To establish or modify requirements relating to minority depository institutions and community development financial institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Meeks introduced the following bill; which was referred to the Committee on

A BILL

To establish or modify requirements relating to minority depository institutions and community development financial institutions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ensuring Diversity in Community Banking Act of 2019”.
SEC. 2. MINORITY DEPOSITORY INSTITUTIONS ADVISORY COMMITTEES.

(a) Establishment.—The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation shall each establish an advisory committee to be called the “Minority Depository Institutions Advisory Committee”.

(b) Duties.—Each Minority Depository Institutions Advisory Committee shall provide advice to the respective agency on meeting the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) to preserve the present number of minority depository institutions, preserve the minority character of minority-owned institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority depository institutions. The scope of the work of each such Minority Depository Institutions Advisory Committee shall include an assessment of the current condition of minority depository institutions, what regulatory changes or other steps the respective agencies may be able to take to fulfill the requirements of such section 308, and other issues of concern to minority depository institutions.
(c) Membership.—Each Minority Depository Institutions Advisory Committee shall consist of no more than 10 members, who—

(1) shall serve for one two-year term;

(2) shall serve as a representative of a depository institution with respect to which the respective agency is the appropriate Federal banking agency; and

(3) shall not receive pay by reason of their service on the advisory committee, but may receive travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

(d) No Termination of Advisory Committees.—The termination requirements under section 14 of the Federal Advisory Committee Act (5 U.S.C. app.) shall not apply to an advisory committee established pursuant to this section.

(e) Definitions.—In this section, the terms “appropriate Federal banking agency” and “depository institution” have the meaning given those terms, respectively, under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).
SEC. 3. FEDERAL DEPOSITS IN MINORITY DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by adding at the end the following new subsection:

“(d) FEDERAL DEPOSITS.—The Secretary of the Treasury shall ensure that deposits made by Federal agencies in minority depository institutions are fully collateralized or fully insured, as determined by the Secretary. Such deposits may include reciprocal deposits as defined in section 337.6(e)(2)(v) of title 12, Code of Federal Regulations (as in effect on March 6, 2019).”.

(b) TECHNICAL AMENDMENT.—The paragraph heading for paragraph (1) of section 308(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by striking “FINANCIAL” and inserting “DEPOSITORY”.

SEC. 4. DIVERSITY REPORT AND BEST PRACTICES.

(a) ANNUAL REPORT.—Each covered regulator shall submit to Congress an annual report on diversity including the following:

(1) Data, based on voluntary self-identification, on the racial, ethnic, and gender composition of the examiners of each covered regulator, disaggregated by length of time served as an examiner;
(2) The status of any examiners of covered regulators, based on voluntary self-identification, as a veteran.

(3) Whether any covered regulator, as of the date on which the report required under this section is submitted, has adopted a policy, plan, or strategy to promote racial, ethnic, and gender diversity among examiners of the covered regulator.

(b) BEST PRACTICES.—Each Office of Minority and Women Inclusion of a covered regulator shall develop, provide to the head of the covered regulator, and make publicly available best practices—

(1) for increasing the diversity of candidates applying for examiner positions, including through outreach efforts to recruit diverse candidate to apply for entry-level examiner positions;

(2) for retaining and providing fair consideration for promotions within the examiner staff for purposes of achieving diversity among examiners.

(c) COVERED REGULATOR DEFINED.—In this section, the term “covered regulator” means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.
SEC. 5. INVESTMENTS IN ELIGIBLE MINORITY DEPOSITORY INSTITUTIONS.

Section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)) is amended by adding at the end the following new paragraph:

“(7) TREATMENT OF ELIGIBLE MINORITY DEPOSITORY INSTITUTION OWNERS.—

“(A) IN GENERAL.—For purposes of determining whether a company is a bank holding company by reason of ownership or control of an eligible minority depository institution, such determination shall be made without the application of subparagraph (A) or (B) of paragraph (2).

“(B) ELIGIBLE MINORITY DEPOSITORY INSTITUTION DEFINED.—In this paragraph, the term ‘eligible minority depository institution’ means a minority depository institution that is also a community development financial institution with aggregate assets of less than $3,000,000,000.”.
SEC. 6. REQUIREMENT TO MENTOR MINORITY DEPOSITORY INSTITUTIONS OR COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS TO SERVE AS A DEPOSITARY OR FINANCIAL AGENT.

(a) In General.—Before a large financial institution may be employed as a financial agent of the Department of the Treasury or perform any reasonable duties as depositary of public moneys of the Department of the Treasury, the large financial institution shall demonstrate participation as a mentor in a covered mentor-protege program to a protege firm that is a minority depository institution or a community development financial institution.

(b) Definitions.—In this section:

(1) Covered mentor-protege program.—The term “covered mentor-protege program” means a mentor-protege program established by the Secretary of the Treasury pursuant to section 45 of the Small Business Act (15 U.S.C. 657r).

(2) Large financial institution.—The term “large financial institution” means any entity—

(A) regulated by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the National Credit Union Administration; and
(B) that has total consolidated assets greater than or equal to $50,000,000,000.

SEC. 7. CUSTODIAL DEPOSIT PROGRAM FOR COVERED MINORITY DEPOSITORY INSTITUTIONS.

(a) Establishment.—The Secretary of the Treasury shall establish a custodial deposit program (in this section referred to as the “Program”) under which a covered MDI shall receive monthly deposits from a qualifying account.

(b) Application.—A covered MDI shall submit to the Secretary an application to participate in the Program at such time, in such manner, and containing such information as the Secretary may determine.

(c) Program Operations.—

(1) Designation of custodial entities.—

The Secretary shall designate eligible custodial entities to make monthly deposits with covered MDIs selected for participation in the Program on behalf of a qualifying account.

(2) Custodial accounts.—

(A) In general.—The Secretary shall establish a custodial deposit account for each qualifying account with the eligible custodial entity designated to make deposits with covered MDIs for each such qualifying account.
(B) AMOUNT.—The Secretary shall deposit a total amount not greater than 5 percent of a qualifying account into any custodial deposit accounts established under subparagraph (A).

(C) DEPOSITS WITH PROGRAM PARTICIPANTS.—

(i) MONTHLY DEPOSITS.—Each month, each eligible custodial entity designated by the Secretary shall deposit an amount not greater than the insured amount, in the aggregate, from each custodial deposit account, in a single covered MDI.

(ii) LIMITATION.—With respect to the funds of an individual qualifying account, the eligible custodial entity may not deposit an amount greater than the insured amount in a single covered MDI.

(iii) INSURED AMOUNT DEFINED.—In this subparagraph, the term “insured amount” means the amount that is the greater of—

(I) the standard maximum deposit insurance amount (as defined in section 11(a)(1)(E) of the Federal
Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)); or

(II) such higher amount negotiated between the Secretary and the Corporation under which the Corporation will insure all deposits of such higher amount.

(D) LIMITATIONS.—The total amount of funds deposited under the Program in a covered MDI may not exceed the lesser of—

(i) 10 percent of the average amount of deposits held by such covered MDI in the previous quarter; or

(ii) $100,000,000.

(3) INTEREST.—

(A) IN GENERAL.—Each eligible custodial entity designated by the Secretary shall—

(i) collect interest from each covered MDI in which such custodial entity deposits funds pursuant to paragraph (2); and

(ii) disburse such interest to the Secretary each month.

(B) INTEREST RATE.—The rate of any interest collected under this paragraph may not exceed 50 percent of the discount window pri-
mary credit interest rate most recently published on the Federal Reserve Statistical Release on selected interest rates (daily or weekly), commonly referred to as the H.15 release (commonly known as the “Federal funds rate”).

(4) STATEMENTS.—Each eligible custodial entity designated by the Secretary shall submit to the Secretary monthly statements that include the total amount of funds deposited with, and interest rate received from, each covered MDI by the eligible custodial entity on behalf of qualifying entities.

(5) RECORDS.—The Secretary shall issue a quarterly report to Congress and make publicly available a record identifying all covered MDIs participating in the Program and amounts deposited under the Program in covered MDIs.

(d) REQUIREMENTS RELATING TO DEPOSITS.—Deposits made with covered MDIs under this section may not—

(1) be considered by the Corporation to be funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts (as described under section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f)); or
(2) be subject to insurance fees from the Corporation that are greater than insurance fees for typical demand deposits not obtained, directly or indirectly, by or through any deposit broker (commonly known as “core deposits”).

(c) Modifications.—

(1) In general.—The Secretary shall provide a 3-month period for public notice and comment before making any material change to the operation of the Program.

(2) Exception.—The requirements of paragraph (1) shall not apply if the Secretary makes a material change to the Program to comply with safety and soundness standards or other law.

(f) Termination.—

(1) By covered MDI.—A covered MDI selected for participation in the Program pursuant to subsection (c) may terminate participation in the Program by providing the Secretary a notification 60 days prior to termination.

(2) By Secretary.—The Secretary may terminate the participation of a covered MDI in the Program if the Secretary determines the covered MDI—

(A) violated any terms of participation in the Program;
(B) failed to comply with Federal bank secrecy laws, as documented in writing by the primary regulator of the covered MDI;

(C) failed to remain well capitalized; or

(D) failed to comply with safety and soundness standards, as documented in writing by the primary regulator of the covered MDI.

(g) Definitions.—In this section:

(1) Corporation.—The term “Corporation” means the Federal Deposit Insurance Corporation.

(2) Covered MDI.—The term “covered MDI” means a minority depository institution that is regulated by the Corporation or the National Credit Union Administration Board that is well capitalized (as defined in section 38(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(b))).

(3) Eligible custodial entity.—The term “eligible custodial entity” means—

(A) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)),

(B) an insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)), or
(C) or a well capitalized State-chartered trust company,
designated by the Secretary under subsection (c)(1).

(4) FEDERAL BANK SECRECY LAWS.—The term “Federal bank secrecy laws” means—

(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

(B) section 123 of Public Law 91–508;

and

(C) subchapter II of chapter 53 of title 31, United States Code.

(5) QUALIFYING ACCOUNT.—The term “qualifying account” means any account established in the Department of the Treasury that—

(A) is controlled by the Secretary; and

(B) is expected to maintain a balance greater than $200,000,000 for the following calendar month.

(6) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(7) WELL CAPITALIZED.—The term “well capitalized” has the meaning given in section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o).
SEC. 8. APPLICATION PROCESSES FOR DE NOVO COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION APPLICANTS.

(a) Application Processes.—Not later than 12 months after the date of the enactment of this Act and with respect to any person submitting an application for deposit insurance with the Federal Deposit Insurance Corporation that could also become a community development financial institution, the Federal Deposit Insurance Corporation, in consultation with the Administrator of the Community Development Financial Institutions Fund, shall—

(1) develop systems and procedures to record necessary information to allow the Administrator to conduct preliminary analysis for such person to also become a community development financial institution; and

(2) develop procedures to streamline the application and certification processes and to reduce costs for such person to become a community development financial institution that serves low- and moderate-income neighborhoods (as defined under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.).

(b) Report on Implementation.—Not later than 18 months after the date of the enactment of this Act,
the Federal Deposit Insurance Corporation shall submit to Congress a report describing the systems and procedures required under subsection (a).

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Section 17(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)(1)) is amended—

(A) in subparagraph (E), by striking “and” at the end;

(B) by redesignating subparagraph (F) as subparagraph (G);

(C) by inserting after subparagraph (E) the following new subparagraph:

“(F) applicants for deposit insurance that could also become a community development financial institution (as defined in section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994); and”.

(2) APPLICATION.—The amendment made by this subsection shall apply with respect to the first report to be submitted after the date that is 2 years after the date of the enactment of this Act.
SEC. 9. COMMUNITY REINVESTMENT ACT EXAMINATION OF CERTAIN MINORITY DEPOSITORY INSTITUTIONS.

Not later than 1 year after the date of the enactment of this Act, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System shall jointly propose and seek public comments on processes for streamlining and simplifying examination requirements under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) for minority depository institutions that are also community development financial institutions with aggregate assets of less than $3,000,000,000.

SEC. 10. TASK FORCE ON LENDING TO SMALL BUSINESS CONCERNS.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Small Business Administration shall establish a task force to examine methods for improving relationships between the Small Business Administration and community development financial institutions and minority depository institutions to increase the volume of loans provided by such institutions to small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)).
(b) REPORT TO CONGRESS.—Not later than 2 years after the establishment of the task force described in subsection (a), the Administrator of the Small Business Administration shall submit to Congress a report on the findings of such task force.

SEC. 11. QUALIFIED OPPORTUNITY FUND INVESTMENTS IN COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 1400Z–2(d)(3) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULE FOR COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—The term ‘qualified opportunity zone business’ shall include any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)) if, during substantially all the qualified opportunity fund’s holding period for its investment in such community development financial institution, the average of the aggregate amount of investment, and principal amount of loans, provided by such community development financial institution to qualified opportunity zone busi-
nesses (other than community development financial institutions) or residents of qualified opportunity zones is not less than such investment.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 12. SENSE OF CONGRESS ON FUNDING THE LOAN-LOSS RESERVE FUND FOR SMALL DOLLAR LOANS.

The sense of Congress is the following:

(1) Title XII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5621 et seq.) (referred to in this section as “Dodd-Frank”) was enacted to provide millions of low-to-moderate income individuals living in the United States the opportunity to access and utilize appropriate mainstream financial products and services.

(2) Title XII of Dodd-Frank authorizes the Secretary of the Treasury to create multi-year grant programs designed to encourage low-to-moderate income individuals (referred to in this section as the “targeted group”) to establish accounts at federally insured banks. The grants are also designed to im-
prove the targeted group’s access to such accounts on reasonable terms.

(3) Title XII of Dodd-Frank also authorizes participating institutions to issue small-dollar loans to the targeted group and to provide recipients with the financial counseling and education necessary to conduct transactions and manage their accounts. These loans provide low-cost alternatives to payday loans and other non-traditional forms of financing that often impose excessive interest rates and fees on borrowers, and lead millions of Americans to fall into debt traps. Small-dollar loans can only be made pursuant to terms, conditions, and practices that are reasonable for the individual consumer purchasing the loan.

(4) Program participation is restricted to eligible institutions, which are limited to organizations listed in section 501(c)(3) of the Internal Revenue Code and exempt from tax under 501(a) of such Code, federally insured depository institutions, community development financial institutions and State, local, or tribal government entities, pursuant to title XII of the Dodd-Frank.

(5) No such program has been established in the nine years since the passage of Dodd-Frank.
(6) The Administration and the Congress should prioritize appropriation of funds for the loan-loss reserve fund and technical assistance programs as mandated by title XII of Dodd-Frank, and as included in the version of the 2020 Financial Services and General Government Appropriations bill that passed the House of Representatives in June 2019.

SEC. 13. DEFINITIONS.

In this Act:

(1) Community development financial institution.—The term “community development financial institution” has the meaning given under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702).

(2) Minority depository institution.—The term “minority depository institution” has the meaning given under section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note).