

[DISCUSSION DRAFT]

116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To require the written attestation of senior megabank officers to ensure they and their banks comply with the law, to enhance individual penalties for violations, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

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

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**A BILL**

To require the written attestation of senior megabank officers to ensure they and their banks comply with the law, to enhance individual penalties for violations, 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.**

4 This Act may be cited as the “Megabank Board and  
5 Management Accountability Act”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act:

1 (1) AFFILIATED BANKING ORGANIZATION.—

2 The term “affiliated banking organization” means—

3 (A) any depository institution subsidiary or  
4 affiliate of a megabank that has an appropriate  
5 Federal banking agency; and

6 (B) any agency, branch, commercial lend-  
7 ing company, or representative office of a for-  
8 eign bank that—

9 (i) is federally licensed;

10 (ii) is a subsidiary or affiliate of a  
11 megabank; and

12 (iii) has an appropriate Federal bank-  
13 ing agency.

14 (2) CONSUMER BUREAU.—The term “Consumer  
15 Bureau” means the Bureau of Consumer Financial  
16 Protection.

17 (3) FEDERAL CONSUMER FINANCIAL LAW.—  
18 The term “Federal consumer financial law” has the  
19 meaning given that term under section 1002 of the  
20 Consumer Financial Protection Act of 2010 (12  
21 U.S.C. 5481).

22 (4) FEDERAL CONSUMER PROTECTION LAW.—  
23 The term “Federal consumer protection law”  
24 means—

25 (A) the Federal consumer financial law;

1 (B) the Fair Housing Act;

2 (C) the Federal Trade Commission Act;

3 (D) section 987 of title 10, United States  
4 Code (commonly known as the “Military Lend-  
5 ing Act”);

6 (E) the Servicemembers Civil Relief Act;

7 and

8 (F) any regulation issued under a law de-  
9 scribed under subparagraph (A), (B), (C), (D),  
10 or (E).

11 (5) MEGABANK.—

12 (A) IN GENERAL.—The term “megabank”  
13 means—

14 (i) a bank holding company that has  
15 been identified by the Board of Governors  
16 of the Federal Reserve System as a global  
17 systemically important bank holding com-  
18 pany pursuant to section 217.402 of title  
19 12, Code of Federal Regulations; and

20 (ii) a global systemically important  
21 foreign banking organization, as defined  
22 under section 252.2 of title 12, Code of  
23 Federal Regulations.

24 (B) TREATMENT OF EXISTING GSIBS.—A  
25 company or organization described under clause

1 (i) or (ii) of subparagraph (A) on the date of  
2 the enactment of this Act shall be deemed a  
3 megabank.

4 (6) STATE.—The term “State” means the sev-  
5 eral States, the District of Columbia, and any other  
6 territory or possession of the United States.

7 (7) DEFINITIONS RELATED TO SUBSIDIARIES  
8 AND AFFILIATES OF FOREIGN BANKS.—The terms  
9 “agency”, “branch”, “commercial lending com-  
10 pany”, and “representative office” have the mean-  
11 ings given those terms, respectively, under section  
12 1(b) of the International Banking Act of 1978 (12  
13 U.S.C. 3101(b)).

14 (8) OTHER BANKING DEFINITIONS.—The terms  
15 “affiliate”, “appropriate Federal banking agency”,  
16 “Federal banking agency”, “foreign bank”, “State  
17 depository institution”, and “subsidiary” have the  
18 meaning given those terms, respectively, under sec-  
19 tion 3 of the Federal Deposit Insurance Act (12  
20 U.S.C. 1813).

21 **SEC. 3. ANNUAL CERTIFICATION BY EXECUTIVE OFFICERS**  
22 **AND DIRECTORS OF THE BOARD.**

23 (a) IN GENERAL.—Each executive officer and direc-  
24 tor of an affiliated banking organization shall certify and  
25 submit a written attestation, at least on an annual basis

1 to the appropriate Federal banking agency, the Consumer  
2 Bureau, and any relevant Federal law enforcement agency  
3 that the executive officer or directory has regularly re-  
4 viewed the organization's lines of business and conducted  
5 due diligence to ensure that—

6 (1) the organization has established and main-  
7 tained internal risk controls to identify significant  
8 deficiencies and weaknesses in its compliance with  
9 Federal consumer protection laws;

10 (2) the organization has promptly disclosed all  
11 known violations of Federal consumer protection  
12 laws to the Consumer Bureau and the appropriate  
13 Federal banking agency;

14 (3) the organization is taking all reasonable  
15 steps to correct any identified deficiencies and weak-  
16 nesses in the organization's compliance with Federal  
17 consumer protection laws based on a review of all  
18 regulatory examination results received in prior  
19 years; and

20 (4) the organization is in substantial compli-  
21 ance with all Federal consumer protection laws.

22 (b) GUIDANCE.—The Consumer Bureau, in consulta-  
23 tion with the relevant Federal and State regulatory and  
24 law enforcement agencies, shall issue final guidance on the  
25 content, form, and method of delivery of the certification

1 and attestation required under subsection (a) within 6  
2 months of the date of the enactment of this Act.

3 (c) CRIMINAL PENALTIES.—Any individual who cer-  
4 tifies and submits an attestation described under sub-  
5 section (a) that contains a false statement—

6 (1) if done knowingly, shall be fined not more  
7 than \$1,000,000 or imprisoned not more than 10  
8 years, or both; or

9 (2) if done intentionally, shall be fined not more  
10 than \$5,000,000 or imprisoned not more than 20  
11 years, or both.

12 (d) PENALTIES FOR FAILURE TO COMPLY.—Any in-  
13 dividual who fails to certify and submit a required attesta-  
14 tion described under subsection (a) shall be fined not more  
15 than \$1,000,000 or imprisoned not more than 10 years,  
16 or both.

17 **SEC. 4. PERSONAL LIABILITY OF EXECUTIVE OFFICERS**  
18 **AND DIRECTORS OF THE BOARD FOR FED-**  
19 **ERAL CONSUMER PROTECTION LAW VIOLA-**  
20 **TIONS.**

21 (a) CIVIL LIABILITY.—

22 (1) IN GENERAL.—If an executive officer or di-  
23 rector of an affiliated banking organization know-  
24 ingly violates any Federal consumer protection law  
25 (or knowingly directs any agent, officer, or director

1 of the organization to violate), such executive officer  
2 or director shall be liable in their personal and indi-  
3 vidual capacity for damages which the organization  
4 or any other person shall have sustained in con-  
5 sequence of such violation.

6 (2) RULE OF CONSTRUCTION.—Any liability de-  
7 scribed under paragraph (1) shall not limit the au-  
8 thority of a Federal department or agency or Fed-  
9 eral law enforcement agency to impose civil pen-  
10 alties, fines, or other appropriate consumer redress  
11 on the organization.

12 (3) LIMITATION ON ACTIONS.—Except as other-  
13 wise provided by law, a civil action arising under  
14 this subsection may not be commenced after the  
15 later of—

16 (A) 2 years after the discovery of the facts  
17 constituting the violation; or

18 (B) 5 years after such violation.

19 (b) CRIMINAL LIABILITY.—Any executive officer or  
20 director who knowingly causes an affiliated banking orga-  
21 nization to violate any Federal consumer protection law  
22 (or who knowingly directs any agent, officer, or director  
23 of the organization to commit such a violation or engages  
24 in such acts that result in the executive officer or director  
25 being personally unjustly enriched and the organization

1 being conducted in an unsafe and unsound manner) shall  
2 be—

3 (1) fined in an amount not to exceed 100 per-  
4 cent of the annual compensation (including stock op-  
5 tions awarded as compensation) received by such ex-  
6 ecutive officer or director from the organization dur-  
7 ing each year in which the violations occurred; and

8 (2) imprisoned for not more than 5 years.

9 (c) TERMINATION OF EMPLOYMENT AND LIFETIME  
10 BAN.—If an executive officer or director of an affiliated  
11 banking organization commits a violation or engages in  
12 an act described under subsection (a) or is convicted of  
13 a violation or of engaging in an act described under sub-  
14 section (b)—

15 (1) the appropriate Federal banking agency  
16 shall notify the organization within 24 hours of such  
17 fact;

18 (2) the organization shall immediately termi-  
19 nate such executive officer or director; and

20 (3) such executive officer or director shall be  
21 permanently prohibited from engaging in the oper-  
22 ation and management of any other federally-char-  
23 tered or federally-insured banking organization, pur-  
24 suant to section 8(e) of the Federal Deposit Insur-  
25 ance Act (12 U.S.C. 1818(e)).



1 **SEC. 5. AGENCY AUTHORITY.**

2 (a) IN GENERAL.—Notwithstanding any other law  
3 and for the sole purpose of carrying out the requirements  
4 of this Act, in the event that a Federal banking agency  
5 lacks a quorum, a majority of the members of the Federal  
6 banking agency shall have the full authority to act on be-  
7 half of the agency.

8 (b) DETERMINATION OF CERTAIN VIOLATIONS.—In  
9 making any determination under this Act with respect to  
10 whether an affiliated banking organization or individual  
11 has violated a Federal consumer protection law, if a Fed-  
12 eral banking agency does not have enforcement authority  
13 over the applicable Federal consumer protection law, the  
14 agency shall rely on publically available information with  
15 respect to such violations, such as criminal convictions and  
16 enforcement actions, and consult with any relevant Fed-  
17 eral department or agency that took such actions against  
18 the affiliated banking organization or individual.