

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Bank Holding Company Act of 1956 and the Financial Stability Act of 2010 to require a reduction of financed emissions to protect financial stability, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself, Mr. MERKLEY, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Bank Holding Company Act of 1956 and the Financial Stability Act of 2010 to require a reduction of financed emissions to protect financial stability, 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 “Fossil Free Finance  
5 Act of 2023”.

1 **SEC. 2. ALIGNMENT OF FINANCED EMISSIONS WITH**  
2 **SCIENCE-BASED TARGETS.**

3 The Bank Holding Company Act of 1956 (12 U.S.C.  
4 1841 et seq.) is amended by adding at the end the fol-  
5 lowing:

6 **“SEC. 15. ALIGNMENT OF FINANCED EMISSIONS WITH**  
7 **SCIENCE-BASED TARGETS.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) Carbon offsets – The term ‘carbon offsets’  
10 means an emissions reduction or removal of green-  
11 house gases in a manner calculated and traced for  
12 the purpose of offsetting an entity’s greenhouse gas  
13 emissions.

14 “(2) COVERED BANK HOLDING COMPANY.—The  
15 term ‘covered bank holding company’ means a bank  
16 holding company with total consolidated assets not  
17 less than \$50,000,000,000.

18 “(3) DEFORESTATION RISK COMMODITIES.—  
19 The term ‘deforestation risk commodities’ means  
20 globally traded goods and raw materials—

21 “(A) that originate from natural forest  
22 ecosystems—

23 “(i) directly from within forest areas;

24 or

25 “(ii) from areas previously under for-  
26 est cover; and

1           “(B) the extraction or production of which  
2           contributes significantly to the conversion of  
3           natural forest to agriculture, tree plantation, or  
4           other nonforest land use.

5           “(4) FINANCED EMISSIONS.—The term ‘fi-  
6           nanced emissions’ means, with respect to a covered  
7           bank holding company, and any nonbank financial  
8           company supervised by the Board in accordance with  
9           section 113 of the Financial Stability Act of 2010  
10          (12 U.S.C. 5323), the greenhouse gas emissions of  
11          such company, expressed in metric tons of carbon di-  
12          oxide equivalent, attributable to investment in, or  
13          the providing of financial services to, another com-  
14          pany or project of another company, including—

15               “(A) investments in a debt or equity in-  
16               vestment in such another company or the assets  
17               of such another company;

18               “(B) project finance investment;

19               “(C) underwriting;

20               “(D) syndication or securitization of loans  
21               or asset-backed securities;

22               “(E) derivative transactions related to fi-  
23               nancing or hedging; and

24               “(F) market making.

1           “(5) FOSSIL FUEL FINANCING.—The term ‘fos-  
2           sil fuel financing’ means, with respect to a covered  
3           bank holding company, investment in—

4                   “(A) a company that derives not less than  
5                   15 percent revenue from exploration, extraction,  
6                   processing, exporting, transporting, and any  
7                   other significant action with respect to oil, nat-  
8                   ural gas, coal, or any byproduct thereof; or

9                   “(B) a fossil fuel project.

10           “(6) FOSSIL FUEL PROJECT.—The term ‘fossil  
11           fuel project’ means a project intended to—

12                   “(A) facilitate or expand exploration, ex-  
13                   traction, processing, exporting, transporting, or  
14                   any other significant action with respect to oil,  
15                   natural gas, coal; or

16                   “(B) construct any infrastructure related  
17                   to the activities described in subparagraph (A),  
18                   such as wells, pipelines, terminals, refineries, or  
19                   utility-sale generation facilities.

20           “(7) GREENHOUSE GAS.—The term ‘greenhouse  
21           gas’ means carbon dioxide, methane, nitrous oxide,  
22           nitrogen           trifluoride,           hydrofluorocarbons,  
23           perfluorocarbons, and sulfur hexafluoride.

24           “(8) NATURAL FOREST.—The term ‘natural  
25           forest’ means a natural arboreal ecosystem that—

1           “(A) has a species composition a signifi-  
2           cant percentage of which is native species; and

3           “(B) contains a tree canopy cover of more  
4           than 10 percent over an area of not less than  
5           0.5 hectares.

6           “(9) NEW OR EXPANDED FOSSIL FUEL  
7           PROJECT.—The term ‘new or expanded fossil fuel  
8           project’ means a fossil fuel project that would in-  
9           crease the—

10           “(A) level of proven or developable oil, nat-  
11           ural gas, or coal reserves;

12           “(B) midstream throughput of pipelines,  
13           terminals, or refineries; or

14           “(C) combustion of oil, natural gas, or coal  
15           for utility-scale electricity generation.

16           “(b) REQUIREMENTS.—Not later than 210 days after  
17           the date of enactment of this section, and not less than  
18           once every 2 years thereafter, a covered bank holding com-  
19           pany shall—

20           “(1) submit to the Board an emission reduction  
21           plan for reducing emissions in accordance with this  
22           section; and

23           “(2) if the plan is accepted under subsection  
24           (d), implement such plan.

1       “(c) ELEMENTS OF PLAN.—Each plan required  
2 under subsection (b)(1)—

3               “(1) shall include—

4                       “(A) a plan for the covered bank holding  
5 company to reach zero financed emissions not  
6 later than January 1, 2050;

7                       “(B) a plan to reduce the financed emis-  
8 sions of the bank holding company by 50 per-  
9 cent not later than January 1, 2030;

10                      “(C) a plan to discontinue new or ex-  
11 panded fossil fuel projects not later than 60  
12 days after the date of enactment of this section;

13                      “(D) a plan for the covered bank holding  
14 company to discontinue thermal coal financing  
15 not later than January 1, 2025;

16                      “(E) a plan for the covered bank holding  
17 company to discontinue all fossil fuel financing  
18 not later than January 1, 2030; and

19                      “(F) a plan for the covered bank holding  
20 company to eliminate financing of deforestation  
21 risk commodities;

22                      “(G) such other requirements as the Board  
23 determines is necessary to protect the financial  
24 stability of the United States;

25               “(2) may not include carbon offsets;

1           “(3) may include proven negative carbon emis-  
2           sion technologies to meet the requirements under  
3           paragraph (1)(A) if the technologies do not nega-  
4           tively impact low-income, minority, or indigenous  
5           communities;

6           “(4) shall prioritize—

7                   “(A) the covered bank holding company  
8                   withdrawing funding from companies and  
9                   projects that have a disproportionately negative  
10                  impact on the health and well-being of low-in-  
11                  come and minority communities;

12                  “(B) lending to companies for purposes of  
13                  carrying out severance, retraining, and other  
14                  benefits to workers impacted by the transition  
15                  to zero financed emissions; and

16                  “(C) enhanced due diligence about the im-  
17                  pacts of financing on biodiversity and commu-  
18                  nity and the framework of the client for and  
19                  track record in—

20                          “(i) managing greenhouse gas and  
21                          other emissions; and

22                          “(ii) compliance with regulations and  
23                          international standards.

1       “(d) CONSIDERATION OF PLAN.—Not later than 180  
2 days after the date on which the Board receives a plan  
3 submitted under subsection (b)(1), the Board shall—

4               “(1) accept the plan; or

5               “(2)(A) reject the plan if the plan does not  
6 align with science-based targets without the use of  
7 offsets or unproven carbon emission reduction tech-  
8 nologies; and

9               “(B) require the covered bank holding company  
10 to revise such plan in accordance with the sugges-  
11 tions of the Board.

12       “(e) PENALTIES.—If a covered bank holding com-  
13 pany does not submit a plan in accordance with this sec-  
14 tion or meet the requirements set out in such a plan—

15               “(1) the Board shall—

16                       “(A) apply the penalties under section 8  
17 under regulations prescribed by the Board;

18                       “(B) require divestiture of assets in order  
19 to bring the financed emissions of a covered  
20 bank holding company into compliance with the  
21 requirements set out in such a plan; and

22                       “(C) notify the Board of Directors of the  
23 Federal Deposit Insurance Corporation of the  
24 noncompliance of the covered bank holding  
25 company; and



1           “(2) the Board of Directors of the Federal De-  
2           posit Insurance Corporation may, with respect to  
3           any covered bank holding company described in  
4           paragraph (1)(C) or a subsidiary of the bank hold-  
5           ing company that contributes to the failure of the  
6           covered bank holding company to comply with this  
7           section—

8                   “(A) terminate the insured status of the  
9                   insured depository institution of which the bank  
10                  holding company has control under section  
11                  8(a)(2) of the Federal Deposit Insurance Act  
12                  (12 U.S.C. 1818(a)(2)); and

13                   “(B) carry out any other corrective action  
14                  available under section 38 of the Federal De-  
15                  posit Insurance Act (12 U.S.C. 1831o) for the  
16                  insured depository institution of which the bank  
17                  holding company has control under section  
18                  8(a)(2) of the Federal Deposit Insurance Act  
19                  (12 U.S.C. 1818(a)(2)).

20           “(f) REGULATIONS.—Not later than 180 days after  
21           the date of enactment of this section, the Board shall issue  
22           regulations establishing the format and timing for submis-  
23           sion of the plans required under this section.”.

1 **SEC. 3. CONTRIBUTION TO CLIMATE CHANGE INCLUDED IN**  
2 **FSOC DESIGNATION.**

3 (a) AUTHORITY TO REQUIRE SUPERVISION AND REG-  
4 ULATION OF CERTAIN NONBANK FINANCIAL COMPA-  
5 NIES.—Section 113 of the Financial Stability Act of 2010  
6 (12 U.S.C. 5323) is amended—

7 (1) in subsection (a)(2)—

8 (A) in subparagraph (J), by striking “and”  
9 at the end;

10 (B) by redesignating subparagraph (K) as  
11 subparagraph (L); and

12 (C) by inserting after subparagraph (J)  
13 the following:

14 “(K) the extent to which the company  
15 makes a nontrivial contribution to the financed  
16 emissions, as defined in section 15 of the Bank  
17 Holding Company Act of 1956, of the financial  
18 system of the United States; and”;

19 (2) in subsection (b)(2)—

20 (A) in subparagraph (J), by striking “and”  
21 at the end;

22 (B) by redesignating subparagraph (K) as  
23 subparagraph (L); and

24 (C) by inserting after subparagraph (J)  
25 the following:

1           “(K) the extent to which the company  
2           makes a nontrivial contribution to the financed  
3           emissions, as defined in section 15 of the Bank  
4           Holding Company Act of 1956, of the financial  
5           system of the United States; and”.

6           (b) ENHANCED SUPERVISION AND PRUDENTIAL  
7           STANDARDS FOR NONBANK FINANCIAL COMPANIES SU-  
8           PERVISED BY THE BOARD OF GOVERNORS AND CERTAIN  
9           BANK HOLDING COMPANIES.—

10           (1) DEVELOPMENT OF PRUDENTIAL STAND-  
11           ARDS.—Section 115(b)(1) of the Financial Stability  
12           Act of 2010 (12 U.S.C. 5325(b)(1)) is amended—

13           (A) in subparagraph (H), by striking  
14           “and”;

15           (B) in subparagraph (I), by striking the  
16           period at the end and inserting “; and”; and

17           (C) by adding at the end the following:

18           “(J) divestiture of financed emissions, as  
19           defined in section 15 of the Bank Holding Com-  
20           pany Act of 1956.”.

21           (2) REQUIRED STANDARDS.—Section  
22           165(b)(1)(A) of the Financial Stability Act of 2010  
23           (12 U.S.C. 5365(b)(1)(A)) is amended—

24           (A) in clause (iv), by striking “and” at the  
25           end;

1 (B) in clause (v), by striking the period  
2 and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(vi) emissions reduction plans in ac-  
5 cordance with section 15 of the Bank  
6 Holding Company Act of 1956.”.

7 **SEC. 4. REPORTS.**

8 (a) DEFINITIONS.—In this section:

9 (1) COVERED BANK HOLDING COMPANY; FI-  
10 NANCED EMISSIONS.—The terms “covered bank  
11 holding company” and “financed emissions” have  
12 the meanings given the terms in section 15 of the  
13 Bank Holding Company Act of 1956, as added by  
14 section 2 of this Act.

15 (2) SCIENCE-BASED EMISSIONS TARGETS.—The  
16 term “science-based emissions targets” means reduc-  
17 tion in greenhouse gas emissions consistent with pre-  
18 venting an increase in global average temperature of  
19 not less than 1.5 degrees Celsius compared to pre-  
20 industrial levels.

21 (b) INITIAL REPORT.—Not later than 180 days after  
22 the date of enactment of this Act, the Board of Governors  
23 of the Federal Reserve System shall submit to Congress  
24 a report that—

1           (1) identifies the current level of financed emis-  
2           sions in the financial system of the United States;

3           (2) includes an analysis of trends in financed  
4           emissions reductions;

5           (3) includes a summary of the commitments of  
6           covered bank holding companies to reduce financed  
7           emissions;

8           (4) estimates the financed emissions in the fi-  
9           nancial system of the United States needed to meet  
10          science-based emissions targets;

11          (5) identifies regulatory gaps in reducing fi-  
12          nanced emissions that cannot be addressed with au-  
13          thorities of the Board and recommendations for ad-  
14          dressing such gaps;

15          (6) identifies data quality challenges for assess-  
16          ing financed emissions and recommendations to ad-  
17          dress those challenges;

18          (7) identifies the equitable transition needs for  
19          workers and communities that will be impacted by a  
20          shift to a zero financed emissions economy;

21          (8) analyzes—

22                (A) the number and groups of people af-  
23                fected by a transition to zero financed emis-  
24                sions; and

1 (B) the economic impact of such a transi-  
2 tion with respect to such groups; and

3 (9) identifies regulatory and legislative options  
4 for mitigating the economic impacts described in  
5 paragraph (8)(B), including—

6 (A) the use of existing authorities, includ-  
7 ing the Community Reinvestment Act of 1977  
8 (12 U.S.C. 2901 et seq.) and emergency lend-  
9 ing powers under section 13 of the Federal Re-  
10 serve Act (12 U.S.C. 342); and

11 (B) the establishment of a public invest-  
12 ment bank to finance investment in an equi-  
13 table transition to a zero financed emissions  
14 economy.

15 (c) PERIODIC REPORT.—Not later than 180 days  
16 after the date of enactment of this Act, and not less than  
17 once every 2 years thereafter, the Board of Governors of  
18 the Federal Reserve System shall submit to Congress a  
19 report that includes—

20 (1) an analysis of the progress against aligning  
21 with financed emissions targets;

22 (2) the estimates described in subsection (b)(4);

23 and

1           (3) an analysis of the progress made in the pre-  
2           ceding 2 years toward an equitable transition to a  
3           zero financed emissions economy; and

4           (4) recommendations with respect to assistance  
5           Congress and Federal agencies may provide to—

6                   (A) facilitate a reduction of financed emis-  
7                   sions; and

8                   (B) support an equitable transition to a  
9                   zero financed emissions economy.

10          (d) COLLECTION OF DATA.—The Board of Governors  
11          of the Federal Reserve System shall collect such data as  
12          needed from bank holding companies to carry out the re-  
13          ports required under this section.