)E: 6210-01P

FEDERAL RESERVE SYSTEM

12 CFR Part 262

[Docket No. R-1884]

RIN 7100-AH17

Prohibition on Use of Reputation Risk or Other Supervisory Tools to Encourage or Compel Banking Organizations to Engage in Politicized or Unlawful Discrimination

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is inviting public comment on a notice of proposed rulemaking (proposal or proposed rule) that would codify the removal of reputation risk from the Board's supervisory programs. The proposal would prohibit the Board from encouraging or compelling Board-supervised banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk.

DATES: Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES:

You may submit comments, identified by Docket No. R-1884 and RIN 7100-AH17, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/apps/proposals/.* Follow the instructions for submitting comments, including attachments. ***Preferred Method.***
- *Mail:* Benjamin W. McDonough, Deputy Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

- *Hand Delivery/Courier:* Same as mailing address.
- *Other Means: publiccomments@frb.gov.* You must include the docket number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at *https://www.federalreserve.gov/apps/proposals/* without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure. Public comments may also be viewed electronically or in person in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

FOR FURTHER INFORMATION CONTACT: Anna Lee Hewko, Associate Director, (202) 530-6260; Mehdi Beyhaghi, Principal Economist, (202) 941-8706; Devyn Jeffereis, Lead Financial Institution Policy Analyst, (202) 452-2729, Division of Supervision and Regulation; or Asad Kudiya, Associate General Counsel, (202) 475-6358; Alyssa O'Connor, Senior Counsel, (202) 577-5476; Harley Moyer, Attorney, (240) 749-9069, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263-4869.

SUPPLEMENTARY INFORMATION:

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I. Introduction and Objectives of the Proposal

It is the Board's policy not to encourage or compel Board-supervised banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk. The decision regarding whether or not to make a loan or to open, close, or maintain an account, provide any other financial product or service, or modify the terms of any financial product or service rests with the banking organization, acting in accordance with applicable law.

In addition to the Board's policy, the Board announced in June 2025 that reputation risk will no longer be a component of examination programs in its supervision of banks, and that the Board will train examiners to help ensure this change is implemented consistently across Board-supervised banking organizations.[1] The Board is eliminating references to reputation and reputation risk in its supervisory materials, including examination manuals.[2] The Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA) also have announced their intention to eliminate references to reputation risk in their examination manuals and other supervisory materials.[3] These agencies recently requested comment on proposals to codify the removal of

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[1] Board, Press Release (June 23, 2025), *https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250623a.htm*.

[2] *Id.*

[3] *See* FDIC, Press Release (October 7, 2025), *https://www.fdic.gov/news/financial-institution-letters/2025/agencies-issue-proposal-prohibit-use-reputation-risk*; OCC, News Release 2025-21 (March 20, 2025),

reputation risk from their supervisory programs.[4]

The Board has defined reputation risk as "the potential that negative publicity regarding an institution's business practices, whether true or not, will cause a decline in the customer base, costly litigation, or revenue reductions."[5] Reputation risk increased in prevalence as a supervisory concept in the 1990s and thereafter; the concept generally was not used in the Board's supervisory programs before that time.[6] In 1995, the Board published guidance that established guidelines for the rating of risk management at state member banks and bank holding companies.[7] The guidelines listed six risk channels, one of which was reputation risk.[8] In subsequent years, reputation risk was included in other supervisory materials. For example, in the case of the Board, this included guidance related to risk-focused safety and soundness examinations and inspections and consumer compliance risk in bank holding companies.[9] Over time, concerns have arisen that reputation risk and other similar supervisory tools have been misused. A recent Executive Order raised concerns regarding debanking based on political or religious beliefs or lawful business activities.[10]

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https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-21.html and OCC Bulletin 2025-4 (March 20, 2025), *https://www.occ.gov/news-issuances/bulletins/2025/bulletin-2025-4.html*; NCUA, Press Release (September 25, 2025), *https://ncua.gov/newsroom/press-release/2025/ncua-eliminates-use-reputational-risk*.

[4] 90 FR 48825 (October 30, 2025); 90 FR 48409 (October 21, 2025).

[5] Attachment B to SR Letter 95-51, "Rating the Adequacy of Risk Management Processes and Internal Controls at State Member Banks and Bank Holding Companies" (November 14, 1995) (SR 95-51). In connection with the Board's June 23, 2025, press release, this attachment was revised to remove the reference to reputation risk.

[6] The concept of reputation risk as a potential threat to banking organizations and other financial institutions predates the 1990s, however. *See* I. Walter, "Reputational Risk in Large International Banks," working paper based on a presentation at the Federal Reserve Bank of Chicago, Eighteenth Annual International Banking Conference: The Future of Large, Internationally Active Banks (2015); *see also* J. Hill, *Regulating Bank Reputation Risk*, 54 GA. L. REV. 523 (2019).

[7] *See* Attachment B to SR 95-51.

[8] *Id*.

[9] *See* SR Letter 96-14, "Risk-focused Safety and Soundness Examinations and Inspections" (May 24, 1996); SR Letter 03-22/CA Letter 03-15, "Framework for Assessing Consumer Compliance Risk at Bank Holding Companies" (December 23, 2003). These letters have since been revised to remove references to reputation risk.

[10] E.O. 14331, 90 FR 38925 (August 12, 2025).

The Board is empowered to conduct supervision of various types of banking organizations.[11] It is also empowered to make rules "to enable it to administer and carry out" its supervisory programs.[12] Pursuant to such authority, the Board is proposing to codify the removal of reputation risk from the Board's supervisory programs and to prohibit the Board from encouraging or compelling Board-supervised banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk.

The proposal aims to achieve several objectives. First, by establishing a binding regulation, the Board would further ensure that the actions and decisions of supervisory staff are not based on reputation risk and align with the Board's broader policy. Furthermore, the proposal would reflect experience that reputation risk can be difficult to quantify and communicate, making it challenging for firms to remedy identified concerns. Therefore, this proposal would increase supervisory clarity through the codification of the removal of reputation risk and would facilitate greater precision in supervisory decision making. It also would support the Board's supervisory focus on core financial risks. Procedurally, issuing this proposal for notice and comment allows external stakeholders to provide their views on this issue.

The proposal would not inhibit the efficacy of the Board's supervision and regulation function moving forward. Safety and soundness concerns that motivated the Board's prior inclusion of reputation risk in supervision are adequately addressed through other existing risk types. The Board continues to supervise banking organizations' management of these other risk channels, such as credit risk, market risk, liquidity risk, operational risk, and legal risk,[13] with an

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[11] *See, e.g.,* 12 U.S.C. 248(a), 325, 326, 483, 602, 625, 1467a(b)(2)(A), (4)(A), 1820(d), 1844(c)(1)(A), (2)(A), 3105(c)(1)(A), (2), 3106(a), 5365(b)(2).

[12] 12 U.S.C. 1844(b). *See also* 12 U.S.C. 248(i), 611a, 1467a(g)(1), 3108(a).

[13] *See, e.g.*, Attachment B to SR 95-51.

emphasis on core, material financial risks. Additionally, the proposal would not alter the Board's expectation that Board-supervised banking organizations maintain strong risk management to promote safety and soundness and compliance with applicable laws and regulations.[14]

Furthermore, the proposal is not intended to impact the ability of banking organizations to manage their businesses and make independent decisions regarding their customers. The decision regarding whether or not to make a loan or to open, close, or maintain an account, provide any other financial product or service, or modify the terms of any financial product or service rests with the banking organization, acting in accordance with applicable law.

II. Overview of the Proposal

This proposal would codify the removal of reputation risk from the Board's supervisory programs. The proposal also would explicitly prohibit the Board from encouraging or compelling Board-supervised banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk.

The definition of "banking organization," for purposes of the proposal, would be a bank holding company, as it is defined at 12 CFR 225.2(c); a savings and loan holding company, as it is defined at 12 CFR 238.2(m); a state member bank, as it is defined at 12 CFR 208.2(g); and the combined U.S. operations of a foreign banking organization, as it is defined at 12 CFR 252.2 and 12 CFR 211.21(o). The combined U.S. operations of a foreign banking organization include the U.S. branches and agencies of the foreign banking organization and all U.S. subsidiaries of the foreign banking organization (such as a U.S. intermediate holding company). "Banking

[14] *See, e.g.*, *id.*

organization" would also include the direct and indirect subsidiaries of a bank holding company, savings and loan holding company, and state member bank.

The proposed rule would state that the Board shall not use reputation risk as a component of its examination programs or in materials used for the supervision of banking organizations. Materials used for the supervision of banking organizations include examination manuals, guidance documents, and examiner training materials. The definition of "reputation risk" would be the potential that negative publicity regarding a banking organization's business practices, whether true or not, will cause a decline in the banking organization's customer base, costly litigation, or revenue reductions, which is the definition previously used by the Board in SR 95-51.

The proposal would also include a general statement of the Board's policy. Specifically, it would state that the Board shall not encourage or compel banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk. Additionally, the statement would indicate that the decision regarding whether or not to make a loan or to open, close, or maintain an account, provide any other financial product or service, or modify the terms of any financial product or service rests with the banking organization, acting in accordance with applicable law. The proposal would not prohibit criticism, supervisory feedback, or other actions to address other risk channels related to safety and soundness or compliance with applicable laws and regulations.

Finally, the proposal would make clear that the Board's authority to implement, administer, and enforce the provisions of applicable law would not be restricted. Applicable law would include, but not be limited to, the Bank Secrecy Act; sanctions programs administered by the Office of Foreign Assets Control; the Federal Reserve Act; the Bank Holding Company Act

of 1956; the Home Owners' Loan Act; the Change in Bank Control Act; the International Banking Act of 1978; the Bank Merger Act; the International Lending Supervision Act of 1983; the Federal Deposit Insurance Act; the Equal Credit Opportunity Act; and the Fair Housing Act. The proposed rule would state that the Board would implement, administer, and enforce applicable law consistent with the proposal.

If finalized, the Board would provide training on all aspects of this proposal for supervisory staff to ensure compliance with the proposal. Consistent with standard practice, the Board also would ensure that there are internal management controls to oversee compliance with the proposal.

III. Request for Comment

Question 1: What other references to reputation risk in the Board's regulations or its supervisory programs should be addressed by the proposal? How should the Board address those references?

Question 2: Is the proposal's definition of "reputation risk" appropriate; why or why not? What are the advantages and disadvantages of the definition? How should the definition be broadened or narrowed? What different definition of reputation risk should the Board consider?

Question 3: What changes to the proposal's definition of "banking organization" should the Board consider? Should the Board consider including additional or fewer categories of entities? For example, the Board intends to include "permitted payment stablecoin issuers," as defined in 12 U.S.C. 5901(23), as a banking organization after the Board completes rulemakings required under 12 U.S.C. 5901 et seq. What are other considerations the Board should consider regarding permitted payment stablecoin issuers in the context of the rulemakings required under 12 U.S.C. 5901 et seq.?

Question 4: Is the proposal's regulatory text that would codify a prohibition on the use of reputation risk clear; why or why not? How could "examination programs" or "materials used for the supervision of banking organizations" be defined further?

Question 5: What, if any, additional provisions of applicable law should the proposal's rule of construction include in its list? Which, if any, provisions of applicable law should be removed? Why would any such addition or removal be appropriate?

Question 6: What, if any, unintended consequences for the Board or Board-supervised banking organizations may result from the proposal, including codifying the removal of reputation risk from the Board's supervisory programs and materials?

Question 7: What, if any, alternatives are there to the proposal that would better achieve the Board's objectives?

Question 8: What, if any, references to concepts related to reputation risk should the Board consider revising in its supervisory materials or regulations?

Question 9: Please describe any costs, benefits, or other effects of the proposal that the Board has not identified.

IV. Economic Analysis

A. Baseline

The Federal Reserve supervises bank holding companies, savings and loan holding companies, state member banks, and foreign banking organizations (FBOs) operating in the United States. These entities vary in asset size and complexity.[15] The previous supervisory framework incorporated reputation risk as one component of a broader risk-assessment framework applied across these entities.

As previously mentioned, the Board announced in June 2025 that reputation risk will no longer be a component of examination programs in its supervision of banks. Since then, the

[15] For an overview of Federal Reserve supervised organizations by portfolio, including the number of institutions and total assets in each portfolio, *see* Board, *Supervision and Regulation Report* at 19 (December 2025) (Table 2), *https://www.federalreserve.gov/publications/files/202512-supervision-and-regulation-report.pdf*.

Board has not used reputation risk in its examination programs, and reputation risk is being removed from supervisory materials. As a result, the proposal's benefits and costs since June 2025 are expected to be de minimis, as there has been no further change in policy since that time. The analysis below evaluates the benefits and costs of the proposed rule if the Board had not announced the removal of reputation risk from the Board's supervisory programs in June 2025. Since the June 2025 announcement, some of these benefits and costs may have been realized.

Prior to the Board's June 2025 announcement, the word "reputation" had appeared in a portion of total Matters Requiring Attention (MRAs) and Matters Requiring Immediate Attention (MRIAs) issued by the Federal Reserve System. When broken down by institution type, the word "reputation" was mentioned in approximately 4.6 percent of MRAs/MRIAs for bank holding companies and savings and loan holding companies, 1.5 percent for state member banks, and 2.5 percent for FBOs operating in the United States over the past ten years. To assess historical impacts, the Board conducted an analysis using confidential examination data from a ten-year period through March 2025. The Board identified prior instances by searching MRAs and MRIAs for the word "reputation," then calculated the percentage of examinations containing at least one such supervisory finding for each year. The Board then summed each yearly percentage for each institution type, which resulted in a total percentage over the ten-year period. These percentages include MRAs and MRIAs in which reputation risk was only one of multiple risk concepts or supervisory issues raised. This historical data helps to demonstrate the extent to which reputation risk considerations may have influenced supervisory outcomes under the previous framework.

B. Economic Benefits and Costs

The prohibition on using reputation risk in supervision is expected to generate several economic benefits. First, Board-supervised banking organizations would likely experience reduced regulatory burden through streamlined supervisory processes. This effect becomes particularly significant when considering the cumulative impact across the portfolio of Board-

supervised banking organizations. The proposal would have notable effects on small institutions. These institutions would likely experience proportionally greater benefits from reduced compliance burden, as smaller institutions typically face higher relative regulatory compliance costs.

Second, the proposal would increase clarity and objectivity in the supervisory process by focusing examinations on other risk categories, such as credit, market, liquidity, and operational risk. These risk categories are objective measures that result in greater consistency in the supervisory process. This consistency would benefit the diverse range of Board-supervised banking organizations and reduce regulatory uncertainty.

Third, removing reputation risk from supervisory considerations could expand market access opportunities for Board-supervised banking organizations. These entities may be able to maintain or establish profitable relationships that may have been previously discouraged due to reputation risk concerns. This could economically benefit affected institutions, with a potential notable aggregate impact across the large number of Board-supervised banking organizations.

Finally, the change would allow for more efficient resource allocation within the Federal Reserve System's supervisory function. Examiners could redirect examination resources toward other risk types, enabling more effective supervision across the diverse portfolio of institutions under Federal Reserve System oversight.

Conversely, the proposed prohibition on using reputation risk in supervision is not without costs. Specifically, the proposal would likely incur transitional implementation costs, including revising examination manuals, retraining examiners, and updating supervisory guidance. Staff resources would be required, reflecting the large number of affected institutions. These resources would also be needed to implement the new approach consistently for different institution types, given the diversity in size and complexity of Board-supervised banking organizations.

Based on the analysis of economic impacts, the Board has determined that the benefits of the proposal are likely to outweigh the costs. The reduced regulatory burden, enhanced supervisory clarity, potential for expanded market opportunities, and more efficient resource allocation provide compelling justification for the proposal. While transitional challenges exist, including implementation costs, these are largely short-term and can be mitigated through appropriate planning. The benefits are expected to accrue across all Board-supervised banking organizations, with particularly meaningful impact for smaller institutions.

V. Administrative Law Matters

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA),[16] the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. The Board reviewed the proposal under the authority delegated to the Board by the OMB and determined that it contains no collections of information under the PRA.[17] Accordingly, there is no paperwork burden associated with the rule.

B. Regulatory Flexibility Act

The Board is providing an initial regulatory flexibility analysis with respect to this proposed rule. The Regulatory Flexibility Act (RFA)[18] requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.[19] In connection with a proposed rule, the RFA requires an agency to prepare and invite

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[16] 44 U.S.C. 3501 *et seq.*

[17] 44 U.S.C. 3502(3).

[18] 5 U.S.C. 601 *et seq.*

[19] Under regulations issued by the U.S. Small Business Administration (SBA), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $850 million or less. *See* 13 CFR 121.201. Consistent with the SBA's General Principles of Affiliation, the Board includes the assets of all domestic and foreign affiliates toward the applicable size threshold when determining whether to classify a particular entity as a small entity. *See* 13 CFR 121.103. As of the second quarter of 2025, there were approximately 2,796 small bank holding companies and approximately 157 small savings and loan holding companies, and approximately 443 small state member banks.

public comment on an initial regulatory flexibility analysis describing the impact of the rule on small entities, unless the agency certifies that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis must contain: (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish its stated objectives and minimize any significant economic impact of the proposed rule on small entities.[20]

The Board has considered the potential impact of the proposal on small entities in accordance with the RFA. Based on its analysis and for the reasons stated below, the Board believes that this proposal will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing and inviting comment on this initial regulatory flexibility analysis. As discussed in detail above, the proposal would codify the removal of reputation risk from the Board's supervisory programs. Furthermore, the proposal would explicitly prohibit the Board from encouraging or compelling Board-supervised banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or

[20] 5 U.S.C. 603(b)-(c).

business in politically disfavored but lawful business activities perceived to present reputation risk.

As discussed in section I of this **SUPPLEMENTARY INFORMATION**, the Board is empowered to conduct supervision of various types of banking organizations.[21] It is also empowered to make rules "to enable it to administer and carry out" its supervisory programs.[22] Pursuant to such authority, the Board is proposing to codify the removal of reputation risk from the Board's supervisory programs and to prohibit the Board from encouraging or compelling Board-supervised banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk.

As discussed in section IV of this **SUPPLEMENTARY INFORMATION**, the Board announced in June 2025 that reputation risk will no longer be a component of examination programs in its supervision of banks. Since then, the Board has not used reputation risk in its examination programs, and reputation risk is being removed from supervisory materials. As a result, the proposal's benefits and costs since June 2025 are expected to be de minimis, as there has been no further change in policy since that time. Additionally, the proposal would not impose mandatory requirements on any small entities, as the proposal would only have the effect of removing reputation risk from the Board's supervisory programs and prohibiting the Board from encouraging or compelling Board-supervised banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct,

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[21] *See, e.g.*, 12 U.S.C. 248(a), 325, 326, 483, 602, 625, 1467a(b)(2)(A), (4)(A), 1820(d), 1844(c)(1)(A), (2)(A), 3105(c)(1)(A), (2), 3106(a), 5365(b)(2).

[22] 12 U.S.C. 1844(b). *See also* 12 U.S.C. 248(i), 611a, 1467a(g)(1), 3108(a).

or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk.

Further, as discussed in the *Paperwork Reduction Act* section, the proposal would not make changes to any projected reporting, recordkeeping, and other compliance requirements. Therefore, there are no reporting, recordkeeping, or other compliance requirements from this proposal that would impose a significant cost on small entities. The Board is aware of no other federal rules that duplicate, overlap, or conflict with the proposal. Accordingly, the Board believes that there are no significant alternatives to the proposal that would accomplish the stated objectives and minimize the economic impact of the proposal on small entities.

Therefore, the Board believes that the proposed rule will not have a significant economic impact on a substantial number of small entities supervised by the Board.

The Board welcomes comment on all aspects of its analysis. In particular, the Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[23] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposed rule in a simple and straightforward manner and invites comment on the use of plain language. For example:

- Has the Board organized the material to suit your needs? If not, how could the Board present the proposal more clearly?
- Are the requirements in the proposal clearly stated? If not, how could the proposal be more clearly stated?

[23] Pub. L. 106–102, sec. 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

- Does the proposal contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposal easier to understand? If so, what changes to the format would achieve that?
- Is the section format adequate? If not, which of the sections should be changed and how?
- What other changes could the Board incorporate to make the proposal easier to understand?

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[24] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), the Board must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions.[25]

The Board notes that comment on these matters has been requested in other sections of this **SUPPLEMENTARY INFORMATION**, and that the requirements of RCDRIA will be considered as part of the overall rulemaking process. The proposal would only impose obligations on the Board itself; it would not directly apply to other entities. The Board has

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[24] 12 U.S.C. 4802(a).

[25] 12 U.S.C. 4802(b).

determined that the proposed rule (1) would not impose any additional reporting, disclosures, or other new requirements on IDIs, and (2) places no new administrative burdens on depository institutions, including small depository institutions, and customers of depository institutions. Therefore, the requirements of RCDRIA do not apply. However, the Board invites comments that will further inform its consideration of RCDRIA.

E. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023[26] requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002.[27]

In summary, the Board is proposing to codify the removal of reputation risk from its supervisory programs. The proposal would also prohibit the Board from encouraging or compelling Board-supervised banking organizations to deny or condition the provision of banking or other financial products or services to an individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk.

The proposal and summary can be found at *https://www.regulations.gov* and *https://www.federalreserve.gov/supervisionreg/reglisting.htm*.

List of Subjects in 12 CFR Part 262

Administrative practice and procedure, Banks, banking, Federal Reserve System

Authority and Issuance

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System

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[26] 5 U.S.C. 553(b)(4).

[27] 44 U.S.C. 3501 note.

proposes to amend chapter II of title 12 of the Code of Federal Regulations as follows:

PART 262—RULES OF PROCEDURE

1. The authority section for part 262 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 248, 321, 325, 326, 483, 602, 611a, 625, 1467a, 1828(c), 1842, 1844, 1850a, 1867, 3105, 3106, 3108, 5361, 5368, 5467, and 5469.

2. Section 262.9 is added to read as follows:

§ 262.9 Prohibition on the Use of Reputation Risk or Other Supervisory Tools to Encourage or Compel Banking Organizations to Engage in Politicized or Unlawful Discrimination.

(a) *Definitions*--(1) *Bank holding company* has the same meaning as in 12 CFR 225.2(c).

(2) *Banking organization* means a bank holding company; a savings and loan holding company; a state member bank; any subsidiary of a bank holding company, savings and loan holding company, and state member bank; and the combined U.S. operations of a foreign banking organization.

(3) *Combined U.S. operations* has the same meaning as in 12 CFR 252.2.

(4) *Foreign banking organization* has the same meaning as in 12 CFR 211.21(o).

(5) *Reputation risk* is the potential that negative publicity regarding a banking organization's business practices, whether true or not, will cause a decline in the banking organization's customer base, costly litigation, or revenue reductions.

(6) *Savings and loan holding company* has the same meaning as in 12 CFR 238.2(m).

(7) *State member bank* has the same meaning as in 12 CFR 208.2(g).

(8) *Subsidiary* means any company that is owned or controlled directly or indirectly by a bank holding company, savings and loan holding company, state member bank, or foreign banking organization.

(b) *Statement of policy.* The Board shall not encourage or compel banking organizations to deny or condition the provision of banking or other financial products or services to an

individual or business based on their constitutionally protected political or religious beliefs, associations, speech, or conduct, or based on involvement by the individual or business in politically disfavored but lawful business activities perceived to present reputation risk. The decision regarding whether or not to make a loan or to open, close, or maintain an account, provide any other financial product or service, or modify the terms of any financial product or service rests with the banking organization, acting in accordance with applicable law.

(c) *Prohibition on use of reputation risk.* The Board shall not use reputation risk as a component of its examination programs or in materials used for the supervision of banking organizations.

(d) *Rule of construction.* Nothing in this section shall restrict the Board's authority to implement, administer, and enforce the provisions of applicable law, including but not limited to the Bank Secrecy Act; sanctions programs administered by the Office of Foreign Assets Control; the Federal Reserve Act; the Bank Holding Company Act of 1956; the Home Owners' Loan Act; the Change in Bank Control Act; the International Banking Act of 1978; the Bank Merger Act; the International Lending Supervision Act of 1983; the Federal Deposit Insurance Act; the Equal Credit Opportunity Act; and the Fair Housing Act. The Board shall implement, administer, and enforce applicable law consistent with subsections (b) and (c).

By order of the Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,
Deputy Secretary of the Board.

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