March 13, 2018

U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I urge you to oppose the Financial Institutions Examination Fairness and Reform Act (H.R. 4545), which would undermine the federal government’s enforcement of bank regulations and related systemic risk protections by granting every bank – of any size – a new right to appeal and postpone existing banking regulators’ adverse supervisory determinations. Now is not the time to undermine these protections.

AFSCME strongly opposes H.R. 4545 because it would undermine bank regulators’ existing authority and related systemic safeguards that protect our economy from risky practices of banks. This would impose added costs and risks on working families and consumers. Specifically, H.R. 4545 would grant regulated banks the right to appeal a prudential banking agency’s material supervisory determination. H.R. 4545 installs the new appeals process in a yet created Office of Independent Examination Review (OIER) located within the Federal Financial Institutions Examinations Council (FFIEC) and would require OIER to initiate a de novo review of the appealed supervisory decision with zero deference to the regulators’ prior pre-appeal review, findings, or determinations. By creating a de novo appeals process, H.R. 4545 further incentivizes banks to challenge every supervisory decision and allows banks to more easily circumvent and delay penalties. Furthermore, H.R. 4545 also would grant these appeal rights to any nonbank under supervisory authority of the Consumer Financial Protection Bureau (CFPB) and require OIER de novo review.

Unlike the current process with existing prudential regulators, OIER would not be responsible for our banking system’s safety and soundness, and thus OIER’s decision-making would be narrower in purpose and thereby increase risk to America’s economy. We do not need H.R. 4545’s appeals process because a formal review and appeals process along with ombudsmen already exist at affected banking agencies, such as CFPB, FDIC, the Federal Reserve, National Credit Union Administration, and OCC. Furthermore, banks already can bring a court challenge to any formal regulatory enforcement action.

H.R. 4545’s scope is huge and not merely limited to small, community depository banks. At committee mark-up, an amendment to narrow H.R. 4545’s scope to community financial institutions below $10 billion in assets was rejected clarifying the intent that H.R. 4545 would benefit enormous banks, including Wells Fargo. The tax bill
enacted just months ago in December 2017 grants many of these same large banks tens of billions of dollars in new tax breaks. Moreover, many are already earning record profits.

We are nearing the 10th anniversary of the 2008 financial crisis, which triggered U.S. and global recessions, America’s multiyear underwater mortgage crises, and bankruptcies for many companies that nearly sank the U.S. economy. The subsequent Dodd-Frank financial reform protections added essential safeguards that stabilized our economy. We should not weaken these protections. Rather than rolling back Dodd-Frank protections, we should improve protections for working families from the abuses of large banks like Wells Fargo, and take steps to penalize large data companies like Equifax for breaches of its consumer data.

AFSCME opposes this harmful risky bill because it increases the likelihood that banks, both large and small, will continue harming working families and consumers and trigger new systemic economic problems. AFSCME urges you to vote against H.R. 4545.

Sincerely,

Scott Frey
Director of Federal Government Affairs

SF:MG:rf