

118TH CONGRESS
1ST SESSION

H. R. 4084

To defer part of the compensation of senior employees of large financial institutions (and their subsidiaries), to use such deferred amounts to pay any civil or criminal fines that may be levied on the institution (or subsidiary), and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2023

Ms. TLAIB introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To defer part of the compensation of senior employees of large financial institutions (and their subsidiaries), to use such deferred amounts to pay any civil or criminal fines that may be levied on the institution (or subsidiary), 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 “Fostering Account-
5 ability In Remuneration Fund Act of 2023” or the “FAIR
6 Fund Act of 2023”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Going back at least to the Wall Street crash
4 of 1929, improper pay structures have contributed
5 to financial crises in the United States.

6 (2) Widespread financial misconduct led to the
7 2008 financial crisis, which caused the Great Reces-
8 sion. Compensation structures incentivized execu-
9 tives and employees to pursue short-term profits
10 without regard for long-term risks to their firms or
11 the broader financial system. While culpable employ-
12 ees and executives continued to receive extraordinary
13 pay, homeowners, workers, and communities paid
14 the price for their greed and recklessness.

15 (3) As seen in the 2023 banking failures, mis-
16 aligned incentives within the financial sector con-
17 tinue to fail to hold executives and their senior em-
18 ployees accountable for their actions. Silicon Valley
19 Bank CEO Greg Becker enjoyed millions of dollars
20 in incentive-based bonuses, while his bank mis-
21 managed risks and failed to respond to regulator's
22 warnings. In the hours before the failure of Silicon
23 Valley Bank, managers paid themselves millions of
24 dollars for what they deemed to be superior perform-
25 ance.

1 (2) place all compensation deferred under para-
2 graph (1) into the deferment fund of the covered fi-
3 nancial institution or subsidiary; and

4 (3) after the end of the covered deferment pe-
5 riod, if sufficient funds remain in the deferment
6 fund, pay the senior employee the amount of com-
7 pensation deferred and for which the covered
8 deferment period ended.

9 (c) USE OF DEFERMENT FUND.—

10 (1) USE OF FUND TO PAY FINES.—If a covered
11 financial institution or subsidiary of a covered finan-
12 cial institution is subject to a civil or criminal fine,
13 the covered financial institution or subsidiary shall
14 first pay such fine out of amounts contained in the
15 deferment fund of the covered financial institution
16 or subsidiary.

17 (2) USE OF FUNDS TO MAKE DEPOSITORS
18 WHOLE.—If a covered financial institution is a de-
19 pository institution or a credit union and the deposi-
20 tory institution or credit union fails, the depository
21 institution or credit union shall use amounts in the
22 deferment fund of the depository institution or cred-
23 it union to ensure depositors do not lose any of their
24 deposits. All amounts in the deferment fund shall be
25 used before any amounts are paid from the Deposit

1 Insurance Fund or the National Credit Union Share
2 Insurance Fund, as applicable, for such purpose.

3 (d) CANCELLATION OF COMPENSATION THAT CAN-
4 NOT BE PAID FROM DEFERMENT FUND.—Each covered
5 financial institution or subsidiary shall have in place a pol-
6 icy that cancels any compensation deferred under sub-
7 section (b) that cannot be repaid as described under sub-
8 section (b)(3), due to the deferment fund lacking sufficient
9 funds.

10 (e) TREATMENT OF DEFERRED COMPENSATION OF
11 EX-EMPLOYEES.—With respect to an individual that has
12 compensation deferred pursuant to subsection (b), but is
13 no longer employed by the applicable covered financial in-
14 stitution or subsidiary, if the covered financial institution
15 or subsidiary is required to pay a fine from its deferment
16 fund for misconduct that occurred after the individual was
17 no longer employed by the covered financial institution or
18 subsidiary, the covered financial institution or subsidiary
19 shall segregate the individual's deferred compensation
20 from other amounts in the deferment fund and shall not
21 use such segregated amounts for any purpose other than
22 repaying the individual pursuant to subsection (b)(3) or
23 for the payment of another fine for misconduct that oc-
24 curred while the individual was still employed by the cov-
25 ered financial institution or subsidiary.

1 (f) RULEMAKING.—The Board of Governors of the
2 Federal Reserve System, the Comptroller of the Currency,
3 the Federal Deposit Insurance Corporation, the Federal
4 Housing Finance Agency, the National Credit Union Ad-
5 ministration, and the Securities and Exchange Commis-
6 sion may each issue such rules as may be necessary to
7 carry out this section with respect to covered financial in-
8 stitutions and subsidiaries subject to supervision by the
9 agency.

10 (g) DEFINITIONS.—In this section:

11 (1) APPROPRIATE FEDERAL REGULATOR.—The
12 term “appropriate Federal regulator” means—

13 (A) the appropriate Federal banking agen-
14 cy, as defined under section 3 of the Federal
15 Deposit Insurance Act;

16 (B) the Federal Housing Finance Agency,
17 in the case of the Federal National Mortgage
18 Association or the Federal Home Loan Mort-
19 gage Corporation;

20 (C) the National Credit Union Administra-
21 tion, in the case of a credit union described
22 under paragraph (6)(C); and

23 (D) the Securities and Exchange Commis-
24 sion, in the case of a person described under
25 subparagraph (B) or (D) of paragraph 6).

1 (2) COMPENSATION.—With respect to an em-
2 ployee, the term “compensation” means any finan-
3 cial remuneration, including salary, bonuses, incen-
4 tives, benefits, severance, deferred compensation, or
5 golden parachute benefits, and any profits that
6 would be realized from the sale of the securities of
7 the company employing the employee.

8 (3) CONSOLIDATED FINANCIAL INSTITUTION.—
9 With respect to a financial institution, the term
10 “consolidated financial institution” means the finan-
11 cial institution and all subsidiaries of the financial
12 institution.

13 (4) COVERED DEFERMENT PERIOD.—The term
14 “covered deferment period” means—

15 (A) with respect to a covered financial in-
16 stitution with less than \$10,000,000,000 in
17 consolidated assets, a number of years, to be
18 determined by the appropriate Federal regu-
19 lator if determined necessary by such appro-
20 priate Federal regulator, beginning on the date
21 the compensation is deferred;

22 (B) with respect to a covered financial in-
23 stitution with \$10,000,000,000 or more, but
24 less than \$50,000,000, in consolidated assets, 2

1 years beginning on the date the compensation is
2 deferred;

3 (C) with respect to a covered financial in-
4 stitution with \$50,000,000,000 or more, but
5 less than \$250,000,000, in consolidated assets,
6 6 years beginning on the date the compensation
7 is deferred; and

8 (D) with respect to a covered financial in-
9 stitution with \$250,000,000,000 or more in
10 consolidated assets, 8 years beginning on the
11 date the compensation is deferred.

12 (5) COVERED FINANCIAL INSTITUTION.—The
13 term “covered financial institution” means a finan-
14 cial institution with more than \$1,000,000,000 in
15 consolidated assets.

16 (6) FINANCIAL INSTITUTION.—The term “fi-
17 nancial institution” means—

18 (A) a depository institution or depository
19 institution holding company, as such terms are
20 defined, respectively, in section 3 of the Federal
21 Deposit Insurance Act (12 U.S.C. 1813);

22 (B) a broker or a dealer registered under
23 section 15 of the Securities Exchange Act of
24 1934 (15 U.S.C. 78o);

1 (C) a credit union, as described in section
2 19(b)(1)(A)(iv) of the Federal Reserve Act;

3 (D) an investment adviser, as defined in
4 section 202(a) of the Investment Advisers Act
5 of 1940 (15 U.S.C. 80b–2(a));

6 (E) the Federal National Mortgage Asso-
7 ciation; and

8 (F) the Federal Home Loan Mortgage
9 Corporation.

10 (7) SENIOR EMPLOYEE.—The term “senior em-
11 ployee” means an employee of a covered financial in-
12 stitution or a subsidiary of the covered financial in-
13 stitution who—

14 (A) is a senior executive officer;

15 (B) has total annual compensation of more
16 than \$1,000,000;

17 (C) with respect to a covered financial in-
18 stitution with \$50,000,000,000 or more, but
19 less than \$250,000,000—

20 (i) is in the top 2 percent of the most
21 highly compensated employees in the con-
22 solidated financial institution; or

23 (ii) has the authority to commit or ex-
24 pose 0.5 percent or more of the capital of
25 the consolidated financial institution; or

1 (D) with respect to a covered financial in-
2 stitution with \$250,000,000,000 or more in
3 consolidated assets—

4 (i) is in the top 5 percent of the most
5 highly compensated employees in the con-
6 solidated financial institution; or

7 (ii) has the authority to commit or ex-
8 pose 0.5 percent or more of the capital of
9 the consolidated financial institution.

○