

117TH CONGRESS
1ST SESSION

H. R. 4232

To require financial regulatory agencies to annually review guidance issued,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2021

Mr. MOONEY (for himself and Mr. LUTKEMEYER) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require financial regulatory agencies to annually review
guidance issued, 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 Guidance
5 Review Act of 2021”.

6 **SEC. 2. ANNUAL REVIEW OF GUIDANCE.**

7 (a) OFFICE OF THE COMPTROLLER OF THE CUR-
8 RENCY.—Chapter 9 of title VII of the Revised Statutes

1 of the United States (12 U.S.C. 1 et seq.) is amended
2 by inserting after section 333 the following new section:

3 **“SEC. 333A. ANNUAL REVIEW OF GUIDANCE.**

4 “(a) IN GENERAL.—The Comptroller of the Currency
5 shall conduct an annual review of guidance issued by the
6 Comptroller during the preceding calendar year to identify
7 if any such guidance may reasonably be anticipated to
8 have an annual economic effect greater than or equal to
9 \$100,000,000. Not later than 6 months after the comple-
10 tion of such review, the Comptroller shall—

11 “(1) submit to Congress a report including the
12 results of the review; and

13 “(2) revoke any such guidance that may reason-
14 ably be anticipated to have an annual economic ef-
15 fect greater than or equal to \$100,000,000;

16 “(3) publish on a publicly available website of
17 the Comptroller a notice of any revocation made
18 under paragraph (2).

19 “(b) FIRST REVIEW.—The first such review con-
20 ducted under this section shall include any guidance issued
21 by the Comptroller in effect on the date such review is
22 conducted.

23 “(c) GUIDANCE DEFINED.—The term ‘guidance’
24 means statement of general applicability issued by the
25 Comptroller, intended to have a future effect on the behav-

1 ior of regulated persons, that sets forth a policy on a stat-
2 utory, regulatory, or technical issue, or an interpretation
3 of a statute or regulation, and does not include—

4 “(1) a rule, as defined in section 551 of title 5,
5 United States Code, promulgated pursuant to notice
6 and comment under section 553 such title;

7 “(2) a rule exempt from rulemaking require-
8 ments under subsection (a) or (b)(3)(B) of section
9 553 of such title;

10 “(3) a rule of agency organization, procedure,
11 or practice;

12 “(4) a decision of an agency adjudication under
13 section 554 of such title or any similar statutory
14 provision; or

15 “(5) internal guidance directed to the issuing
16 agency or other agency that is not intended to have
17 a substantial future effect on the behavior of regu-
18 lated persons.”.

19 (b) BOARD OF GOVERNORS OF THE FEDERAL RE-
20 SERVE SYSTEM.—Section 2B of the Federal Reserve Act
21 (12 U.S.C. 225b) is amended by adding at the end the
22 following new subsection:

23 “(d) ANNUAL REVIEW OF GUIDANCE.—

24 “(1) IN GENERAL.—The Board shall conduct
25 an annual review of guidance issued by the Board

1 during the preceding calendar year to identify if any
2 such guidance may reasonably be anticipated to have
3 an annual economic effect greater than or equal to
4 \$100,000,000. Not later than 6 months after the
5 completion of such review, the Board shall—

6 “(A) submit to Congress a report including
7 the results of the review;

8 “(B) revoke any such guidance that may
9 reasonably be anticipated to have an annual
10 economic effect greater than or equal to
11 \$100,000,000; and

12 “(C) publish on a publicly available website
13 of the Board a notice of any revocation made
14 under subparagraph (B).

15 “(2) FIRST REVIEW.—The first such review
16 conducted under this subsection shall include any
17 guidance issued by the Board in effect on the date
18 such review is conducted.

19 “(3) GUIDANCE DEFINED.—The term ‘guid-
20 ance’ means statement of general applicability issued
21 by the Board, intended to have a future effect on the
22 behavior of regulated persons, that sets forth a pol-
23 icy on a statutory, regulatory, or technical issue, or
24 an interpretation of a statute or regulation, and does
25 not include—

1 “(A) a rule, as defined in section 551 of
2 title 5, United States Code, promulgated pursu-
3 ant to notice and comment under section 553
4 such title;

5 “(B) a rule exempt from rulemaking re-
6 quirements under subsection (a) or (b)(3)(B) of
7 section 553 of such title;

8 “(C) a rule of agency organization, proce-
9 dure, or practice;

10 “(D) a decision of an agency adjudication
11 under section 554 of such title or any similar
12 statutory provision; or

13 “(E) internal guidance directed to the
14 issuing agency or other agency that is not in-
15 tended to have a substantial future effect on
16 the behavior of regulated persons.”.

17 (c) NATIONAL CREDIT UNION ADMINISTRATION.—
18 Title I of the Federal Credit Union Act (12 U.S.C. 1752
19 et seq.) is amended by adding at the end the following
20 new section:

21 **“SEC. 132. ANNUAL REVIEW OF GUIDANCE.**

22 “(a) IN GENERAL.—The Board shall conduct an an-
23 nual review of guidance issued by the Board during the
24 preceding calendar year to identify if any such guidance
25 may reasonably be anticipated to have an annual economic

1 effect greater than or equal to \$100,000,000. Not later
2 than 6 months after the completion of such review, the
3 Board shall—

4 “(1) submit to Congress a report including the
5 results of the review;

6 “(2) revoke any such guidance that may reason-
7 ably be anticipated to have an annual economic ef-
8 fect greater than or equal to \$100,000,000; and

9 “(3) publish on a publicly available website of
10 the Board a notice of any revocation made under
11 paragraph (2).

12 “(b) FIRST REVIEW.—The first such review con-
13 ducted under this section shall include any guidance issued
14 by the Board in effect on the date such review is con-
15 ducted.

16 “(c) GUIDANCE DEFINED.—The term ‘guidance’
17 means statement of general applicability issued by the
18 Board, intended to have a future effect on the behavior
19 of regulated persons, that sets forth a policy on a statu-
20 tory, regulatory, or technical issue, or an interpretation
21 of a statute or regulation, and does not include—

22 “(1) a rule, as defined in section 551 of title 5,
23 United States Code, promulgated pursuant to notice
24 and comment under section 553 such title;

1 “(2) a rule exempt from rulemaking require-
2 ments under subsection (a) or (b)(3)(B) of section
3 553 of such title;

4 “(3) a rule of agency organization, procedure,
5 or practice;

6 “(4) a decision of an agency adjudication under
7 section 554 of such title or any similar statutory
8 provision; or

9 “(5) internal guidance directed to the issuing
10 agency or other agency that is not intended to have
11 a substantial future effect on the behavior of regu-
12 lated persons.”.

13 (d) FEDERAL DEPOSIT INSURANCE CORPORATION.—
14 Section 17 of the Federal Deposit Insurance Act (12
15 U.S.C. 1827) is amended by adding at the end the fol-
16 lowing new subsection:

17 “(h) ANNUAL REVIEW OF GUIDANCE.—

18 “(1) IN GENERAL.—The Corporation shall con-
19 duct an annual review of guidance issued by the
20 Corporation during the preceding calendar year to
21 identify if any such guidance may reasonably be an-
22 ticipated to have an annual economic effect greater
23 than or equal to \$100,000,000. Not later than 6
24 months after the completion of such review, the Cor-
25 poration shall—

1 “(A) submit to Congress a report including
2 the results of the review;

3 “(B) revoke any such guidance that may
4 reasonably be anticipated to have an annual
5 economic effect greater than or equal to
6 \$100,000,000; and

7 “(C) publish on a publicly available website
8 of the Corporation a notice of any revocation
9 made under subparagraph (B).

10 “(2) FIRST REVIEW.—The first such review
11 conducted under this subsection shall include any
12 guidance issued by the Corporation in effect on the
13 date such review is conducted.

14 “(3) GUIDANCE DEFINED.—The term ‘guid-
15 ance’ means statement of general applicability issued
16 by the Corporation, intended to have a future effect
17 on the behavior of regulated persons, that sets forth
18 a policy on a statutory, regulatory, or technical
19 issue, or an interpretation of a statute or regulation,
20 and does not include—

21 “(A) a rule, as defined in section 551 of
22 title 5, United States Code, promulgated pursu-
23 ant to notice and comment under section 553
24 such title;

1 “(B) a rule exempt from rulemaking re-
2 quirements under subsection (a) or (b)(3)(B) of
3 section 553 of such title;

4 “(C) a rule of agency organization, proce-
5 dure, or practice;

6 “(D) a decision of an agency adjudication
7 under section 554 of such title or any similar
8 statutory provision; or

9 “(E) internal guidance directed to the
10 issuing agency or other agency that is not in-
11 tended to have a substantial future effect on
12 the behavior of regulated persons.”.

13 (e) BUREAU OF CONSUMER FINANCIAL PROTEC-
14 TION.—Section 1022(b) of the Consumer Financial Pro-
15 tection Act of 2010 (12 U.S.C. 5512(b)) is amended by
16 adding at the end the following new paragraph:

17 “(5) ANNUAL REVIEW OF GUIDANCE.—

18 “(A) IN GENERAL.—The Director of the
19 Bureau shall conduct an annual review of guid-
20 ance issued by the Bureau during the preceding
21 calendar year to identify if any such guidance
22 may reasonably be anticipated to have an an-
23 nual economic effect greater than or equal to
24 \$100,000,000. Not later than 6 months after

1 the completion of such review, the Director
2 shall—

3 “(i) submit to Congress a report in-
4 cluding the results of the review;

5 “(ii) revoke any such guidance that
6 may reasonably be anticipated to have an
7 annual economic effect greater than or
8 equal to \$100,000,000; and

9 “(iii) publish on a publicly available
10 website of the Bureau a notice of any rev-
11 ocation made under clause (ii).

12 “(B) FIRST REVIEW.—The first such re-
13 view conducted under this paragraph shall in-
14 clude any guidance issued by the Director in ef-
15 fect on the date such review is conducted.

16 “(C) GUIDANCE DEFINED.—The term
17 ‘guidance’ means statement of general applica-
18 bility issued by the Director of the Bureau, in-
19 tended to have a future effect on the behavior
20 of regulated persons, that sets forth a policy on
21 a statutory, regulatory, or technical issue, or an
22 interpretation of a statute or regulation, and
23 does not include—

24 “(i) a rule, as defined in section 551
25 of title 5, United States Code, promulgated

1 pursuant to notice and comment under
2 section 553 such title;

3 “(ii) a rule exempt from rulemaking
4 requirements under subsection (a) or
5 (b)(3)(B) of section 553 of such title;

6 “(iii) a rule of agency organization,
7 procedure, or practice;

8 “(iv) a decision of an agency adjudica-
9 tion under section 554 of such title or any
10 similar statutory provision; or

11 “(v) internal guidance directed to the
12 issuing agency or other agency that is not
13 intended to have a substantial future effect
14 on the behavior of regulated persons.”.

15 (f) SECURITIES EXCHANGE COMMISSION.—Section
16 23 of the Securities Exchange Act of 1934 (15 U.S.C.
17 78w) is amended by adding at the end the following new
18 subsection:

19 “(e) ANNUAL REVIEW OF GUIDANCE.—

20 “(1) IN GENERAL.—The Commission shall con-
21 duct an annual review of guidance issued by the
22 Commission during the preceding calendar year to
23 identify if any such guidance may reasonably be an-
24 ticipated to have an annual economic effect greater
25 than or equal to \$100,000,000. Not later than 6

1 months after the completion of such review, the
2 Commission shall—

3 “(A) submit to Congress a report including
4 the results of the review;

5 “(B) revoke any such guidance that may
6 reasonably be anticipated to have an annual
7 economic effect greater than or equal to
8 \$100,000,000; and

9 “(C) publish on a publicly available website
10 of the Commission a notice of any revocation
11 made under subparagraph (B).

12 “(2) FIRST REVIEW.—The first such review
13 conducted under this subsection shall include any
14 guidance issued by the Commission in effect on the
15 date such review is conducted.

16 “(3) GUIDANCE DEFINED.—The term ‘guid-
17 ance’ means statement of general applicability issued
18 by the Commission, intended to have a future effect
19 on the behavior of regulated persons, that sets forth
20 a policy on a statutory, regulatory, or technical
21 issue, or an interpretation of a statute or regulation,
22 and does not include—

23 “(A) a rule, as defined in section 551 of
24 title 5, United States Code, promulgated pursu-

1 ant to notice and comment under section 553
2 such title;

3 “(B) a rule exempt from rulemaking re-
4 quirements under subsection (a) or (b)(3)(B) of
5 section 553 of such title;

6 “(C) a rule of agency organization, proce-
7 dure, or practice;

8 “(D) a decision of an agency adjudication
9 under section 554 of such title or any similar
10 statutory provision; or

11 “(E) internal guidance directed to the
12 issuing agency or other agency that is not in-
13 tended to have a substantial future effect on
14 the behavior of regulated persons.”.

15 (g) COMMODITY FUTURES TRADING COMMISSION.—
16 Section 2(a) of the Commodity Exchange Act (7 U.S.C.
17 2(a)) is amended by adding at the end the following new
18 paragraph:

19 “(16) ANNUAL REVIEW OF GUIDANCE.—

20 “(A) IN GENERAL.—The Commission shall
21 conduct an annual review of guidance issued by
22 the Commission during the preceding calendar
23 year to identify if any such guidance may rea-
24 sonably be anticipated to have an annual eco-
25 nomic effect greater than or equal to

1 \$100,000,000. Not later than 6 months after
2 the completion of such review, the Commission
3 shall—

4 “(i) submit to Congress a report in-
5 cluding the results of the review;

6 “(ii) revoke any such guidance that
7 may reasonably be anticipated to have an
8 annual economic effect greater than or
9 equal to \$100,000,000; and

10 “(iii) publish on a publicly available
11 website of the Commission a notice of any
12 revocation made under clause (ii).

13 “(B) FIRST REVIEW.—The first such re-
14 view conducted under this paragraph shall in-
15 clude any guidance issued by the Commission in
16 effect on the date such review is conducted.

17 “(C) GUIDANCE DEFINED.—The term
18 ‘guidance’ means statement of general applica-
19 bility issued by the Commission, intended to
20 have a future effect on the behavior of regu-
21 lated persons, that sets forth a policy on a stat-
22 utory, regulatory, or technical issue, or an in-
23 terpretation of a statute or regulation, and does
24 not include—

1 “(i) a rule, as defined in section 551
2 of title 5, United States Code, promulgated
3 pursuant to notice and comment under
4 section 553 such title;

5 “(ii) a rule exempt from rulemaking
6 requirements under subsection (a) or
7 (b)(3)(B) of section 553 of such title;

8 “(iii) a rule of agency organization,
9 procedure, or practice;

10 “(iv) a decision of an agency adjudica-
11 tion under section 554 of such title or any
12 similar statutory provision; or

13 “(v) internal guidance directed to the
14 issuing agency or other agency that is not
15 intended to have a substantial future effect
16 on the behavior of regulated persons.”.

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