

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To provide for additional protections for employees of financial institutions,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To provide for additional protections for employees of
financial institutions, 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 “Financial Services
5 Worker Bill of Rights”.

1 **SEC. 2. SUPPLEMENTARY FEES ON INSTITUTIONS WITH**
 2 **LARGE CEO TO MEDIAN WORKER PAY RA-**
 3 **TIOS.**

4 (a) **IN GENERAL.**—With respect to a banking institu-
 5 tion with a CEO to median worker pay ratio greater than
 6 100 to 1, the appropriate Federal banking agency shall—

7 (1) levy an annual supplementary fee on the
 8 banking institution in an amount described under
 9 subsection (b); and

10 (2) deposit such fee in the general fund of the
 11 Department of the Treasury.

12 (b) **SUPPLEMENTARY FEE AMOUNT.**—

13 (1) **IN GENERAL.**—With respect to a banking
 14 institution, the supplementary fee amount shall be
 15 an amount equal to—

16 (A) the fee assessed on the banking insti-
 17 tution to pay for the cost of examining and su-
 18 pervising such institution, multiplied by

19 (B) the amount specified under paragraph
 20 (2).

21 (2) **CALCULATION OF RATE.**—For purposes of
 22 paragraph (1), the amount specified in this para-
 23 graph shall be determined as follows:

If the CEO to median worker pay ratio is:	The amount is:
More than 100 but not more than 150	0.005
More than 150 but not more than 200	0.01

If the CEO to median worker pay ratio is:	The amount is:
More than 200 but not more than 250	0.015
More than 250 but not more than 300	0.02
More than 300 but not more than 400	0.025
More than 400	0.03

1 (c) DEFINITIONS.—In this section:

2 (1) APPROPRIATE FEDERAL BANKING AGEN-
3 CY.—The term “appropriate Federal banking agen-
4 cy”—

5 (A) has the meaning given that term under
6 section 3 of the Federal Deposit Insurance Act;
7 and

8 (B) means the National Credit Union Ad-
9 ministration Board, in the case of a credit
10 union.

11 (2) BANKING INSTITUTION.—The term “bank-
12 ing institution” means a credit union, depository in-
13 stitution, or depository institution holding company.

14 (3) CEO TO MEDIAN WORKER PAY RATIO.—
15 With respect to a banking institution, the term
16 “CEO to median worker pay ratio” means the ratio
17 of—

18 (A) the annual total compensation of the
19 chief executive officer (or any equivalent posi-
20 tion) of the banking institution; and

1 (B) the median of the annual total com-
2 pensation of all employees of the banking insti-
3 tution, except the chief executive officer (or any
4 equivalent position) of the banking institution.

5 **SEC. 3. PROHIBITION ON THE USE OF PREDATORY SALES**
6 **GOAL POLICIES.**

7 (a) IN GENERAL.—A financial institution may not
8 use predatory sales goal policies.

9 (b) PREDATORY SALES GOAL POLICY DEFINED.—In
10 this section, the term “predatory sales goals policy” means
11 any policy that—

12 (1) uses sales goals based on individual per-
13 formance instead of collective customer service goals;

14 (2) uses sales performance as a factor in dis-
15 cipline or termination; or

16 (3) uses incentive pay as the majority overall
17 factor in determining an employee’s compensation.

18 **SEC. 4. PROVIDING EMPLOYEES WITH BASIC DIGNITIES.**

19 Each financial institution shall—

20 (1) provide employees of the financial institu-
21 tion with at least one paid 10-minute rest period per
22 4-hour period worked, as close as practicable to the
23 middle of such period; and

24 (2) with respect to an employee with a docu-
25 mented medical condition requiring periodic short-

1 duration rest breaks, provide the employee with such
2 short-duration rest breaks at the employee's regular
3 rate of pay.

4 **SEC. 5. PROHIBITION ON FORCED ARBITRATION PROVI-**
5 **SIONS IN EMPLOYMENT AGREEMENTS.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, with respect to a financial institution and an
8 employee of a financial institution—

9 (1) no predispute arbitration agreement shall be
10 valid or enforceable if it requires arbitration of an
11 employment dispute;

12 (2) no postdispute arbitration agreement that
13 requires arbitration of an employment dispute shall
14 be valid or enforceable unless—

15 (A) the agreement was not required by the
16 financial institution, obtained by coercion or
17 threat of adverse action, or made a condition of
18 employment or any employment-related privi-
19 lege or benefit;

20 (B) the employee entering into the agree-
21 ment was informed in writing using sufficiently
22 plain language likely to be understood by the
23 average employee of the right of the employee
24 under paragraph (3) to refuse to enter the
25 agreement without retaliation;

1 (C) the employee entering into the agree-
2 ment entered the agreement after a waiting pe-
3 riod of not fewer than 45 days, beginning on
4 the date on which the employee was provided
5 both the final text of the agreement and the
6 disclosures required under subparagraph (B);
7 and

8 (D) the employee entering into the agree-
9 ment affirmatively consented to the agreement
10 in writing; and

11 (3) the financial institution may not retaliate or
12 threaten to retaliate against an employee for refus-
13 ing to enter into an agreement that provides for ar-
14 bitration of an employment dispute.

15 (b) CIVIL ACTION.—Any person who is injured by
16 reason of a violation of subsection (a) may bring a civil
17 action in the appropriate district court of the United
18 States against the financial institution within 2 years of
19 the violation, or within 3 years if such violation is willful.
20 Relief granted in such an action shall include a reasonable
21 attorney's fee, other reasonable costs associated with
22 maintaining the action, and any appropriate relief author-
23 ized by section 706(g) of the Civil Rights Act of 1964 (42
24 U.S.C. 2000e-5(g)) or by section 1977A(b) of the Revised
25 Statutes of the United States (42 U.S.C. 1981a(b)).

1 **SEC. 6. PROHIBITING NONDISPARAGEMENT AND NON-**
2 **DISCLOSURE CLAUSES THAT COVER WORK-**
3 **PLACE HARASSMENT, INCLUDING SEXUAL**
4 **HARASSMENT.**

5 (a) UNLAWFUL PRACTICES.—

6 (1) PROHIBITION ON WORKPLACE HARASSMENT
7 NONDISCLOSURE CLAUSE.—Subject to subsection
8 (b)(1), it shall be an unlawful practice for a financial
9 institution to enter into a contract or agreement
10 with an employee or applicant, as a condition of em-
11 ployment, promotion, compensation, benefits, or
12 change in employment status or contractual relation-
13 ship, or as a term, condition, or privilege of employ-
14 ment, if that contract or agreement contains a non-
15 disparagement or nondisclosure clause that covers
16 workplace harassment, including sexual harassment
17 or retaliation for reporting, resisting, opposing, or
18 assisting in the investigation of workplace harass-
19 ment.

20 (2) PROHIBITION ON ENFORCEMENT.—Not-
21 withstanding any other provision of law, it shall be
22 an unlawful practice and otherwise unlawful for a fi-
23 nancial institution to enforce or attempt to enforce
24 a nondisparagement clause or nondisclosure clause
25 described in paragraph (1).

26 (b) SETTLEMENT OR SEPARATION AGREEMENTS.—

1 (1) IN GENERAL.—The provisions of subsection
2 (a) do not apply to a nondisclosure clause or non-
3 disparagement clause contained in a settlement
4 agreement or separation agreement that resolves
5 legal claims or disputes when—

6 (A) such legal claims accrued or such dis-
7 putes arose before the settlement agreement or
8 separation agreement was executed; and

9 (B) such clauses are mutually agreed upon
10 and mutually benefit both the financial institu-
11 tion and employee.

12 (2) UNLAWFUL PRACTICE.—It shall be an un-
13 lawful practice for a financial institution to unilater-
14 ally include a nondisclosure clause or a nondispar-
15 agement clause that solely benefits the financial in-
16 stitution in a separation or settlement agreement.

17 (c) RIGHT TO REPORT RESERVED.—Notwith-
18 standing signing (before or after the effective date of this
19 section) any nondisparagement or nondisclosure clause in-
20 cluding a clause referred to in subsection (a)(1), an em-
21 ployee or applicant retains any right that person would
22 otherwise have had to report a concern about workplace
23 harassment, including sexual harassment or another viola-
24 tion of the law to a Federal agency (including an office
25 of the legislative or judicial branch), a State or local fair

1 employment practices agency or any other State or local
2 agency, or a law enforcement agency, and any right that
3 person would otherwise have had to bring an action in a
4 court of the United States.

5 **SEC. 7. AMENDMENTS TO THE WHISTLEBLOWER PROTEC-**
6 **TIONS FOR EMPLOYEES OF PUBLICLY TRAD-**
7 **ED COMPANIES.**

8 Section 1514A of title 18, United States Code, is
9 amended—

10 (1) in subsection (a)—

11 (A) in the matter preceding paragraph (1),
12 by striking “in the terms and conditions of em-
13 ployment because of any lawful act done by the
14 employee” and inserting “with respect to com-
15 pensation, terms, conditions, or privileges of
16 employment because of any lawful act done by
17 the applicant, employee, or former employee or
18 perceived to have been done by the applicant,
19 employee, or former employee (or any person
20 acting pursuant to the request of the applicant,
21 employee, or former employee), whether at the
22 initiative of the applicant, employee, or former
23 employee or in the ordinary course of the duties
24 of the applicant, employee, or former em-
25 ployee”;

1 (B) in paragraph (1)(C), by striking “; or”
2 and inserting a semicolon;

3 (C) in paragraph (2), by striking the pe-
4 riod at the end and inserting a semicolon; and

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

6 “(3) in objecting to, or refusing to participate
7 in, any activity, policy, practice, or assigned task the
8 applicant, employee, or former employee (or other
9 such person) reasonably believed to be in violation of
10 any law, rule, order, standard, or prohibition subject
11 to the jurisdiction of, or enforceable by, the Securi-
12 ties and Exchange Commission; or

13 “(4) in providing, preparing to provide, or as-
14 sisting in the provision of information to the em-
15 ployer or a person with supervisory authority over
16 the applicant, employee, or former employee (or such
17 other person working for the employer who has the
18 authority to investigate, discover, or terminate mis-
19 conduct) relating to any violation of, or any act or
20 omission that the whistleblower believes to be a vio-
21 lation of, any provision of this title or any other pro-
22 vision of law that is subject to the jurisdiction of the
23 Securities and Exchange Commission, or any rule,
24 order, standard, or prohibition prescribed by the
25 Commission.”;

1 (2) in subsection (c)(2)(B), by inserting “dou-
2 ble” before “back pay”;

3 (3) in subsection (c), by adding at the end the
4 following:

5 “(3) PUNITIVE DAMAGES.—Relief for any ac-
6 tion under paragraph (1) may include punitive dam-
7 ages in an amount not to exceed \$250,000.”; and

8 (4) by adding at the end the following:

9 “(e) CONFIDENTIALITY.—Neither the Securities and
10 Exchange Commission, the Secretary of Labor, nor any
11 officer or employee of the Commission or the Secretary
12 may disclose any identifying information about an em-
13 ployee of a company described in subsection (a) who has
14 provided information to the Commission or the Sec-
15 retary—

16 “(1) unless the Commission or the Secretary
17 has obtained the written consent of the whistle-
18 blower;

19 “(2) except in accordance with the provisions of
20 section 552a of title 5, United States Code; or

21 “(3) unless required to be disclosed to a defend-
22 ant or respondent in connection with a public pro-
23 ceeding instituted by the Commission or the Sec-
24 retary.”.

1 **SEC. 8. WORKER PARTICIPATION IN FINANCIAL INSTITU-**
2 **TION EXAMINATIONS.**

3 The Federal Financial Institutions Examination
4 Council Act of 1978 (12 U.S.C. 3301) is amended by add-
5 ing at the end the following:

6 **“SEC. 1012 WORKER PARTICIPATION.**

7 “In establishing uniform principles and standards
8 and report forms for the examination of financial institu-
9 tions under section 1006, the Council shall—

10 “(1) establish a system for non-management
11 employees of financial institutions to provide feed-
12 back to a Federal financial institutions regulatory
13 agency conducting an examination as to whether ap-
14 plicable Federal laws and regulations are being fol-
15 lowed by the financial institution or whether there
16 are issues that need to be addressed; and

17 “(2) include a random or systematic survey of
18 employees of the financial institution being exam-
19 ined, through a mechanism not subject to scrutiny
20 by the financial institution.”.

21 **SEC. 9. PROHIBITION ON OBSTRUCTING OR INTERFERING**
22 **WITH WORKERS’ DECISIONS ON WHETHER OR**
23 **NOT TO UNIONIZE.**

24 (a) IN GENERAL.— Each financial institution shall—

25 (1) provide reasonable access to bank work-
26 places to inform workers of their rights;

1 (2) remain neutral about unionization; and

2 (3) recognize unions that demonstrate support
3 from a majority of a unit of the financial institu-
4 tion's employees.

5 (b) MANAGEMENT TRAINING.—Each financial insti-
6 tution shall ensure that training for management of the
7 financial institution includes training on the requirements
8 under subsection (a).

9 **SEC. 10. ADDITIONAL DISCLOSURES FOR PUBLIC FINAN-**
10 **CIAL INSTITUTIONS.**

11 Section 13 of the Securities Exchange Act of 1934
12 (15 U.S.C. 78m) is amended by adding at the end the
13 following:

14 “(s) ADDITIONAL DISCLOSURES BY FINANCIAL IN-
15 STITUTIONS.—Each financial institution (as defined under
16 section 5312 of title 31, United States Code) required to
17 file an annual or quarterly report under subsection (a)
18 shall disclose in that report the following:

19 “(1) The total number of employees of the fi-
20 nancial institution globally.

21 “(2) The total number of employees of the fi-
22 nancial institution in the United States.

23 “(3) The number of individuals performing
24 work for the financial institution who are employed

1 by contractors, both in the United States and glob-
2 ally.

3 “(4) Any notice that the financial institution
4 was required to made pursuant to the Worker Ad-
5 justment and Retraining Notification Act in the pre-
6 vious year to inform workers of mass layoffs of over
7 50 workers.

8 “(5) With respect to any lawsuit involving the
9 financial institution in the previous year related to
10 violations of the Fair Labor Standards Act of 1938,
11 the Occupational Safety and Health Act of 1970, the
12 National Labor Relations Act, the Age Discrimina-
13 tion in Employment Act of 1967, title VII of the
14 Civil Rights Act fo 1964, the Americans with Dis-
15 abilities Act of 1990, the Rehabilitation Act of 1973,
16 the Genetic Information Nondiscrimination Act of
17 2008, section 4311(b) of title 38, United States
18 Code (regarding nondiscrimination against
19 servicemembers), or a related State statute—

20 “(A) the name of the parties to the law-
21 suit;

22 “(B) the factual basis of the lawsuit;

23 “(C) the date the suit was filed; and

24 “(D) the amount of possible damages ap-
25 plicable to the lawsuit.”.

1 **SEC. 11. WORKER TRAINING.**

2 (a) IN GENERAL.—Each financial institution shall—

3 (1) provide employees of the financial institu-
4 tion with training on compliance with Federal con-
5 sumer financial law that are relevant to each em-
6 ployee’s job duties;

7 (2) provide all employees with sufficient paid
8 time for such training; and

9 (3) ensure that such training does not conflict
10 with employees’ normal work duties.

11 (b) REPORT.—Each financial institution shall submit
12 annual report to the appropriate Federal banking agency
13 (if any) and the Bureau of Consumer Financial Protection
14 describing the training protocols put in place by the finan-
15 cial institution to comply with this section.

16 **SEC. 12. DEFINITIONS.**

17 In this Act:

18 (1) CREDIT UNION.—The term “credit union”
19 means a Federal credit union or a State credit
20 union, as such terms are defined, respectively, under
21 section 101 of the Federal Credit Union Act.

22 (2) FEDERAL CONSUMER FINANCIAL LAW.—
23 The term “Federal consumer financial law” has the
24 meaning given that term under section 1002 of the
25 Consumer Financial Protection Act of 2010 (12
26 U.S.C. 5481).

1 (3) FINANCIAL INSTITUTION.—The term “fi-
2 nancial institution” has the meaning given that term
3 under section 5312 of title 31, United States Code.

4 (4) OTHER BANKING TERMS.—The terms “ap-
5 propriate Federal banking agency”, “depository in-
6 stitution”, “depository institution holding company”,
7 “Federal banking agency” have the meaning given
8 those terms, respectively, under section 3 of the
9 Federal Deposit Insurance Act.