

PROMOTING DIVERSITY AND INCLUSION IN BANKING
ACT OF 2021

JUNE 7 2022.—Committed to the Committee of the Whole House on the State of the
Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 2516]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2516) to amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to require Federal banking regulators to include a diversity and inclusion component in the Uniform Financial Institutions Rating System, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Promoting Diversity and Inclusion in Banking Act of 2021”.

SEC. 2. DIVERSITY AND INCLUSION RATINGS.

(a) IN GENERAL.—The Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 et seq.) is amended by inserting after section 342 the following:

“SEC. 342A. DIVERSITY AND INCLUSION RATINGS.

“(a) IN GENERAL.—The Board of Governors, the Comptroller of the Currency, the Corporation, and the National Credit Union Administration Board, in assigning a rating to a depository institution under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) shall include a diversity and inclusion component that examines—

“(1) whether the depository institution has effective policies in place to encourage diversity and inclusion in the hiring practices of the institution;

“(2) whether the depository institution provides training to the employees of the institution, that is appropriate to the size and resources of the institution, on diversity and inclusion; and

“(3)(A) with respect to a depository institution with total consolidated assets of \$1,000,000,000 or less, whether such depository institution has designated an individual to serve as a Diversity and Inclusion Officer who reports to the Chief Executive Officer of the institution on all diversity and inclusion matters; or

“(B) with respect to a depository institution with total consolidated assets of more than \$1,000,000,000, whether such depository institution—

“(i) has designated an individual to serve as a Diversity and Inclusion Officer; and

“(ii) has established a committee for diversity and inclusion that holds meetings quarterly and that includes in its membership the Diversity and Inclusion Officer designated under clause (i) and the Chief Executive Officer of the institution.

“(b) APPLICATION TO MINORITY DEPOSITORY INSTITUTIONS.—In carrying out subsection (a) with respect to minority depository institutions, the Board of Governors, the Comptroller of the Currency, the Corporation, and the National Credit Union Administration Board shall—

“(1) assign such institutions the most favorable rating with respect to the diversity and inclusion component described under subsection (a); and

“(2) exempt such institutions from any examination procedures related to the diversity and inclusion component described under subsection (a).

“(c) DEFINITIONS.—In this section:

“(1) DEPOSITORY INSTITUTION.—The term ‘depository institution’ means a depository institution or a credit union.

“(2) MINORITY DEPOSITORY INSTITUTION.—The term ‘minority depository institution’ means an entity that is—

“(A) a minority depository institution, as defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note); or

“(B) considered to be a minority depository institution by—

“(i) the appropriate Federal banking agency; or

“(ii) the National Credit Union Administration, in the case of an insured credit union.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended by inserting after the item relating to section 342 the following:

“Sec. 342A. Diversity and inclusion ratings.”.

PURPOSE AND SUMMARY

On April 21, 2021, Representative Green introduced H.R. 2516, the “Promoting Diversity and Inclusion in Banking Act of 2021”, which would require Federal banking regulators to include a diversity and inclusion component in the CAMELS rating system to evaluate how federally insured depository institutions are promoting diversity and inclusion. Specifically, institutions would be rated on whether they: have policies to encourage diversity and inclusion in their hiring practices; provide training to their employees on diversity and inclusion; and designate an individual to serve as

the Diversity and Inclusion Officer (DIO) who reports to the CEO. Depository institutions with more than \$1 billion in total assets would be required to establish a committee for diversity and inclusion that holds quarterly meetings with the CEO and DIO.

BACKGROUND AND NEED FOR LEGISLATION

Federal banking regulators examine and rate a bank or credit union based on the Uniform Financial Institutions Ratings System (UFIRS), more commonly referred to as the CAMELS rating system. The institution receives a rating from 1 (best) to 5 (worst) across six “CAMELS” components—capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk—as well as a composite rating. While management is rated generally under the current system, management’s approach to diversity and inclusion, such as ensuring its hiring policies encourage diversity and inclusion—is not, even though diverse and inclusive organizations have been found to be more productive and profitable. Relatedly, a lack of diversity poses a safety and soundness risk, as evidenced during the financial crisis when non-diverse institutions made more predatory loans while gender diversity in leadership positions led to “lower levels of non-performing loans” and greater stability during the financial crisis.

Moreover, Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 established Offices of Minority and Women Inclusion (OMWI) at various financial regulators, including the Board of Governors of the Federal Reserve System (Fed), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA). OMWI Directors are mandated to assess the diversity policies and practices of their regulated entities. In its 2020 annual report to Congress, the FDIC OMWI found that despite having fewer resources, small community banks were incorporating diversity into their workforce practices, and that “more institutions are recognizing the importance of integrating diversity and inclusion into their corporate culture.” Additionally, for those that responded to an NCUA survey, 42% of credit unions have a written diversity and inclusion policy approved by senior leadership; 60% have a senior official focused on diversity and inclusion; and 61% regularly conduct training on equal employment as well as diversity and inclusion. Instead of relying on voluntary industry surveys, this legislation would help ensure depository institutions have policies and practices in place that promote diversity and inclusion.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

- This Act may be cited as the “Promoting Diversity and Inclusion in Banking Act of 2021”

Section 2. Diversity and inclusion ratings

- Amends Dodd-Frank Wall Street Reform and Consumer Protection Act by inserting after section 342, the following:

“Section 342A. Diversity and inclusion ratings

- This section requires the Board of Governors, the Comptroller of the Currency, the Corporation, and the National Credit Union Administration Board to include a diversity and inclusion component when assigning ratings to depository institutions.
 - The diversity and inclusion component must include whether the institution has effective policies to encourage diversity and inclusion in hiring practices and whether the institution provides diversity and inclusion training to employees that is appropriate to the size and resources of the institutions.
 - For institutions with total consolidated assets of \$1,000,000,000 or less, the diversity and inclusion component must also include whether the institution has a designated Diversity and Inclusion Officer who reports to the CEO on all diversity and inclusion matters.
 - For institutions with total consolidated assets of more than \$1,000,000,000, the diversity and inclusion component must also include whether the institution has:
 - Designated an individual to serve as a Diversity and Inclusion officer; and
 - Has established a committee for diversity and inclusion that holds meeting quarterly and that includes the Diversity and Inclusion officer and the CEO.
 - This section also requires the Board of Governors, the Comptroller of the Currency, the Corporation, and the National Credit Union Administration Board to:
 - Assign the most favorable rating based on subsection (a) components; and
 - Exempt institutions from any examination procedures related to subsection (a) components.
- This section also defines depository institution, minority depository institution and makes necessary clerical amendments.”

HEARINGS

For the purposes of section 3(c)(6) of House Rule XIII, the Committee on Financial Services considered H.R. 2516 at a Full Committee hearing on March 10, 2021 entitled, “Justice for All: Achieving Racial Equity through Fair Access to Housing and Financial Services” and a Diversity & Inclusion Subcommittee hearing entitled “By the Numbers: How Diversity Data Can Measure Commitment to Diversity, Equity and Inclusion,” on March 18, 2021.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on April 21, 2021 and ordered H.R. 2516 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 30 yeas and 23 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 2516: Ordered reported to the House, as amended, with a favorable recommendation by a recorded vote of 30 yeas and 23 nays.

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	/	
	Mrs. Maloney	/	
	Ms. Velázquez	/	
	Mr. Sherman	/	
	Mr. Meeks	/	
	Mr. Scott	/	
	Mr. Green	/	
	Mr. Cleaver	/	
	Mr. Perlmutter	/	
	Mr. Himes	/	
	Mr. Foster	/	
	Mrs. Beatty	/	
	Mr. Vargas	/	
	Mr. Gottheimer	/	
	Mr. Gonzalez (TX)	/	
	Mr. Lawson	/	
	Mr. San Nicolas	/	
	Ms. Axne	/	
	Mr. Casten	/	
	Ms. Pressley	/	
	Mr. Torres	/	
	Mr. Lynch	/	
	Ms. Adams	/	
	Ms. Tlaib	/	
	Ms. Dean	/	
	Ms. Ocasio-Cortez	/	
	Mr. Garcia (IL)	/	
	Ms. Garcia (TX)	/	
	Ms. Williams (GA)	/	
	Mr. Auchincloss	/	
30			
	Mr. McHenry, <i>Ranking Member</i>	/	
	Mrs. Wagner	/	
	Mr. Lucas	/	
	Mr. Posey	/	
	Mr. Luetkemeyer	/	
	Mr. Huelskamp	/	
	Mr. Stivers	/	
	Mr. Barr	/	
	Mr. Williams (TX)	/	
	Mr. Hill	/	
	Mr. Emmer	/	
	Mr. Zeldin	/	
	Mr. Loudermilk	/	
	Mr. Mooney	/	
	Mr. Davidson	/	
	Mr. Budd	/	
	Mr. Kustoff	/	
	Mr. Hollingsworth	/	
	Mr. Gonzalez (OH)	/	
	Mr. Rose	/	
	Mr. Steil	/	
	Mr. Gooden	/	
	Mr. Timmons	/	
	Mr. Taylor	/	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 4/20/2021

Measure: H.R. 7516

Amendment No. Final Passage

Offered by: Green

Agreed To	Yes	No	Prsnt	Wdm
Voice Vote	Ayes 30		Nays 23	

Record Vote /	FC
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STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 2516 are to require Federal banking regulators to include a diversity and inclusion component in the CAMELS rating system to evaluate how federally insured depository institutions are promoting diversity and inclusion.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 2516 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 11, 2022.

Hon. MAXINE WATERS,
*Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2516, the Promoting Diversity and Inclusion in Banking Act of 2021.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 2516, Promoting Diversity and Inclusion in Banking Act of 2021			
As ordered reported by the House Committee on Financial Services on April 21, 2021			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	*	2	3
Revenues	*	-2	-4
Increase or Decrease (-) in the Deficit	1	4	7
Spending Subject to Appropriation (Outlays)	0	0	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 to \$500,000			

Under current law, the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and Office of the Comptroller of the Currency (OCC) supervise depository institutions and evaluate their financial condition and operations under the Uniform Financial Institutions Ratings System (UFIRS). That system assigns composite ratings in six areas to uniformly assess the safety and soundness of financial institutions. H.R. 2516 would direct those agencies to add a new component to the ratings to assess practices aimed at promoting diversity and inclusion.

The operating costs of the FDIC, NCUA, and OCC are classified in the federal budget as direct spending. Using information from some of those agencies, CBO estimates that under the bill administrative costs would total about \$1 million annually to update the UFIRS and broaden the scope of financial institution examinations. CBO expects that those activities would require two additional staff members per agency and estimates that gross direct spending would increase by \$12 million over the 2022–2031 period. However, the NCUA and OCC collect fees from financial institutions to offset their operating costs; those fees are considered reductions in direct spending. Therefore, CBO estimates, the net effect on direct spending would be \$3 million over the 2022–2031 period.

Costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. CBO estimates that enacting H.R. 2516 would increase the Federal Reserve's administrative costs by \$4 million over the 2022–2031 period, thus decreasing revenues by that amount.

Ratings issued under the UFIRS can affect depository institutions in several ways. For example, banks with a certain rating may qualify for 18-month rather than annual review cycles. In addition, the amount they pay in premiums to the Deposit Insurance Fund depends, in part, on their composite ratings under the UFIRS. However, CBO has no basis to predict how institutions' composite ratings might change under H.R. 2516 or how any resulting changes would affect direct spending or revenues.

If federal financial regulators increased fees to offset the costs associated with implementing the bill, H.R. 2516 would increase the cost of an existing mandate on financial institutions that are required to pay those assessments. CBO estimates that the mandate's cost would be small and fall below the annual threshold established in the Unfunded Mandates Reform Act for the private sector (\$170 million in 2021, adjusted annually for inflation).

The bill contains no intergovernmental mandates as defined in that act.

The CBO staff contacts for this estimate are Stephen Rabent (for federal costs), Nathaniel Frentz (for federal revenues), and Fiona Forrester (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2516. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 2516, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104-1, H.R. 2516, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2516 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 2516 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a pro-

gram that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 2516, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Dodd-Frank Wall Street Reform and Consumer Protection Act”.

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

Sec. 1. Short title; table of contents.

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TITLE III—TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS

* * * * *

Subtitle D—Other Matters

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Sec. 342A. Diversity and inclusion ratings.

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TITLE III—TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS

* * * * *

Subtitle D—Other Matters

* * * * *

SEC. 342A. DIVERSITY AND INCLUSION RATINGS.

(a) *IN GENERAL.*—The Board of Governors, the Comptroller of the Currency, the Corporation, and the National Credit Union Administration Board, in assigning a rating to a depository institution under the Uniform Financial Institutions Rating System (or an

equivalent rating by any such agency under a comparable rating system) shall include a diversity and inclusion component that examines—

(1) whether the depository institution has effective policies in place to encourage diversity and inclusion in the hiring practices of the institution;

(2) whether the depository institution provides training to the employees of the institution, that is appropriate to the size and resources of the institution, on diversity and inclusion; and

(3)(A) with respect to a depository institution with total consolidated assets of \$1,000,000,000 or less, whether such depository institution has designated an individual to serve as a Diversity and Inclusion Officer who reports to the Chief Executive Officer of the institution on all diversity and inclusion matters; or

(B) with respect to a depository institution with total consolidated assets of more than \$1,000,000,000, whether such depository institution—

(i) has designated an individual to serve as a Diversity and Inclusion Officer; and

(ii) has established a committee for diversity and inclusion that holds meetings quarterly and that includes in its membership the Diversity and Inclusion Officer designated under clause (i) and the Chief Executive Officer of the institution.

(b) APPLICATION TO MINORITY DEPOSITORY INSTITUTIONS.—In carrying out subsection (a) with respect to minority depository institutions, the Board of Governors, the Comptroller of the Currency, the Corporation, and the National Credit Union Administration Board shall—

(1) assign such institutions the most favorable rating with respect to the diversity and inclusion component described under subsection (a); and

(2) exempt such institutions from any examination procedures related to the diversity and inclusion component described under subsection (a).

(c) DEFINITIONS.—In this section:

(1) DEPOSITORY INSTITUTION.—The term “depository institution” means a depository institution or a credit union.

(2) MINORITY DEPOSITORY INSTITUTION.—The term “minority depository institution” means an entity that is—

(A) a minority depository institution, as defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note); or

(B) considered to be a minority depository institution by—

(i) the appropriate Federal banking agency; or

(ii) the National Credit Union Administration, in the case of an insured credit union.

* * * * *