



December 18, 2023

The Honorable Jerry Moran
521 Dirksen Senate Office Building
Washington, DC 20002

The Honorable Joe Manchin
306 Hart Senate Office Building
Washington, DC 20510

Re: The American Fintech Council's Support of the Fair Audits and Inspections for Regulators' (FAIR) Exams Act

Dear Senators Moran and Manchin,

On behalf of our members,¹ the American Fintech Council (AFC) writes to extend our support for the Fair Audits and Inspections for Regulators' (FAIR) Exams Act. AFC has consistently advocated for a clear and consistent regulatory framework that reflects industry developments and clarifies supervisory expectations for innovative financial services business models, products, and services.² The FAIR Exams Act embodies the good governance principles underpinning our efforts to modernize the existing financial services regulatory framework by increasing transparency and accountability in bank examinations and creating a robust appeals process for legitimate disagreements between financial institutions and their regulators. We agree with your offices that passage of this legislation will improve financial stability, efficiency, and fairness, especially for those innovative banks that have pursued unique business models to offer financial products and services in partnership with financial technology (Fintech) companies.

AFC's mission is to promote an innovative, transparent, inclusive, and customer-centric financial system by supporting the responsible growth of financial services to historically underserved communities, fostering innovation in fintech, and encouraging sound public policy. AFC members are at the forefront of fostering competition in consumer finance and pioneering ways

¹ AFC's membership spans technology platforms, non-bank lenders, banks, payments providers, loan servicers, credit bureaus, and personal financial management companies.

² AFC, *Modernizing Financial Services through Innovation and Competition*, Statement for the Record On Behalf of the American Fintech Council before The Subcommittee on Digital Assets, Financial Technology and Inclusion of the House Committee on Financial Services United States House of Representatives, 118th Congress, (Oct. 25, 2023), available at <https://static1.squarespace.com/static/6026acf418b9392d406b9977/t/653c3ba7472c6f26c046cc58/1698446248201/Statement+for+the+Record+Innovation+Subcommittee+Final+10.25.23.pdf>.

to better serve underserved consumer segments and geographies. Our members are also lowering the cost of financial transactions, allowing them to help meet demand for high-quality, affordable financial products.

AFC recognizes the importance of not only developing clear and consistent regulatory frameworks, but also transparent and accountable examination processes. To accomplish these efforts, AFC has consistently and proactively engaged with state and federal financial services regulators to improve their understanding of the innovative financial products and services offered by our members. Further, we have diligently worked with regulators to develop pragmatic regulatory frameworks that help ensure effective oversight of the modern banking system.

Unfortunately, in practice, we continue to see growing discrepancies between federal financial regulators in their posture, policies, and examination practices towards innovative financial institutions. Specifically, we have found that a number of our members, during the course of their examinations, have experienced significant delays and misinterpretations of risk by examination staff due to a lack of understanding about the financial institution's innovative services. Given the current examination appeals structure, these members are often left with no viable options to voice their legitimate concerns about examiners' assessments.

AFC supports the FAIR Exams Act because it recognizes the issues our members experience and seeks pragmatic solutions by increasing the oversight authority of the Federal Financial Institutions Examination Council to ensure clear, consistent, and accountable examination processes throughout the federal regulatory system. Further, we support the Act's establishment of a robust appeals process for legitimate disagreements between financial institutions and their regulators.

The pragmatic approach taken in the FAIR Exams Act reflects the policy aims of AFC and, if enacted, will significantly improve the examination process for the benefit of regulators, regulated entities, and the stability of the broader financial services industry. In turn, this will ensure the continued development of responsible innovation in the financial services industry for the benefit of consumers. Therefore, AFC and its members support this legislation.

Sincerely,



Ian P. Moloney
SVP, Head of Policy and Regulatory Affairs
American Fintech Council

Cc: The Honorable Thom Tillis
The Honorable Bill Hagerty