of the FSIO Liaison Committee shall serve with-
8 out additional compensation but shall be entitled to
9 reasonable expenses incurred in carrying out official
10 duties as such a member.

11 (2) GENERAL EXPENSES.—The costs and ex-
12 penses of the FSIO Liaison Committee, including
13 the salaries of employees, shall be split equally be-
14 tween, and paid by, each agency other than an agen-
15 cy that has eliminated the agency's FSIO pursuant
16 to section 4(g).

17 **SEC. 6. PETITION TO AGENCY.**

18 (a) IN GENERAL.—A covered person may submit a
19 petition to an agency, through the agency's FSIO, in such
20 form and in such manner as the agency's FSIO may re-
21 quire, to request to enter into an enforceable compliance
22 agreement containing a modification or waiver of an agen-
23 cy regulation of the agency or the Federal statute under
24 which the agency has rulemaking authority with respect
25 to—

1 (1) the covered person; or

2 (2) a financial innovation the covered person of-
3 fers or intends to offer.

4 (b) CONTENTS.—In a petition submitted under this
5 section, the covered person shall—

6 (1) submit an alternative compliance strategy
7 that proposes a method to comply with the agency
8 regulation or Federal statutory requirement; and

9 (2) demonstrate that under the alternative com-
10 pliance strategy, the financial innovation—

11 (A) would serve the public interest;

12 (B) improves consumer access to a finan-
13 cial product or service;

14 (C) would not present systemic risk to the
15 United States financial system; and

16 (D) would promote consumer protection.

17 (c) MULTIPARTY PETITIONS.—One or more covered
18 persons that offer or intend to offer similar financial inno-
19 vations may jointly submit a petition under this section.

20 (d) SAFE HARBOR.—

21 (1) IN GENERAL.—During the period after a
22 covered person submits a petition under this section
23 and before the agency receiving the petition makes
24 a determination on the petition pursuant to section
25 7, an agency may not take an enforcement action

1 against a covered person relating to the financial in-
2 novation that was the subject of the petition.

3 (2) INJUNCTIVE RELIEF.—If an agency deter-
4 mines that a financial innovation described under
5 paragraph (1) presents an immediate danger to con-
6 sumers or presents systemic risk to the United
7 States financial system, the agency may apply to a
8 court of competent jurisdiction for an injunction to
9 prohibit a covered person from offering such finan-
10 cial innovation during the period described in para-
11 graph (1).

12 (3) PRESERVATION OF ANTI-FRAUD AUTHOR-
13 ITY.—This subsection shall not apply to the author-
14 ity of an agency to take an enforcement action
15 against a covered person with respect to fraud relat-
16 ing to the financial innovation that was the subject
17 of the petition.

18 (e) NOTICE AND COMMENT.—

19 (1) IN GENERAL.—Not later than 30 days after
20 receiving a petition, the agency that receives the pe-
21 tition shall publish the petition in the Federal Reg-
22 ister and provide a 60-day period for public notice
23 and comment.

24 (2) EXCEPTION FOR NOTICE AND COMMENT PE-
25 RIOD.—The agency that receives the petition may

1 waive the notice and comment period described in
2 paragraph (1) if such agency determines that the
3 covered person submitting the petition is similarly
4 situated to another covered person that has been
5 granted approval of a petition pursuant to section 7.

6 (3) CONFIDENTIALITY.—The agency shall
7 maintain the confidentiality of any nonpublicly avail-
8 able data or information in any petition submitted
9 under this section. The agency shall give reasonable
10 consideration to maintaining the confidentiality of
11 data or information identified by the covered person
12 in the petition submitting under this section as non-
13 publicly available data or information.

14 **SEC. 7. AGENCY DETERMINATION OF PETITION.**

15 (a) IN GENERAL.—Not later than 30 days after the
16 end of the comment period described under section 6 (or
17 if the comment period was waived, not later than 60 days
18 after receipt of a petition under section 6), the head of
19 the agency receiving the petition shall complete a review
20 of the petition and notify the covered person, in writing,
21 of the agency's determination of the petition.

22 (b) APPROVAL.—If the covered person submitting the
23 petition shows that it is more likely than not that the cov-
24 ered person meets the requirements for establishing an al-
25 ternative compliance strategy, the agency shall—

1 (1) approve the petition; and

2 (2) enter into an enforceable compliance agree-
3 ment with the covered person in accordance with the
4 requirements of section 8.

5 (c) DISAPPROVAL.—

6 (1) EXPLANATION.—If the agency disapproves
7 a petition, the agency head shall provide the covered
8 person with a written notice explaining the reason
9 for such disapproval, including—

10 (A) evidence that the covered person did
11 not satisfy the requirements for establishing an
12 alternative compliance strategy;

13 (B) an identification of any agency regula-
14 tions or Federal statutes applicable to the cov-
15 ered person with respect to the financial innova-
16 tion that were omitted from the petition; and

17 (C) a description of—

18 (i) any beneficial effects, including an
19 identification of persons likely to benefit,
20 from rejecting the petition;

21 (ii) any potential costs, including an
22 identification of persons likely to bear the
23 costs, of rejecting the petition; and

1 (iii) the baseline used by the agency to
2 measure the likely economic consequences
3 of rejecting the petition.

4 (2) RESUBMITTAL.—Receipt of a notice of dis-
5 approval of a petition under this subsection shall not
6 preclude a covered person from revising and resub-
7 mitting such petition to the agency under section 6.

8 (d) MORATORIUM.—If an agency disapproves a peti-
9 tion submitted in good faith under this section, the agency
10 shall provide the covered person a reasonable amount of
11 time before the agency takes an enforcement action
12 against the covered person relating to the financial innova-
13 tion that was the subject of the petition.

14 (e) JUDICIAL REVIEW.—A covered person may seek
15 judicial review of an agency’s determination on a petition
16 in accordance with subchapter II of chapter 5 of title 5,
17 United States Code, and chapter 7 of such title (commonly
18 known as the “Administrative Procedure Act”).

19 **SEC. 8. ENFORCEABLE COMPLIANCE AGREEMENT.**

20 (a) IN GENERAL.—If an agency approves a petition
21 under section 7, the covered person shall enter into an
22 enforceable compliance agreement with the agency, which
23 shall include—

1 (1) the terms under which the approved finan-
2 cial innovation may be developed or offered to the
3 public; and

4 (2) any requirements of the covered person and
5 any agency with respect to the financial innovation.

6 (b) REQUIREMENTS.—Each agency, by rule, shall es-
7 tablish requirements relating to enforceable compliance
8 agreements that include—

9 (1) procedures for modifying the terms of the
10 agreement;

11 (2) consequences for failure to comply with the
12 terms of the agreement;

13 (3) a compliance examination process that—

14 (A) solicits feedback from other agencies
15 on the agreement; and

16 (B) occurs not less frequently than annu-
17 ally;

18 (4) a termination date for the agreement that
19 is at least 1 year after the date on which the agree-
20 ment is entered into;

21 (5) procedures for extending the termination
22 date;

23 (6) procedures for judicial review of another
24 agency's or State's challenge to the agreement in ac-
25 cordance with subchapter II of chapter 5 of title 5,

1 United States Code, and chapter 7 of such title
2 (commonly known as the “Administrative Procedure
3 Act”); and

4 (7) procedures for maintaining the confiden-
5 tiality of any information disclosed to the agency
6 during the process of drafting and entering into
7 agreement.

8 (c) MULTIPARTY AGREEMENTS.—With respect to a
9 financial innovation that is the subject of an enforceable
10 compliance agreement entered into under this section, an
11 agency that did not enter into such enforceable compliance
12 agreement may join as a party to the enforceable compli-
13 ance agreement entered into pursuant to this section.

14 (d) LIMITATION ON ENFORCEMENT ACTIONS.—

15 (1) IN GENERAL.—If a covered person and an
16 agency enter into an enforceable compliance agree-
17 ment—

18 (A) another agency that is not party to the
19 multiparty agreement described in subsection
20 (c) may not commence an enforcement action
21 against the covered person with respect to the
22 financial innovation that is the subject of the
23 enforceable compliance agreement; and

24 (B) a State may not commence an enforce-
25 ment action against the covered person with re-

1 spect to the financial innovation that is the sub-
2 ject of the enforceable compliance agreement, if
3 the covered person provides the State with—

4 (i) the enforcement compliance agree-
5 ment; and

6 (ii) a statement of policies and proce-
7 dures the covered person has in place to
8 comply with State laws that are applicable
9 to the financial innovation.

10 (2) STATE EXCEPTION FOR CONSUMER
11 HARM.—Notwithstanding paragraph (1)(B), a State
12 may commence an enforcement action against a cov-
13 ered person with respect to a financial innovation
14 that is the subject of an enforceable compliance
15 agreement if, in an action brought by the State in
16 a court of competent jurisdiction, the court deter-
17 mines that the agency’s action was arbitrary and ca-
18 pricious and the financial innovation has substan-
19 tially harmed consumers within such State.

20 (e) ARBITRATION.—A covered person may elect to ar-
21 bitrate any action initiated by another person relating to
22 a financial innovation that is the subject of the enforceable
23 compliance agreement.

1 **SEC. 9. REPORT TO CONGRESS.**

2 Not later than 1 year after the date of the enactment
3 of this Act, and annually thereafter, the Financial Sta-
4 bility Oversight Council shall submit to Congress a report
5 on the aggregate impact of enforceable compliance agree-
6 ments entered into under this Act, which shall include—

7 (1) the number and characteristics of the agree-
8 ments;

9 (2) the most innovative and least burdensome
10 tools that the agency's FSIO has implemented to
11 allow a financial innovation that is the subject of an
12 enforceable compliance agreement to be offered;

13 (3) strategies implemented to coordinate and
14 facilitate cooperation among FSIOs;

15 (4) the existing Federal and State laws, regula-
16 tions, or practices (including guidance materials, ex-
17 aminations, and enforcement proceedings and settle-
18 ments) that the Financial Stability Oversight Coun-
19 cil identifies as the most burdensome to innovation
20 that adversely affect competition in the financial
21 services industry, or that restrict improvements for
22 consumers of financial products or services; and

23 (5) an identification of the overlap or frag-
24 mentation of agency regulations of financial prod-
25 ucts or services and recommendations for reducing,

1 consolidating, or eliminating such overlap or frag-
2 mentation.

3 **SEC. 10. FUNDING.**

4 The costs of carrying out the requirements of this
5 Act (except as specified in section 5(g)) shall be split
6 equally between, and paid by, each agency for fiscal years
7 2024 through 2028.