

AMENDMENT TO H.R. 4293
OFFERED BY MS. MAXINE WATERS OF
CALIFORNIA

[Page and line numbers refer to ZELDIN_035]

Strike page 4, line 24, and all that follows through page 5, line 4, and redesignate the subsequent clauses accordingly.

Add at the end the following:

1 **SEC. 3. MEGABANK ACCOUNTABILITY AND CON-**
2 **SEQUENCES.**

3 (a) IMMEDIATE REVIEW.—The Bureau of Consumer
4 Financial Protection shall review and determine, after con-
5 sulting with any appropriate Federal banking agency,
6 within 90 days of enactment of this Act whether a global
7 systemically important bank holding company and any of
8 its affiliates or subsidiaries, or the branch, representative
9 office, or agency of a foreign bank that is federally licensed
10 and affiliated with a global systemically important bank
11 holding company, is engaging or has engaged in a pattern
12 or practice of unsafe or unsound banking practices and
13 other violations related to consumer harm. Not later than
14 120 days after the date of enactment of this Act, the Di-

1 rector of the Bureau of Consumer Financial Protection
2 shall provide written notice to the Committee on Financial
3 Services of the House of Representatives and the Com-
4 mittee on Banking, Housing, and Urban Affairs of the
5 Senate describing the review, listing any identified institu-
6 tion with a detailed basis for the determination, and notify
7 the Board of Governors of the Federal Reserve System
8 of the determination.

9 (b) CONSEQUENCES.—For any institution deter-
10 mined to be engaging or to have been engaged in a pattern
11 or practice of unsafe or unsound banking practices and
12 other violations related to consumer harm under sub-
13 section (a), the Board of Governors of the Federal Reserve
14 System shall object to any capital plan that includes any
15 capital distribution submitted by the institution pursuant
16 to CCAR for the next five years.

17 (c) QUALITATIVE ASSESSMENT.—In carrying out
18 CCAR, the Board of Governors of the Federal Reserve
19 System shall object to any global systemically important
20 bank holding company's capital plan if, in making a quali-
21 tative assessment of any global systemically important
22 bank holding company's plan, the Board of Governors de-
23 termines that such company, including any of its affiliates
24 or subsidiaries, engaged in a pattern or practice of viola-
25 tions of Federal consumer protection laws.

1 (d) DEFINITION OF PATTERN OR PRACTICE OF UN-
2 SAFE OR UNSOUND BANKING PRACTICES AND OTHER
3 VIOLATIONS RELATED TO CONSUMER HARM.—For pur-
4 poses of this section, the term “pattern or practice of un-
5 safe or unsound banking practices and other violations re-
6 lated to consumer harm” means engaging in all of the fol-
7 lowing activities, to the extent each activity was discovered
8 or occurred at least once in the 10 years preceding the
9 date of the enactment of this Act:

10 (1) Having unsafe or unsound practices in the
11 institution’s risk management and oversight of the
12 institution’s sales practices, as evidenced by—

13 (A) an institution lacking an enterprise-
14 wide sales practices oversight program that en-
15 ables the institution to adequately monitor sales
16 practices to prevent and detect unsafe or un-
17 sound sales practices and mitigate risks that
18 may result from such unsafe and unsound sales
19 practices; and

20 (B) an institution lacking a comprehensive
21 customer complaint monitoring process that—

22 (i) enables the institution to assess
23 customer complaint activity across the
24 bank;

1 (ii) adequately monitors, manages,
2 and reports on customer complaints; and
3 (iii) analyzes and understands the po-
4 tential risks posed by the institution's sales
5 practices.

6 (2) Engaging in unsafe and unsound sales prac-
7 tices, as evidenced by the institution—

8 (A) opening more than one million unau-
9 thorized deposit, credit card, or other accounts;

10 (B) performing unauthorized transfers of
11 customer funds; and

12 (C) performing unauthorized credit inquir-
13 ies for purposes of the conduct described in
14 subparagraph (A) or (B).

15 (3) Lacking adequate oversight of third-party
16 vendors for purposes of risk-mitigation, to prevent
17 abusive and deceptive practices in the vendor's provi-
18 sion of consumer products or services.

19 (4) Having deficient policies and procedures for
20 sharing customers' personal identifiable information
21 with third-party vendors for litigation purposes that
22 led to inadvertent disclosure of such information to
23 unintended parties.

24 (5) Violating Federal consumer financial laws
25 with respect to mortgage loans, including charges of

1 hidden fees and unauthorized or improper disclo-
2 sures tied to home mortgage loan modifications.

3 (6) Engaging in unsafe or unsound banking
4 practices related to residential mortgage loan serv-
5 icing and foreclosure processing.

6 (7) Violating the Servicemembers Civil Relief
7 Act.

8 (e) DEFINITION OF PATTERN OR PRACTICE OF VIO-
9 LATIONS OF FEDERAL CONSUMER PROTECTION LAWS.—

10 (1) For purposes of this section, the term “pat-
11 tern or practice of violations of Federal consumer
12 protection laws” means—

13 (A) a pattern or practice of unsafe or un-
14 sound banking practices and other violations re-
15 lated to consumer harm; and

16 (B) such other pattern or practice as the
17 Director of the Bureau of Consumer Financial
18 Protection shall, in consultation with the Comp-
19 troller of the Currency, the Board of Governors
20 of the Federal Reserve System, and the Federal
21 Deposit Insurance Corporation, establish by
22 regulation.

23 (2) TIME PERIOD.—Eligible activities that may
24 be included in any pattern or practice described
25 under paragraph (1) are those that were discovered

1 or occurred in the 10 years preceding any deter-
2 mination made under this section.

3 (3) RULEMAKING.—Not later than the end of
4 the 1-year period beginning on the date of the enact-
5 ment of this Act, the Director of the Bureau of Con-
6 sumer Financial Protection shall issue final regula-
7 tions to carry out paragraph (1)(B).

8 (f) OTHER DEFINITIONS.—For purposes of this sec-
9 tion:

10 (1) APPROPRIATE FEDERAL BANKING AGEN-
11 CY.—The term “appropriate Federal banking agen-
12 cy” has the meaning given that term under section
13 3 of the Federal Deposit Insurance Act (12 U.S.C.
14 1813).

15 (2) CCAR.—The term “CCAR” means the
16 Comprehensive Capital Analysis and Review estab-
17 lished by the Board of Governors of the Federal Re-
18 serve System.

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

1 (4) FEDERAL CONSUMER PROTECTION LAW.—

2 The term “Federal consumer protection law”
3 means—

4 (A) the Federal consumer financial law;

5 (B) the Fair Housing Act;

6 (C) the Federal Trade Commission Act;

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

10 (E) the Servicemembers Civil Relief Act;

11 and

12 (F) any regulation issued under a law de-
13 scribed under subparagraph (A), (B), (C), (D),
14 or (E).

15 (5) GLOBAL SYSTEMICALLY IMPORTANT BANK
16 HOLDING COMPANY.—The term “global systemically
17 important bank holding company” means—

18 (A) a bank holding company that has been
19 identified by the Board of Governors of the
20 Federal Reserve System as a global systemically
21 important bank holding company pursuant to
22 section 217.402 of title 12, Code of Federal
23 Regulations; and

1 (B) a global systemically important foreign
2 banking organization, as defined under section
3 252.2 of title 12, Code of Federal Regulations.

