118TH CONGRESS
1ST SESSION

S. 3554

To amend the Financial Stability Act of 2010 to provide the Financial
Stability Oversight Council with duties regarding artificial intelligence
in the financial sector, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2023

Mr. WARNER (for himself and Mr. KENNEDY) introduced the following bill;
which was read twice and referred to the Committee on Banking, Hous-
ing, and Urban Affairs

A BILL

To amend the Financial Stability Act of 2010 to provide
the Financial Stability Oversight Council with duties re-
garding artificial intelligence in the financial sector, 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 Artificial In-

5 telligence Risk Reduction Act" or the "FAIRR Act".

6 **SEC. 2. DEFINITIONS.**

7   In this Act, the term "artificial intelligence" has the

8 meaning given the term in section 5002 of the National

1 Artificial Intelligence Initiative Act of 2020 (15 U.S.C.

2 9401).

SEC. 3. SPECIAL PROVISIONS REGARDING ARTIFICIAL IN-

TELLIGENCE IN THE FINANCIAL SECTOR.

5 (a) IN GENERAL.—Subtitle A of the Financial Sta-

6 bility Act of 2010 (12 U.S.C. 5321 et seq.) is amended

7 by adding at the end the following:

"SEC. 126. SPECIAL PROVISIONS REGARDING ARTIFICIAL

INTELLIGENCE IN THE FINANCIAL SECTOR.

10 "(a) COORDINATION, REPORT, AND RECOMMENDA-

11 TIONS.—The Council shall coordinate with member agen-

12 cies with regard to potential risks to the stability of the

13 financial system posed by artificial intelligence, includ-

14 ing—

15 "(1) direct the Office of Financial Research, as

16 appropriate, to conduct research into the uses of ar-

17 tificial intelligence by financial institutions and enti-

18 ties providing services to or performing functions on

19 behalf of financial institutions;

20 "(2) identify threats to the stability of the fi-

21 nancial system posed by the use of artificial intel-

22 ligence tools and technologies, such as—

23 "(A) the generation and use of false rep-

24 resentations of events or the likeness, speech, or

25 actions of persons by malign actors to manipu-

1 late financial markets, institutions, or instru-

2 ments, or to cause disruption in financial mar-

3 kets and;

4 "(B) any other acts or practices associated

5 with the use or assistance of artificial intel-

6 ligence tools or technologies that threaten the

7 stability of the financial system;

8 "(3) not later than 180 days after the date of

9 enactment of this section, in consultation with the

10 member agencies, financial institutions, securities

11 market participants, and entities providing services

12 to or performing functions on behalf of financial in-

13 stitutions or securities markets participants, submit

14 to the Committee on Banking, Housing, and Urban

15 Affairs of the Senate and the Committee on Finan-

16 cial Services of the House of Representatives a re-

17 port that—

18 "(A) identifies the threats described in

19 paragraph (2);

20 "(B) identifies specific gaps in the existing

21 regulations, guidance, and examination stand-

22 ards of the member agencies that prevent effec-

23 tive and comprehensive responses by each of the

24 member agencies to the threats described in

25 paragraph (2); and

1   "(C) makes specific recommendations for
2   addressing the gaps identified in subparagraph
3   (B), including, as appropriate, recommenda-
4   tions regarding implementation of the rec-
5   ommendations in the Cybersecurity Information
6   Sheet published by the National Security Agen-
7   cy, Federal Bureau of Investigation, and Cyber-
8   security and Infrastructure Security Agency on
9   September 12, 2023; and

10   "(4) identify, as appropriate, opportunities for
11   the use of artificial intelligence technologies in finan-
12   cial regulation and supervision, specifying that any
13   use of artificial intelligence by the agencies in regu-
14   lation and supervision should be transparent and
15   disclosed to their regulated entities as appropriate.

16   "(b) CONGRESSIONAL REVIEW.—Not later than 30
17 days after the date on which the relevant congressional
18 committees receive the report required under subsection
19 (a), the committees shall review the report and submit
20 comments and recommendations thereon.

21   "(c) IMPLEMENTATION OF COUNCIL RECOMMENDA-
22 TIONS.—

23   "(1) IN GENERAL.—Upon review of comments
24   and recommendations under subsection (b), the
25   Council shall commence action under the procedures

1   prescribed in section 120 with regard to implementa-

2   tion of the recommendations by each of the member

3   agencies.

4   "(d) CONGRESSIONAL REVIEW ACT.—The provisions

5 of chapter 8 of title 5, United States Code, shall apply

6 as appropriate to rules issued by the member agencies

7 under this section.

8   "(e) SCENARIO-BASED EXERCISES.—The Federal

9 and Banking Information Infrastructure Committee spon-

10 sored by the President's Working Group on Financial

11 Markets shall, in consultation with private-sector entities

12 and other relevant governmental entities—

13   "(1) initiate a series of scenario-based exercises

14   to test the effectiveness of defenses against financial

15   market disruptions associated with the use or assist-

16   ance of artificial intelligence technologies; and

17   "(2) make recommendations for ongoing im-

18   provements in detection, prevention, and mitigation

19   of such disruptions.".

20   (b) TECHNICAL AND CONFORMING AMENDMENT.—

21 The table of sections for the Dodd-Frank Wall Street Re-

22 form and Consumer Protection Act (12 U.S.C. 5301) is

23 amended by inserting after the item relating to section

24 125 the following:

"126. Special provisions regarding artificial intelligence in the financial sector.".

1 **SEC. 4. ENHANCED AUTHORITY TO OVERSEE THIRD-PARTY**

2 **PROVIDERS OF ARTIFICIAL INTELLIGENCE**

3 **AND OTHER SERVICES TO FINANCIAL INSTI-**

4 **TUTIONS.**

5 Section 206A of the Federal Credit Union Act (12

6 U.S.C. 1786a) is amended—

7 (1) in subsection (a)(1), by striking "that" and

8 inserting "an";

9 (2) in subsection (c)(2), in the matter preceding

10 subparagraph (A), by inserting ", in a manner and

11 method prescribed by the Board," after "Board" ;

12 and

13 (3) by striking subsection (f).

14 **SEC. 5. REGULATION OF SERVICE PROVIDERS BY THE FED-**

15 **ERAL HOUSING FINANCE AGENCY.**

16 Subpart A of part 2 of subtitle A of the Federal

17 Housing Enterprises Financial Safety and Soundness Act

18 of 1992 (12 U.S.C. 4541 et seq.) is amended by adding

19 at the end the following:

20 **"SEC. 1329. REGULATION AND EXAMINATION OF CERTAIN**

21 **SERVICE PROVIDERS.**

22 "Whenever a regulated entity or the Office of Fi-

23 nance causes to be performed for itself, by contract or oth-

24 erwise, any activity that is permissible for the regulated

25 entity or the Office of Finance, whether on or off its prem-

26 ises—

1 ''(1) such performance shall be subject to regu-

2 lation and examination by the Director to the same

3 extent as if such activity were being performed by

4 such entity or Office itself on its own premises; and

5 ''(2) the regulated entity or Office of Finance

6 shall notify the Director of the existence of the serv-

7 ice relationship not later than 30 days after the ear-

8 lier of—

9 ''(A) making of such service contract; or

10 ''(B) the performance of the activity by the

11 service provider.''.

12 **SEC. 6. TREBLE PENALTIES.**

13 Section 21(d)(3) of the Securities Exchange Act of

14 1934 (15 U.S.C. 78u(d)(3)) is amended by adding at the

15 end the following:

16 ''(E) AMOUNT OF PENALTY FOR VIOLATION IN-

17 VOLVING MACHINE-MANIPULATED MEDIA.—The

18 amount of a civil penalty imposed under subpara-

19 graph (A)(i) for a violation involving the use of ma-

20 chine-manipulated media, as defined in section 5724

21 of the Damon Paul Nelson and Matthew Young Pol-

22 lard Intelligence Authorization Act for Fiscal Years

23 2018, 2019, and 2020 (50 U.S.C. 3024 note), shall

24 not exceed 3 times the penalty otherwise determined

25 under clause (i), (ii), or (iii) of subparagraph (B).''.

SEC. 7. LIABILITY.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

"SEC. 42. LIABILITY.

"(a) LIABILITY.—Any person who, directly or indirectly, deploys or causes to be deployed, an artificial intelligence model shall be deemed to satisfy the scienter, other state of mind, or negligence requirements of the Federal securities laws with regard to any and all acts, practices or conduct engaged in by such model, and any outcome resulting from the use of such model, and shall be liable to the same extent as if such person had committed such acts, practices or conduct directly, unless such person took reasonable steps to prevent such acts, practices, conduct and outcome, which may include but are not limited to establishing, maintaining and enforcing written policies and procedures reasonably designed to prevent violations of the Federal securities laws.

"(b) WAIVERS.—Civil liability of a developer of an artificial intelligence model for design defects or breaches of implied warranties with respect to such a model out of which arise a violation of the Federal securities laws may not be waived.".

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