

119TH CONGRESS
2D SESSION

S. 5335

To amend the Federal Financial Institutions Examination Council Act of 1978 to provide for fair audits and inspections for examinations.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2026

Mr. MORAN (for himself and Mr. HAGERTY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Federal Financial Institutions Examination Council Act of 1978 to provide for fair audits and inspections for examinations.

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.**

4 This Act may be cited as the “Fair Audits and In-
5 spections for Regulators’ Exams Act”.

6 **SEC. 2. FAIR AUDITS AND INSPECTIONS FOR REGULATORS’**
7 **EXAMS.**

8 (a) **TIMELINESS OF EXAMINATIONS AND EXAMINA-**
9 **TION REPORTS.**—The Federal Financial Institutions Ex-

1 amination Council Act of 1978 (12 U.S.C. 3301 et seq.)

2 is amended by adding at the end the following:

3 **“SEC. 1012. TIMELINESS OF EXAMINATIONS AND EXAMINA-**
4 **TION REPORTS.**

5 “(a) TIMELINESS OF EXAMINATIONS.—A Federal fi-
6 nancial institutions regulatory agency shall complete any
7 examination of a financial institution, other than a finan-
8 cial institution subject to a continuous or resident exam-
9 ination program, within 270 days of commencing the ex-
10 amination, except that such period may be extended by
11 the Federal financial institutions regulatory agency by
12 providing written notice to the financial institution de-
13 scribing with particularity the reasons that a longer period
14 is needed.

15 “(b) FINAL EXAMINATION REPORT.—A Federal fi-
16 nancial institutions regulatory agency shall provide a final
17 examination report to a financial institution, other than
18 a financial institution subject to a continuous or resident
19 examination program, not later than 90 days after the
20 later of—

21 “(1) the exit interview for an examination of
22 the institution; or

23 “(2) the provision of additional material infor-
24 mation by the institution relating to the examina-
25 tion.

1 “(c) EXIT INTERVIEW REQUIREMENT.—Not later
 2 than 30 days after completing an examination for a finan-
 3 cial institution not subject to a continuous or resident ex-
 4 amination program, a Federal financial institutions regu-
 5 latory agency shall conduct an exit interview with the sen-
 6 ior management or the board of directors of the financial
 7 institution, except that such period may be extended by
 8 the Federal financial institutions regulatory agency by
 9 providing written notice to the institution describing with
 10 particularity the reasons that a longer period is needed.

11 “(d) EXAMINATION MATERIALS.—Upon the written
 12 request of a financial institution, the Federal financial in-
 13 stitutions regulatory agency shall include with the final re-
 14 port an appendix listing all examination or other factual
 15 information relied upon by the agency in support of a ma-
 16 terial supervisory determination.”.

17 (b) TIMELINESS OF REQUIRED PRUDENTIAL PRI-
 18 VATE LETTER RULINGS.—The Federal Financial Institu-
 19 tions Examination Council Act of 1978 (12 U.S.C. 3301
 20 et seq.), as amended by subsection (a), is amended by add-
 21 ing at the end the following:

22 **“SEC. 1013. TIMELINESS OF REQUIRED PRUDENTIAL PRI-**
 23 **VATE LETTER RULINGS.**

24 “(a) AUTHORITY AND REGULATION.—

25 “(1) DEFINITIONS.—In this subsection:

1 “(A) COVERED ACTION.—The term ‘cov-
2 ered action’ means—

3 “(i) any action in connection with a
4 regulated activity that the covered financial
5 institution is taking or is intending to take,
6 including—

7 “(I) entering into a transaction;

8 “(II) issuing a product or service;

9 or

10 “(III) changing the corporate
11 structure of the covered financial in-
12 stitution; and

13 “(ii) an objection by a Federal finan-
14 cial institutions regulatory agency to the
15 covered financial institution commencing
16 or otherwise conducting an activity (includ-
17 ing an action described in subparagraph
18 (A)).

19 “(B) COVERED FINANCIAL INSTITUTION.—

20 The term ‘covered financial institution’ means
21 any entity subject to the examination or super-
22 visory authority of a Federal financial institu-
23 tions regulatory agency.

24 “(2) PROCEDURES.—Each Federal financial in-
25 stitutions regulatory agency shall establish proce-

1 dures providing that a covered financial institution
2 may, upon application by the covered financial insti-
3 tution and with respect to a covered action, obtain
4 written advice regarding—

5 “(A) the nonobjection of the agency to the
6 financial institution conducting a particular ac-
7 tivity;

8 “(B) the interpretation by the agency of a
9 law or regulation as applied to a particular
10 matter;

11 “(C) the interpretation by the agency of
12 how generally accepted accounting principles or
13 accounting objectives, standards, and require-
14 ments apply to a particular matter; or

15 “(D) the application by the agency of any
16 supervisory guidance, statement of policy, or in-
17 terpretive rule to a particular matter.

18 “(b) CONTENTS OF REQUEST.—The procedures es-
19 tablished under subsection (a) shall provide that a request
20 for written advice made under the procedures shall be in
21 writing and contain—

22 “(1) the nature of the request;

23 “(2) applicable facts relating to the matter;

1 “(3) applicable law, regulations, or generally ac-
2 cepted accounting principles relating to the matter;
3 and

4 “(4) a summary of the request.

5 “(c) RESPONSE TO REQUEST.—A Federal financial
6 institutions regulatory agency receiving a request for writ-
7 ten advice under subsection (a) shall, not later than 30
8 days after receiving the request—

9 “(1) provide the financial institution making
10 the request with written notification confirming re-
11 ceipt of the request and stating whether the request
12 contains all of the information required under sub-
13 section (b); and

14 “(2) if the request does not contain all of the
15 information required under subsection (b)—

16 “(A) provide the financial institution with
17 an explanation of what information is missing;
18 and

19 “(B) notify the financial institution that
20 the financial institution may provide the miss-
21 ing information to the agency within 30 days.

22 “(d) PROVIDING MISSING INFORMATION.—If a Fed-
23 eral financial institutions regulatory agency informs the
24 financial institution under subsection (c) that the request
25 for written advice does not contain all the information re-

1 quired under subsection (b), the financial institution may
 2 provide the missing information to the Federal financial
 3 institutions regulatory agency not later than 30 days after
 4 the date the financial institution receives the explanation
 5 of the missing information under subsection (c).

6 “(e) DETERMINATION.—A Federal financial institu-
 7 tions regulatory agency receiving a request for written ad-
 8 vice under the procedures established under subsection (a)
 9 shall provide the financial institution with a written re-
 10 sponse (or, for purposes of paragraph (3), notify the finan-
 11 cial institution that a determination cannot be made)—

12 “(1) if the initial request contains the informa-
 13 tion required under subsection (b), not later than
 14 the end of the 60-day period beginning on the date
 15 the Federal financial institutions regulatory agency
 16 notifies the financial institution of the receipt of the
 17 request under subsection (c);

18 “(2) if the initial request does not contain the
 19 information required under subsection (b), but the
 20 financial institution provides the missing information
 21 during the 30-day period described under subsection
 22 (d), not later than the end of the 60-day period be-
 23 ginning on the date such missing information is pro-
 24 vided; or

1 “(3) if the initial request does not contain the
 2 information required under subsection (b), and the
 3 financial institution does not provide the missing in-
 4 formation during the 30-day period described under
 5 subsection (d), not later than the end of the 60-day
 6 period beginning on the end of such 30-day period.

7 “(f) LIMITED BINDING EFFECT.—Written advice
 8 issued by a Federal financial institutions regulatory agen-
 9 cy under the procedures established under this section—

10 “(1) shall be binding on the agency with respect
 11 to the financial institution requesting the written ad-
 12 vice and the specific facts described in the request;

13 “(2) may be relied upon by the financial institu-
 14 tion requesting the written advice in good faith; and

15 “(3) shall not—

16 “(A) be binding on the agency with respect
 17 to any other person or institution; and

18 “(B) be treated as precedent.

19 “(g) CONFIDENTIALITY AND PRIVILEGE.—

20 “(1) TREATMENT OF WRITTEN ADVICE.—Writ-
 21 ten advice issued under this section, and any mate-
 22 rials submitted in connection therewith, and the fact
 23 that a request for written advice was made shall be
 24 treated as confidential supervisory information and

1 exempt from disclosure under section 552(b) of title
2 5, United States Code.

3 “(2) PUBLISHING OF ANONYMIZED OR RE-
4 DACTED SUMMARIES.—A Federal financial institu-
5 tions regulatory agency may publish anonymized or
6 redacted summaries of rulings for informational pur-
7 poses.

8 “(h) MODIFICATION OR REVOCATION.—A Federal fi-
9 nancial institutions regulatory agency may modify or re-
10 voke written advice issued under this section only if—

11 “(1) the requesting financial institution made a
12 material misstatement or omission of fact;

13 “(2) there has been a change in controlling law;
14 or

15 “(3) the ruling is inconsistent with a final rule
16 or judicial decision issued after the date the written
17 advice was issued.

18 “(i) REASONABLE FEES.—

19 “(1) IN GENERAL.—Each Federal financial in-
20 stitutions regulatory agency may establish and col-
21 lect a reasonable fee for the processing and issuance
22 of any written advice issued under this section.

23 “(2) REQUIREMENTS.—Any fee established
24 under paragraph (1)—

1 “(A) shall be based on the estimated cost
2 to the agency of reviewing, analyzing, and re-
3 sponding to the request;

4 “(B) may vary based on the complexity of
5 the request or the size of the requesting institu-
6 tion; and

7 “(C) shall be prescribed by regulation.

8 “(j) FINALITY.—Written advice issued under the pro-
9 cedures established under this section shall not be con-
10 strued as a final agency action.”.

11 (c) OFFICE OF INDEPENDENT EXAMINATION RE-
12 VIEW.—

13 (1) IN GENERAL.—The Federal Financial Insti-
14 tutions Examination Council Act of 1978 (12 U.S.C.
15 3301 et seq.), as amended by subsection (b), is
16 amended by adding at the end the following:

17 **“SEC. 1014. OFFICE OF INDEPENDENT EXAMINATION RE-**
18 **VIEW.**

19 “(a) ESTABLISHMENT.—There is established in the
20 Council an Office of Independent Examination Review (re-
21 ferred to in this section as the ‘Office’).

22 “(b) BOARD OF INDEPENDENT EXAMINATION RE-
23 VIEW.—

24 “(1) IN GENERAL.—The head of the Office
25 shall be the Board of Independent Examination Re-

1 view, which shall be comprised of 3 members, ap-
2 pointed by the President, by and with the advice and
3 consent of the Senate.

4 “(2) QUALIFICATIONS.—The President shall
5 appoint 1 member of the Board from each of the fol-
6 lowing classes of individuals:

7 “(A) Individuals who have been employed
8 by a Federal financial institutions regulatory
9 agency.

10 “(B) Individuals who—

11 “(i) are not, and were not during the
12 previous 5-year period, employed by a Fed-
13 eral financial institutions regulatory agen-
14 cy or a Federal reserve bank; and

15 “(ii)(I) are a licensed attorney or a
16 certified public accountant authorized to
17 practice under the laws of a State, the Dis-
18 trict of Columbia, or a territory of the
19 United States;

20 “(II) have academic or private sector
21 experience relating to financial services; or

22 “(III) have relevant work-related ex-
23 perience in consumer affairs or compliance
24 with consumer protection laws with respect
25 to financial institutions.

1 “(C) Individuals with at least 10 years pri-
 2 vate sector financial services senior manage-
 3 ment-level experience.

4 “(3) PROHIBITION ON CERTAIN INDIVIDUALS
 5 SERVING AS A BOARD MEMBER.—The President may
 6 not appoint an individual as a member of the Board
 7 if the individual—

8 “(A) is, or was during the previous 2-year
 9 period, employed by a Federal financial institu-
 10 tions regulatory agency or a Federal reserve
 11 bank; or

12 “(B) is, or was during the previous 2-year
 13 period, employed by a financial institution.

14 “(4) CONSULTATION.—In appointing members
 15 of the Board, the President shall consult with the
 16 Federal financial institutions regulatory agencies
 17 and financial institutions.

18 “(5) TERM.—

19 “(A) IN GENERAL.—Each member of the
 20 Board shall serve for a term of 3 years. Upon
 21 the expiration of a term of office of the mem-
 22 ber, the member shall continue to serve until
 23 the successor of the member has been con-
 24 firmed by the Senate.

1 “(B) TERM LIMITATION.—No individual
2 may serve more than 2 full terms on the Board.

3 “(6) POLITICAL AFFILIATION.—Not more than
4 2 members of the Board shall be members of the
5 same political party.

6 “(7) QUORUM.—

7 “(A) IN GENERAL.—Three members of the
8 Board shall constitute a quorum.

9 “(B) INITIAL QUORUM.—During the 6-
10 month period beginning on the date of enact-
11 ment of this section, 1 member of the Board
12 shall constitute a quorum until the Board has
13 3 members.

14 “(8) RATE OF PAY.—The annual rate of basic
15 pay for the members of the Board shall be the rate
16 of basic pay for level IV of the Executive Schedule
17 under section 5315 of title 5, United States Code.

18 “(c) STAFFING.—

19 “(1) IN GENERAL.—The Board is authorized to
20 hire staff to support the activities of the Office and
21 set the salaries of such staff.

22 “(2) COSTS AND EXPENSES.—

23 “(A) IN GENERAL.—One-fifth of the costs
24 and expenses of the Office, including the sala-
25 ries of its employees, shall be paid by each of

1 the Federal financial institutions regulatory
2 agencies.

3 “(B) ASSESSMENTS.—Annual assessments
4 for the share described in subparagraph (A)
5 shall be levied by the Council based upon its
6 projected budget for the year, and additional
7 assessments may be made during the year if
8 necessary.

9 “(d) DUTIES.—The Board shall—

10 “(1) receive and, at the discretion of the Board,
11 investigate complaints from financial institutions,
12 their representatives, or another entity acting on be-
13 half of the institutions, concerning completed exami-
14 nations, examination practices, or examination re-
15 ports;

16 “(2) hold meetings, at least once every 3
17 months and in locations designed to encourage par-
18 ticipation from all sections of the United States,
19 with financial institutions, their representatives, or
20 another entity acting on behalf of the institutions, to
21 discuss examination procedures, examination prac-
22 tices, or examination policies;

23 “(3) review examination procedures of the Fed-
24 eral financial institutions regulatory agencies to en-
25 sure that the written examination policies of those

1 agencies are being followed in practice and adhere to
2 the standards for consistency;

3 “(4) conduct a continuing and regular program
4 of examination quality assurance on a sample for all
5 examination types conducted by the Federal finan-
6 cial institutions regulatory agencies;

7 “(5) carry out an independent review of any su-
8 pervisory appeal initiated under section 1015; and

9 “(6) report annually to the Committee on Fi-
10 nancial Services of the House of Representatives, the
11 Committee on Banking, Housing, and Urban Affairs
12 of the Senate, and the Council, on the reviews car-
13 ried out pursuant to paragraphs (3) and (5), includ-
14 ing compliance with the requirements set forth in
15 section 1012 regarding timeliness of examination re-
16 ports, and the recommendations of the Board for
17 improvements in examination procedures, practices,
18 and policies.

19 “(e) CONFIDENTIALITY.—

20 “(1) IN GENERAL.—The Board and the Council
21 shall keep confidential—

22 “(A) all meetings, discussions, and infor-
23 mation provided by financial institutions and
24 Federal financial institutions regulatory agen-

1 cies that involve confidential supervisory infor-
2 mation or privileged information;

3 “(B) all information and communications
4 exchanged between a financial institution and
5 the Office; and

6 “(C) all information and communications
7 exchanged between a Federal financial institu-
8 tions regulatory agency and the Office.

9 “(2) SUBMISSION OF INFORMATION DOES NOT
10 CONSTITUTE A WAIVER.—Section 18(x) of the Fed-
11 eral Deposit Insurance Act (12 U.S.C. 1828(x)) and
12 section 205(j) of the Federal Credit Union Act (12
13 U.S.C. 1785(j)) shall apply to the submission of in-
14 formation to the Board by a financial institution or
15 a Federal financial institutions regulatory agency to
16 the same extent as those sections apply to the sub-
17 mission of information described in those sections.

18 “(3) SHARING OF INFORMATION WITHOUT
19 WAIVING PRIVILEGE.—The Board shall be consid-
20 ered a covered agency for purposes of section 11(t)
21 of the Federal Deposit Insurance Act (12 U.S.C.
22 1821(t)).”.

23 (2) DEFINITIONS.—Section 1003 of the Federal
24 Financial Institutions Examination Council Act of
25 1978 (12 U.S.C. 3302) is amended—

1 (A) in paragraph (2), by striking “and” at
 2 the end; and

3 (B) by adding at the end the following:

4 “(4) the term ‘Board’ means the Board of Inde-
 5 pendent Examination Review established under sec-
 6 tion 1014(b);

7 “(5) the term ‘material supervisory determina-
 8 tion’ has the meaning given the term in section
 9 309(f) of the Riegle Community Development and
 10 Regulatory Improvement Act of 1994 (12 U.S.C.
 11 4806(f));

12 “(6) the term ‘insured depository institution’
 13 has the meaning given the term in section 3 of the
 14 Federal Deposit Insurance Act (12 U.S.C. 1813);
 15 and

16 “(7) the term ‘insured credit union’ has the
 17 meaning given the term in section 101 of the Fed-
 18 eral Credit Union Act (12 U.S.C. 1752).”.

19 (d) RIGHT TO INDEPENDENT REVIEW OF MATERIAL
 20 SUPERVISORY DETERMINATIONS.—The Federal Financial
 21 Institutions Examination Council Act of 1978 (12 U.S.C.
 22 3301 et seq.), as amended by subsection (c), is amended
 23 by adding at the end the following:

1 **“SEC. 1015. RIGHT TO INDEPENDENT REVIEW OF MATERIAL**
2 **SUPERVISORY DETERMINATIONS.**

3 “(a) IN GENERAL.—A financial institution shall have
4 the right to obtain an independent review of a material
5 supervisory determination contained in a final report of
6 examination. A Federal financial institutions regulatory
7 agency and the Board may not conduct concurrent re-
8 views.

9 “(b) NOTICE.—

10 “(1) TIMING.—A financial institution seeking
11 review of a material supervisory determination under
12 this section shall file a written notice with the Board
13 not later than 30 days after receiving the final re-
14 port of examination that is the subject of the review.

15 “(2) EXTENSION.—The institution may file a
16 written request with the Board for an extension of
17 the 60-day time period described under paragraph
18 (1), which shall state good cause for granting the ex-
19 tension. Such request shall be granted in the sole
20 discretion of the Board.

21 “(3) IDENTIFICATION OF DETERMINATION.—
22 The written notice shall—

23 “(A) identify the material supervisory de-
24 termination that is the subject of the requested
25 independent examination review;

1 “(B) state the reasons why the institution
2 believes that the material supervisory deter-
3 mination is incorrect or should otherwise be
4 modified; and

5 “(C) include—

6 “(i) a clear and complete statement of
7 all relevant facts and issues;

8 “(ii) all arguments that the institution
9 wishes to present; and

10 “(iii) all relevant and material docu-
11 ments in the possession of the institution
12 that the institution wishes to be consid-
13 ered.

14 “(4) INFORMATION MADE AVAILABLE TO INSTI-
15 TUTION.—A financial institution seeking a review of
16 a material supervisory determination may, not later
17 than 7 days after receiving the final examination re-
18 port, request that the Federal financial institutions
19 regulatory agency that made the material super-
20 visory determination provide the financial institution
21 with all examination and factual information relied
22 upon by the Federal financial institutions regulatory
23 agency in making the material supervisory deter-
24 mination. The Federal financial institutions regu-
25 latory agency shall provide such information to the

1 financial institution not later than 14 days after re-
2 ceiving the request.

3 “(5) SUBMISSION OF RECORD.—After receiving
4 a written notice of review from a financial institution
5 under this subsection, the Board shall direct the
6 Federal financial institutions regulatory agency that
7 made the material supervisory determination under
8 review to file with the Board the supervisory record
9 of the examination resulting in the material super-
10 visory determination under review.

11 “(c) DETERMINATION; RIGHT TO HEARING.—

12 “(1) IN GENERAL.—The Board shall—

13 “(A) determine the merits on the record,
14 including whether the material supervisory de-
15 termination being reviewed should be upheld,
16 canceled, or modified; or

17 “(B) at the election of the financial institu-
18 tion, conduct a hearing, which shall take place
19 not later than 60 days after the petition for re-
20 view is received by the Board, except that such
21 60-day period may be extended if both the fi-
22 nancial institution and the Board agree to such
23 extension.

24 “(2) RIGHT TO OBTAIN TESTIMONY.—A finan-
25 cial institution electing for a hearing under para-

1 graph (1)(B) shall have the right the obtain testi-
2 mony under oath from agency employees and obtain
3 documents and other evidence at the hearing, or in
4 advance of the hearing, according to procedures in-
5 stituted by the Board consistent with those set forth
6 under sections 556 and 557 of title 5, United States
7 Code.

8 “(3) BASIS OF DECISION.—The Board shall
9 issue a written decision based upon the record of the
10 examination, supplemented by the record established
11 before the Board and at any hearing.

12 “(4) STANDARD OF REVIEW.—The review by
13 the Board of a material supervisory determination
14 under this subsection shall be de novo, and the
15 Board shall not defer to the opinions of the exam-
16 iners or the Federal financial institutions regulatory
17 agency, but shall independently determine the appro-
18 priateness of the material supervisory determination
19 based upon the relevant statutes, regulations, other
20 appropriate guidance, and the evidentiary record.

21 “(5) POLICY MATTERS.—The Board shall con-
22 duct reviews under this section applying the policies,
23 regulations, and interpretations of the Federal finan-
24 cial institutions regulatory agency that made the
25 material supervisory determination under review in

1 effect at the time the material supervisory deter-
2 mination was made.

3 “(d) FINAL DECISION.—A decision by the Board on
4 an independent review under this section shall—

5 “(1) be made not later than 60 days after the
6 record has been closed; and

7 “(2) be deemed final and shall bind the agency
8 whose supervisory determination was the subject of
9 the review and the financial institution requesting
10 the review.

11 “(e) REFERRAL OF VIOLATIONS.—If the Board, in
12 carrying out this section, determines that a financial insti-
13 tution has violated a law or regulation, the Board shall
14 refer such determination to the applicable Federal finan-
15 cial institutions regulatory agency.

16 “(f) ANNUAL REPORT.—

17 “(1) IN GENERAL.—The Board shall report an-
18 nually to the Committee on Financial Services of the
19 House of Representatives, the Committee on Bank-
20 ing, Housing, and Urban Affairs of the Senate, and
21 the Council on actions taken under this section, in-
22 cluding the types of issues that the Board has re-
23 viewed and the results of those reviews, including in-
24 formation on each final determination with respect
25 to a material supervisory determination.

1 “(2) CONFIDENTIALITY.—In reporting under
2 paragraph (1), the Board shall—

3 “(A) redact information about individual
4 financial institutions and any confidential su-
5 pervisory information or privileged information
6 shared by financial institutions; and

7 “(B) anonymize any unredacted informa-
8 tion that could, in the aggregate, identify a fi-
9 nancial institution.

10 “(g) RETALIATION PROHIBITED.—

11 “(1) IN GENERAL.—A Federal financial institu-
12 tions regulatory agency may not—

13 “(A) retaliate against a financial institu-
14 tion, including service providers, or any institu-
15 tion-affiliated party, for exercising rights under
16 this section; or

17 “(B) delay or deny any agency action that
18 would benefit a financial institution or any in-
19 stitution-affiliated party on the basis that a re-
20 view under this section is pending under this
21 section.

22 “(2) RETALIATION.—For purposes of this sub-
23 section, retaliation includes delaying consideration
24 of, or withholding approval of, any request, notice,
25 or application that otherwise would have been ap-

1 proved, but for the exercise of rights of a financial
2 institution under this section.

3 “(h) RULEMAKING.—The Board shall issue rules,
4 consistent with subchapter II of chapter 5 of title 5,
5 United States Code (commonly known as the ‘Administra-
6 tive Procedure Act’), to establish procedures for hearings
7 described under this section, including that—

8 “(1) a financial institution may appear at the
9 hearing personally or through counsel;

10 “(2) a financial institution may provide an oral
11 and written presentation at the hearing;

12 “(3) the Board may ask questions of any per-
13 son participating in the hearing;

14 “(4) the hearing shall not be governed by the
15 Federal Rules of Evidence; and

16 “(5) the Board shall have a verbatim transcript
17 of the hearing prepared.

18 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion may be construed—

20 “(1) to affect the right of a Federal financial
21 institutions regulatory agency to take enforcement
22 or other supervisory actions related to a material su-
23 pervisory determination under review under this sec-
24 tion; or

1 “(2) to prohibit the review under this section of
 2 a material supervisory determination with respect to
 3 which there is an ongoing enforcement or other su-
 4 pervisory action.”.

5 (e) ADDITIONAL AMENDMENTS.—

6 (1) REGULATORY APPEALS PROCESS, OMBUDS-
 7 MAN, AND ALTERNATIVE DISPUTE RESOLUTION.—

8 (A) IN GENERAL.—Section 309 of the Rie-
 9 gle Community Development and Regulatory
 10 Improvement Act of 1994 (12 U.S.C. 4806) is
 11 amended—

12 (i) in the heading, by striking “**REG-**
 13 **ULATORY APPEALS PROCESS, OM-**
 14 **BUDSMAN,**” and inserting “**OMBUDS-**
 15 **MAN**”;

16 (ii) by striking subsections (a), (b),
 17 and (c);

18 (iii) by redesignating subsections (d),
 19 (e), (f), and (g) as subsections (a), (b), (c),
 20 and (d), respectively;

21 (iv) in subsection (b), as so redesign-
 22 nated—

23 (I) in paragraph (2)—

24 (aa) in subparagraph (B),
 25 by striking “and” at the end;

1 (bb) in subparagraph (C),
 2 by striking the period and insert-
 3 ing “; and”; and

4 (cc) by adding at the end
 5 the following:

6 “(D) ensure that appropriate safeguards
 7 exist for protecting any party from retaliation
 8 by any agency for exercising rights under this
 9 subsection.”; and

10 (II) by adding at the end the fol-
 11 lowing:

12 “(6) RETALIATION.—For purposes of this sub-
 13 section, retaliation includes delaying consideration
 14 of, or withholding approval of, any request, notice,
 15 or application that otherwise would have been ap-
 16 proved, but for the exercise of rights under this sec-
 17 tion.”;

18 (v) in paragraph (1)(A) of subsection
 19 (c), as so redesignated—

20 (I) in clause (ii), by striking “;
 21 and” and inserting a semicolon;

22 (II) in clause (iii), by striking “;
 23 and” and inserting a semicolon; and

24 (III) by adding at the end the
 25 following:

1 “(iv) any issue specifically listed in an
 2 exam report as a matter requiring atten-
 3 tion by the management or board of direc-
 4 tors of an institution; and

5 “(v) any suspension or removal of the
 6 status of an institution as eligible for expe-
 7 dited processing of applications, requests,
 8 notices, or filings on the grounds of a su-
 9 pervisory or compliance concern, regardless
 10 of whether that concern has been cited in
 11 an examination report or matter requiring
 12 attention in an examination report, if the
 13 conduct at issue did not involve violation of
 14 any criminal law; and”; and

15 (vi) in the table of contents, by strik-
 16 ing the item relating to section 309 and in-
 17 serting the following:

“Sec. 309. Ombudsman, and alternative dispute resolution.”.

18 (B) TECHNICAL AND CONFORMING AMEND-
 19 MENT.—Section 216(k) of the Federal Credit
 20 Union Act (12 U.S.C. 1790d(k)) is amended by
 21 striking “the independent appellate process re-
 22 quired by section 309 of the Riegle Community
 23 Development and Regulatory Improvement Act
 24 of 1994” and inserting “section 1015 of the

1 Federal Financial Institutions Examination
2 Council Act of 1978”.

3 (C) EFFECT.—

4 (i) DEFINITION.—In this subpara-
5 graph, the term “Federal banking agen-
6 cy”—

7 (I) has the meaning given the
8 term in section 3 of the Federal De-
9 posit Insurance Act (12 U.S.C. 1813);
10 and

11 (II) includes—

12 (aa) the National Credit
13 Union Administration; and

14 (bb) the Bureau of Con-
15 sumer Financial Protection.

16 (ii) AUTHORITY.—Nothing in this
17 subsection affects the authority of a Fed-
18 eral banking agency to take enforcement or
19 other supervisory action.

20 (2) FEDERAL CREDIT UNION ACT.—Section
21 205(j) of the Federal Credit Union Act (12 U.S.C.
22 1785(j)) is amended by inserting “the Bureau of
23 Consumer Financial Protection,” before “the Ad-
24 ministration” each place that term appears.

1 (3) FEDERAL FINANCIAL INSTITUTIONS EXAM-
2 INATION COUNCIL ACT.—The Federal Financial In-
3 stitutions Examination Council Act of 1978 (12
4 U.S.C. 3301 et seq.) is amended—

5 (A) in section 1003 (12 U.S.C. 3302)—

6 (i) by striking paragraph (1) and in-
7 serting the following:

8 “(1) the term ‘Federal financial institutions
9 regulatory agencies’—

10 “(A) means the Office of the Comptroller
11 of the Currency, the Board of Governors of the
12 Federal Reserve System, the Federal Deposit
13 Insurance Corporation, and the National Credit
14 Union Administration; and

15 “(B) includes the Bureau of Consumer Fi-
16 nancial Protection for purposes of sections
17 1012 through 1015;”; and

18 (ii) in paragraph (3), by striking the
19 semicolon at the end and inserting “, ex-
20 cept that for purposes of sections 1012
21 through 1015, the term ‘financial institu-
22 tion’ does not include a credit union that
23 is not an insured credit union;”;

24 (B) in section 1004(a)(4) (12 U.S.C.
25 3303), by striking “Consumer Financial Protec-

tion Bureau” and inserting “Bureau of Consumer Financial Protection”; and

(C) in section 1005 (12 U.S.C. 3304)—

(i) by striking “One-fifth” and inserting “One-fourth”; and

(ii) by inserting “described under section 1003(1)(A)” after “agencies”.

(f) ELECTION OF FORUM FOR REVIEW OF SUPERVISORY ENFORCEMENT.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in subsection (b), by adding at the end the following:

“(11) HEARING.—With respect to any notice properly issued and served upon a depository institution or institution-affiliated party under this subsection, such depository institution or institution-affiliated party shall be afforded a hearing before—

“(A) the appropriate Federal banking agency; or

“(B) if such institution or person submits a request not later than 20 days after the issuance of the notice, the appropriate district court of the United States, which shall have ju-

1 jurisdiction to adjudicate all claims and requested
 2 remedies stated in the notice of charges, includ-
 3 ing those authorized under this subsection.”;

4 (B) in subsection (e), by adding at the end
 5 the following:

6 “(8) HEARING.—With respect to any notice
 7 properly issued and served upon an institution-affili-
 8 ated party under this subsection, such institution-af-
 9 filiated party shall be afforded a hearing before—

10 “(A) the appropriate Federal banking
 11 agency; or

12 “(B) if such party submits a request for
 13 such hearing and forum not later than 20 days
 14 after the issuance of the notice, the appropriate
 15 district court of the United States, which shall
 16 have jurisdiction to adjudicate all claims and
 17 requested remedies stated in the notice, includ-
 18 ing those authorized under this subsection.”;

19 (C) in subsection (h)—

20 (i) in paragraph (1), by striking
 21 “(other than the hearing provided for in
 22 subsection (g)(3) of this section)” and in-
 23 serting “(other than the hearing provided
 24 for in subsection (b)(11)(B), (e)(8)(B),
 25 (g)(3), or (i)(2)(H)(ii))”; and

1 (ii) by adding at the end the fol-
 2 lowing:

3 “(4) Any hearing provided for in subsection
 4 (b)(11)(B), (e)(8)(B), or (i)(2)(H)(ii) shall be subject to
 5 the jurisdiction, powers, and equitable authority of the dis-
 6 trict court and be governed by the Federal Rules of Civil
 7 Procedure and the Federal Rules of Evidence.

8 “(5) Any final decision of a district court of the
 9 United States made pursuant to the election of a respond-
 10 ent under subsection (b)(11)(B), (e)(8)(B), or
 11 (i)(2)(H)(ii) shall be reviewable in the appropriate court
 12 of appeals of the United States in the same manner and
 13 to the same extent as any other civil action to which the
 14 United States is a party.”;

15 (D) in subsection (i)(2)—

16 (i) by amending subparagraph (E)(ii)
 17 to read as follows:

18 “(ii) FINALITY OF ASSESSMENT.—If,
 19 with respect to any assessment under
 20 clause (i), a hearing is not requested or an
 21 election is not made and timely noticed
 22 pursuant to subparagraph (H) within the
 23 period of time allowed under such subpara-
 24 graph, the assessment shall constitute a
 25 final and unappealable order.”;

1 (ii) by amending subparagraph (H) to
 2 read as follows:

3 “(H) HEARING.—The insured depository
 4 institution or institution-affiliated party against
 5 whom any penalty is assessed under this para-
 6 graph shall be afforded a hearing before—

7 “(i) an agency, if such institution or
 8 person submits a request for such hearing
 9 not later than 20 days after the issuance
 10 of the notice of assessment; or

11 “(ii) the appropriate district court of
 12 the United States, if such institution or
 13 person submits a request for such hearing
 14 and forum not later than 20 days after the
 15 issuance of the notice of assessment.”; and

16 (iii) by amending subparagraph (I)(ii)
 17 to read as follows:

18 “(ii) APPROPRIATENESS OF PENALTY
 19 NOT REVIEWABLE.—In any civil action
 20 under clause (i), except a civil action tried
 21 in a district court of the United States
 22 pursuant to subsection (b)(11)(B),
 23 (e)(8)(B), or (i)(2)(H)(ii), the validity and
 24 appropriateness of the penalty shall not be
 25 subject to review.”; and

1 (E) by adding at the end the following:

2 “(x) SAVINGS CLAUSE.—Nothing in subsection
3 (b)(11)(B), (e)(8)(B), or (i)(2)(H)(ii) shall be construed
4 to—

5 “(1) limit the authority of a Federal banking
6 agency to initiate an administrative enforcement ac-
7 tion; or

8 “(2) impair the validity of any consent order.”.

9 (2) FEDERAL CREDIT UNION ACT.—Section 206
10 of the Federal Credit Union Act (12 U.S.C. 1786)
11 is amended—

12 (A) in subsection (e), by adding at the end
13 the following:

14 “(5) HEARING.—With respect to any notice
15 properly issued and served upon an insured credit
16 union, credit union which has insured accounts, or
17 an institution-affiliated party under this subsection,
18 such insured credit union, credit union which has in-
19 sured accounts, or institution-affiliated party shall
20 be afforded a hearing before—

21 “(A) the Administration; or

22 “(B) if such insured credit union, credit
23 union which has insured accounts, or institu-
24 tion-affiliated party submits a request not later
25 than 20 days after the issuance of the notice,

1 the appropriate district court of the United
2 States, which shall have jurisdiction to adju-
3 dicate all claims and requested remedies stated
4 in the notice of charges, including those author-
5 ized under this subsection.”;

6 (B) in subsection (g), by adding at the end
7 the following:

8 “(8) HEARING.—With respect to any notice
9 properly issued and served upon an institution-affili-
10 ated party under this subsection, such institution-af-
11 filiated party shall be afforded a hearing before—

12 “(A) the Administration; or

13 “(B) if such institution-affiliated party
14 submits a request not later than 20 days after
15 the issuance of the notice, the appropriate dis-
16 trict court of the United States, which shall
17 have jurisdiction to adjudicate all claims and
18 requested remedies stated in the notice of
19 charges, including those authorized under this
20 subsection.”;

21 (C) in subsection (j)—

22 (i) in paragraph (1), by striking
23 “(other than the hearing provided for in
24 subsection (i)(3) of this section)” and in-
25 serting “(other than the hearing provided

1 for in subsection (e)(5)(B), (g)(8)(B),
2 (i)(3), or (k)(2)(H)(ii))”; and

3 (ii) by adding at the end the fol-
4 lowing:

5 “(4) Any hearing provided for in subsection
6 (e)(5)(B), (g)(8)(B), (i)(3), or (k)(2)(H)(ii) shall be sub-
7 ject to the jurisdiction, powers, and equitable authority of
8 the district court and be governed by the Federal Rules
9 of Civil Procedure and the Federal Rules of Evidence.

10 “(5) Any final decision of a district court of the
11 United States made pursuant to the election of a respond-
12 ent under subsection (e)(5)(B), (g)(8)(B), (i)(3), or
13 (k)(2)(H)(ii) shall be reviewable in the appropriate court
14 of appeals of the United States in the same manner and
15 to the same extent as any other civil action to which the
16 United States is a party.”;

17 (D) in subsection (k)(2)—

18 (i) by amending subparagraph (E)(ii)
19 to read as follows:

20 “(ii) FINALITY OF ASSESSMENT.—If,
21 with respect to any assessment under
22 clause (i), a hearing is not requested or an
23 election is not made and timely noticed
24 pursuant to subparagraph (H) within the
25 period of time allowed under such subpara-

graph, the assessment shall constitute a
final and unappealable order.”;

(ii) by amending subparagraph (H) to
read as follows:

“(H) HEARING.—The insured credit union
or institution-affiliated party against whom any
penalty is assessed under this paragraph shall
be afforded a hearing before—

“(i) the Administration, if such in-
sured credit union or institution-affiliated
party submits a request for such hearing
not later than 20 days after the issuance
of the notice of assessment; or

“(ii) the appropriate United States
district court, if such insured credit union
or institution-affiliated party submits a re-
quest for such hearing and forum not later
than 20 days after the issuance of the no-
tice of assessment.”; and

(iii) by amending subparagraph (I)(ii)
to read as follows:

“(ii) APPROPRIATENESS OF PENALTY
NOT REVIEWABLE.—In any civil action
under clause (i), except a civil action tried
in a district court of the United States

1 pursuant to subsection (e)(5)(B),
2 (g)(8)(B), or (k)(2)(H)(ii), the validity and
3 appropriateness of the penalty shall not be
4 subject to review.”; and

5 (E) by adding at the end the following:

6 “(x) SAVINGS CLAUSE.—Nothing in subsection
7 (e)(5)(B), (g)(8)(B), or (k)(2)(H)(ii) shall be construed
8 to—

9 “(1) limit the authority of the Administration
10 to initiate an administrative enforcement action; or

11 “(2) impair the validity of any consent order.”.

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