

# [COMMITTEE PRINT]

(CONSIDERED AS BASE TEXT FOR H.R. 3126)

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Consumer Financial  
3 Protection Agency Act of 2009”.

**4 SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

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1 **TITLE I—CONSUMER FINANCIAL**  
 2 **PROTECTION AGENCY**

3 **SEC. 1. DEFINITIONS.**

4 For the purposes of subtitles A through F of this  
 5 title, the following definitions shall apply:

6 (1) **AFFILIATE.**—The term “affiliate” means  
 7 any person that controls, is controlled by, or is  
 8 under common control with another person.

9 (2) **AGENCY.**—The term “Agency” means the  
 10 Consumer Financial Protection Agency.

11 (3) **BANK HOLDING COMPANY.**—The term  
 12 “bank holding company” has the same meaning as

1 in section 2(a) of the Bank Holding Company Act  
2 of 1956.

3 (4) BOARD.—Except when used in connection  
4 with the term “Board of Governors”, the term  
5 “Board” means the Consumer Financial Protection  
6 Oversight Board.

7 (5) BOARD OF GOVERNORS.—The term “Board  
8 of Governors” means the Board of Governors of the  
9 Federal Reserve System.

10 (6) BUSINESS OF INSURANCE.—The term  
11 “business of insurance” means the writing of insur-  
12 ance or the reinsuring of risks by an insurer, includ-  
13 ing all acts necessary to such writing or reinsuring  
14 and the activities relating to the writing of insurance  
15 or the reinsuring of risks conducted by persons who  
16 act as, or are, officers, directors, agents, or employ-  
17 ees of insurers or who are other persons authorized  
18 to act on behalf of such persons.

19 (7) CONSUMER.—The term “consumer” means  
20 an individual or an agent, trustee, or representative  
21 acting on behalf of an individual.

22 (8) CONSUMER FINANCIAL PRODUCT OR SERV-  
23 ICE.—The term “consumer financial product or  
24 service” means any financial product, other than a  
25 Federal tax return, or service to be used by a con-

1       sumer primarily for personal, family, or household  
2       purposes.

3               (9) COVERED PERSON.—

4                       (A) IN GENERAL.—The term “covered per-  
5                       son” means any person who engages directly or  
6                       indirectly in a financial activity, in connection  
7                       with the provision of a consumer financial prod-  
8                       uct or service.

9                       (B) EXCLUSION.—The term “covered per-  
10                      son” shall not include the Secretary, the De-  
11                      partment of the Treasury, any agency or bu-  
12                      reau under the jurisdiction of the Secretary, or  
13                      any person collecting Federal taxes for the  
14                      United States to the extent such person is act-  
15                      ing in such capacity.

16               (10) CREDIT.—The term “credit” means the  
17       right granted by a person to a consumer to defer  
18       payment of a debt, incur debt and defer its payment,  
19       or purchase property or services and defer payment  
20       for such purchase.

21               (11) CREDIT UNION.—The term “credit union”  
22       means a Federal credit union or a State credit union  
23       as defined in section 101 of the Federal Credit  
24       Union Act.

25               (12) DEPOSIT.—The term “deposit”—

1 (A) has the same meaning as in section  
2 3(l) of the Federal Deposit Insurance Act; and

3 (B) includes a share in a member account  
4 (as defined in section 101(5) of the Federal  
5 Credit Union Act) at a credit union.

6 (13) DEPOSIT-TAKING ACTIVITY.—The term  
7 “deposit-taking activity” means—

8 (A) the acceptance of deposits, the mainte-  
9 nance of deposit accounts, or the provision of  
10 services related to the acceptance of deposits;

11 (B) the acceptance of money, the provision  
12 of other services related to the acceptance of  
13 money, or the maintenance of members’ share  
14 accounts by a credit union; or

15 (C) the receipt of money or its equivalent,  
16 as the Director may determine by regulation or  
17 order, received or held by the covered person  
18 (or an agent for the person) for the purpose of  
19 facilitating a payment or transferring funds or  
20 value of funds by a consumer to a third party.

21 (14) DESIGNATED TRANSFER DATE.—The term  
22 “designated transfer date” has the meaning pro-  
23 vided in section 162.

24 (15) DIRECTOR.—The term “Director” means  
25 the Director of the Agency.

1           (16) ENUMERATED CONSUMER LAWS.—The  
2 term “enumerated consumer laws” means each of  
3 the following:

4           (A) The Alternative Mortgage Transaction  
5 Parity Act (12 U.S.C. 3801 et seq.).

6           (B) The Electronic Funds Transfer Act  
7 (15 U.S.C. 1693 et seq.)

8           (C) The Equal Credit Opportunity Act (15  
9 U.S.C. 1691 et seq.).

10          (D) The Fair Credit Reporting Act (15  
11 U.S.C. 1681 et seq.), except with respect to sec-  
12 tions 615(e) and 628 of such Act.

13          (E) The Fair Debt Collection Practices Act  
14 (15 U.S.C. 1692 et seq.).

15          (F) Subsections (c), (d), (e), and (f) of sec-  
16 tion 43 of the Federal Deposit Insurance Act  
17 (12 U.S.C. 1831t).

18          (G) Sections 502, 503, 504, 505, 506,  
19 507, 508, and 509 of the Gramm-Leach-Bliley  
20 Act (15 U.S.C. 6802 et seq.).

21          (H) The Homeowners Protection Act of  
22 1998.

23          (I) The Home Mortgage Disclosure Act  
24 (12 U.S.C. 2801 et seq.).

1           (J) The Real Estate Settlement Proce-  
2           dures Act (12 U.S.C. 2601 et seq.).

3           (K) The Secure and Fair Enforcement for  
4           Mortgage Licensing Act (12 U.S.C. 5101 et  
5           seq.).

6           (L) The Truth in Lending Act (15 U.S.C.  
7           1601 et seq.).

8           (M) The Truth in Savings Act (12 U.S.C.  
9           4301 et seq.).

10          (17) FEDERAL BANKING AGENCY.—The term  
11          “Federal banking agency” means the Board of Gov-  
12          ernors, the Comptroller of the Currency, the Direc-  
13          tor of the Office of Thrift Supervision, the Federal  
14          Deposit Insurance Corporation, or the National  
15          Credit Union Administration and the term “Federal  
16          banking agencies” means all of such agencies.

17          (18) FAIR LENDING.—The term “fair lending”  
18          means fair, equitable, and nondiscriminatory access  
19          to credit for both individuals and communities.

20          (19) FINANCIAL ACTIVITY.—The term “finan-  
21          cial activity” means any of the following activities:

22                (A) Deposit-taking activities.

23                (B) Extending credit and servicing loans,  
24                including—



1 (i) acquiring, purchasing, selling,  
2 brokering, or servicing loans or other ex-  
3 tensions of credit;

4 (ii) engaging in any other activity  
5 usual in connection with extensions of  
6 credit or servicing loans, including per-  
7 forming appraisals of real estate and per-  
8 sonal property.

9 (C) Check cashing and check-guaranty  
10 services, including—

11 (i) authorizing a subscribing merchant  
12 to accept personal checks tendered by the  
13 merchant's customers in payment for  
14 goods and services; and

15 (ii) purchasing from a subscribing  
16 merchant validly authorized checks that  
17 are subsequently dishonored.

18 (D) Collecting, analyzing, maintaining, and  
19 providing consumer report information or other  
20 account information by covered persons, includ-  
21 ing information relating to the credit history of  
22 consumers and providing the information to a  
23 credit grantor who is considering a consumer  
24 application for credit or who has extended cred-  
25 it to the borrower.

1 (E) Collection of debt related to any con-  
2 sumer financial product or service.

3 (F) Providing real estate settlement serv-  
4 ices.

5 (G) Leasing personal or real property or  
6 acting as agent, broker, or adviser in leasing  
7 such property if—

8 (i) the lease is on a non-operating  
9 basis;

10 (ii) the initial term of the lease is at  
11 least 90 days; and

12 (iii) in the case of leases involving real  
13 property, at the inception of the initial  
14 lease, the transaction is intended to result  
15 in ownership of the leased property to be  
16 transferred to the lessee, subject to stand-  
17 ards prescribed by the Director.

18 (H) Acting as an investment adviser to any  
19 person (excluding an investment adviser that is  
20 a person regulated by the Commodity Futures  
21 Trading Commission, the Securities and Ex-  
22 change Commission, or any securities commis-  
23 sion (or any agency or office performing like  
24 functions) of any State).

1 (I) Acting as financial adviser to any per-  
2 son (excluding an investment adviser that is a  
3 person regulated by the Commodity Futures  
4 Trading Commission, the Securities and Ex-  
5 change Commission, or any securities commis-  
6 sion (or any agency or office performing like  
7 functions) of any State), including—

8 (I) providing financial and other re-  
9 lated advisory services;

10 (II) providing educational courses,  
11 and instructional materials to consumers  
12 on individual financial management mat-  
13 ters;

14 (III) providing credit counseling or  
15 tax planning services to any person (ex-  
16 cluding the preparation of returns, or  
17 claims for refund, of tax imposed by the  
18 Internal Revenue Code or advice with re-  
19 spect to positions taken therein, or services  
20 regulated by the Secretary of the Treasury  
21 under section 330 of title 31, United  
22 States Code); or

23 (IV) providing services to assist a con-  
24 sumer with debt management or debt set-  
25 tlement, with modifying the terms of any

1 extension of credit, or with avoiding fore-  
2 closure.

3 (J) For purposes of this title, the following  
4 shall not be considered acting as financial ad-  
5 viser:

6 (I) Publishing any bona fide news-  
7 paper, news magazine or business or finan-  
8 cial publication of general and regular cir-  
9 culation, including publishing market data,  
10 news, or data analytics or investment in-  
11 formation or recommendations that are not  
12 tailored to the individual needs of a par-  
13 ticular consumer.

14 (II) Providing advice, analyses, or re-  
15 ports that do not relate to any securities  
16 other than securities which are direct obli-  
17 gations of or obligations guaranteed as to  
18 principal or interest by the United States,  
19 or securities issued or guaranteed by cor-  
20 porations in which the United States has a  
21 direct or indirect interest which shall have  
22 been designated by the Secretary of the  
23 Treasury, pursuant to section 3(a)(12) of  
24 the Securities Exchange Act of 1934, as

1           exempted securities for the purposes of  
2           that Act.

3           (K) Financial data processing by any tech-  
4           nological means, including providing data proc-  
5           essing, access to or use of databases or facili-  
6           ties, or advice regarding processing or  
7           archiving, if the data to be processed, fur-  
8           nished, stored, or archived are financial, bank-  
9           ing, or economic, except that it shall not be  
10          considered a “financial activity” if with respect  
11          to financial data processing the person—

12                 (i) unknowingly or incidentally trans-  
13                 mits, processes, or stores financial data in  
14                 a manner that such data is undifferen-  
15                 tiated from other types of data that the  
16                 person transmits, processes, or stores;

17                 (ii) does not provide to any consumer  
18                 a consumer financial product or service in  
19                 connection with or relating to in any man-  
20                 ner financial data processing; and

21                 (iii) does not provide a material serv-  
22                 ice to any covered person in connection  
23                 with the provision of a consumer financial  
24                 product or service.

25          (L) Money transmitting.

1 (M) Sale, provision or issuance of stored  
2 value, except that, in the case of a sale, only if  
3 the seller influences the terms or conditions of  
4 the stored value provided to the consumer.

5 (N) Acting as a money services business.

6 (O) Acting as a custodian of money or any  
7 financial instrument.

8 (P)(i) Any other activity that the Director  
9 defines, by regulation, as a financial activity  
10 after finding that—

11 (I) the activity has, or there is a  
12 substantial likelihood that the activity  
13 will have, a material adverse impact  
14 on the creditworthiness or financial  
15 well being of consumers;

16 (II) the activity is incidental or  
17 complementary to any other financial  
18 activity regulated by the Agency; or

19 (III) the activity is entered into  
20 or conducted as a subterfuge or with  
21 a purpose to evade any requirement  
22 under this title, the enumerated con-  
23 sumer laws, and the authorities trans-  
24 ferred under subtitles F and H.

1 (ii) For purposes of clause (i)(II), the fol-  
2 lowing activities provided to a covered person  
3 shall not be “incidental or complementary”:

4 (I) Providing information products or  
5 services to a covered person for identity  
6 authentication.

7 (II) Providing information products or  
8 services for fraud or identify theft detec-  
9 tion, prevention, or investigation.

10 (III) Providing document retrieval or  
11 delivery services.

12 (IV) Providing public records informa-  
13 tion retrieval.

14 (V) Providing information products or  
15 services for anti-money laundering activi-  
16 ties.

17 The term “financial activity” shall not include the  
18 business of insurance.

19 (20) FINANCIAL PRODUCT OR SERVICE.—The  
20 term “financial product or service” means any prod-  
21 uct or service that, directly or indirectly, results  
22 from or is related to engaging in 1 or more financial  
23 activities.

24 (21) FOREIGN EXCHANGE.—The term “foreign  
25 exchange” means the exchange, for compensation, of

1 currency of the United States or of a foreign govern-  
2 ment for currency of another government.

3 (22) INSURED CREDIT UNION.—The term “in-  
4 sured credit union” has the same meaning as in sec-  
5 tion 101 of the National Credit Union Act.

6 (23) INSURED DEPOSITORY INSTITUTION.—The  
7 term “insured depository institution” has the same  
8 meaning as in section 3 of the Federal Deposit In-  
9 surance Act.

10 (24) MONEY SERVICES BUSINESS.—The term  
11 “money services business” means a person that—

12 (A) receives currency, monetary value, or  
13 payment instruments for the purpose of ex-  
14 changing or transmitting the same by any  
15 means, including transmission by wire, fac-  
16 simile, electronic transfer, courier, the Internet,  
17 or through bill payment services, or other busi-  
18 nesses that facilitate third-party transfers with-  
19 in the United States or to or from the United  
20 States; or

21 (B) issues payment instruments or stored  
22 value.

23 (25) MONEY TRANSMITTING.—The term  
24 “money transmitting” means the receipt by a cov-  
25 ered person of currency, monetary value, or payment



1 instruments for the purpose of transmitting the  
2 same to any third-party by any means, including  
3 transmission by wire, facsimile, electronic transfer,  
4 courier, the Internet, or through bill payment serv-  
5 ices.

6 (26) PAYMENT INSTRUMENT.—The term “pay-  
7 ment instrument” means a check, draft, warrant,  
8 money order, traveler’s check, electronic instrument,  
9 or other instrument, payment of money, or monetary  
10 value (other than currency).

11 (27) PERSON.—The term “person” means an  
12 individual, partnership, company, corporation, asso-  
13 ciation (incorporated or unincorporated), trust, es-  
14 tate, cooperative organization, or other entity.

15 (28) PERSON REGULATED BY A STATE INSUR-  
16 ANCE REGULATOR.—The term “person regulated by  
17 a State insurance regulator” means any person who  
18 is—

19 (A) engaged in the business of insurance,  
20 and

21 (B) subject to regulation by any State in-  
22 surance regulator,

23 but only to the extent that such person acts in such  
24 capacity.

1           (29) PERSON REGULATED BY THE COMMODITY  
2           FUTURES TRADING COMMISSION.—The term “person  
3           regulated by the Commodity Futures Trading Com-  
4           mission” means any futures commission merchant,  
5           commodity trading adviser, commodity pool oper-  
6           ator, introducing broker, boards of trade, derivatives  
7           clearing organizations, or multilateral clearing orga-  
8           nizations to the extent that such person’s actions are  
9           subject to the jurisdiction of the Commodity Futures  
10          Trading Commission under the Commodity Ex-  
11          change Act and any agent, employee, or contractor  
12          acting on behalf of, registered with, or providing  
13          services to such person but only to the extent the  
14          person, or the employee, agent, or contractor of such  
15          person, acts in a registered capacity.

16          (30) PERSON REGULATED BY THE SECURITIES  
17          AND EXCHANGE COMMISSION.—The term “person  
18          regulated by the Securities and Exchange Commis-  
19          sion” means—

20                 (A) a broker or dealer that is required to  
21                 be registered under the Securities Exchange Act  
22                 of 1934;

23                 (B) an investment adviser that is reg-  
24                 istered under the Investment Advisers Act of  
25                 1940;

1 (C) an investment company that is re-  
2 quired to be registered under the Investment  
3 Company Act of 1940;

4 (D) a national securities exchange that is  
5 required to be registered under the Securities  
6 Exchange Act of 1934;

7 (E) a transfer agent that is required to be  
8 registered under the Securities Exchange Act of  
9 1934;

10 (F) a clearing corporation that is required  
11 to be registered under the Securities Exchange  
12 Act of 1934;

13 (G) any municipal securities dealer that is  
14 registered with the Securities and Exchange  
15 Commission;

16 (H) any self-regulatory organization that is  
17 registered with the Securities and Exchange  
18 Commission;

19 (I) any national securities exchange or  
20 other entity that is required to be registered  
21 under the Securities Exchange Act of 1934;  
22 and

23 (J) the Municipal Securities Rulemaking  
24 Board,

1 and any employee, agent, or contractor acting on be-  
2 half of, registered with, or providing services to, any  
3 such person, but only to the extent that the person,  
4 or the employee agent, or contractor of such person,  
5 acts in a registered capacity.

6 (31) PROVISION OF A CONSUMER FINANCIAL  
7 PRODUCT OR SERVICE.—The terms “provision of a  
8 consumer financial product or service” and “pro-  
9 viding a consumer financial product or service”  
10 mean the advertisement, marketing, solicitation,  
11 sale, disclosure, delivery, or account maintenance or  
12 servicing of a consumer financial product or service.

13 (32) PERSON THAT PERFORMS INCOME TAX  
14 PREPARATION ACTIVITIES FOR CONSUMERS.—The  
15 term “person that performs income tax preparation  
16 activities for consumers” means—

17 (A) any tax return preparer (as defined in  
18 section 7701(a)(36) of the Internal Revenue  
19 Code of 1986), regardless of whether com-  
20 pensated, but only to the extent that the person  
21 acts in such capacity;

22 (B) any person regulated by the Secretary  
23 of the Treasury under section 330 of title 31,  
24 United States Code, but only to the extent that  
25 the person acts in such capacity; and

1 (C) any authorized IRS e-file Providers (as  
2 defined for purposes of section 7216 of the In-  
3 ternal Revenue Code of 1986), but only to the  
4 extent that the person acts in such capacity.

5 (33) RELATED PERSON.—

6 (A) IN GENERAL.—The term “related per-  
7 son”, when used in connection with a covered  
8 person that is not a bank holding company,  
9 credit union, depository institution, means—

10 (i) any director, officer, employee  
11 charged with managerial responsibility, or  
12 controlling stockholder of, or agent for,  
13 such covered person;

14 (ii) any shareholder, consultant, joint  
15 venture partner, and any other person as  
16 determined by the Director (by regulation  
17 or on a case-by-case basis) who materially  
18 participates in the conduct of the affairs of  
19 such covered person; and

20 (iii) any independent contractor (in-  
21 cluding any attorney, appraiser, or ac-  
22 countant), with respect to such covered  
23 person, who knowingly or recklessly par-  
24 ticipates in any—

1 (I) violation of any law or regula-  
2 tion; or

3 (II) breach of fiduciary duty.

4 (B) TREATMENT OF A RELATED PERSON  
5 AS A COVERED PERSON.—Any person who is a  
6 related person under subparagraph (A) shall be  
7 deemed to be a covered person for all purposes  
8 of this title, any enumerated consumer law, and  
9 any law for which authorities were transferred  
10 by subtitles F and H.

11 (34) SECRETARY.—The term “Secretary”  
12 means the Secretary of the Treasury.

13 (35) SERVICE PROVIDER.—

14 (A) IN GENERAL.—The term “service pro-  
15 vider” means any person who provides a mate-  
16 rial service to a covered person in the provision  
17 of a consumer financial product or service, in-  
18 cluding a person who—

19 (i) facilitates the design of, or oper-  
20 ations relating to the provision of, the con-  
21 sumer financial product or service;

22 (ii) has direct interaction with a con-  
23 sumer (whether in person or via tele-  
24 communication device or other similar

1 technology) regarding the consumer finan-  
2 cial product or service; or

3 (iii) processes transactions relating to  
4 the consumer financial product or service.

5 (B) EXCEPTIONS.—The term “service pro-  
6 vider” shall not apply to a person solely by vir-  
7 tue of such person providing or selling to a cov-  
8 ered person—

9 (i) a support service of a type pro-  
10 vided to businesses generally or a similar  
11 ministerial service;

12 (ii) a service that does not materially  
13 affect the terms or conditions of the con-  
14 sumer financial product or service, its per-  
15 formance or operation, or the propensity of  
16 a consumer to obtain or use such product  
17 or service; or

18 (iii) time or space for an advertise-  
19 ment for a consumer financial product or  
20 service through print, newspaper, or elec-  
21 tronic media.

22 (36) STATE.—The term “State” means any  
23 State, territory, or possession of the United States,  
24 the District of Columbia, Commonwealth of Puerto  
25 Rico, Commonwealth of the Northern Mariana Is-

1 lands, Guam, American Samoa, or the United States  
2 Virgin Islands.

3 (37) STORED VALUE.—The term “stored  
4 value”—

5 (A) means funds or monetary value rep-  
6 resented in any electronic format, whether or  
7 not specially encrypted, and stored or capable  
8 of storage on electronic media in such a way as  
9 to be retrievable and transferred electronically;  
10 and

11 (B) includes a prepaid debit card or prod-  
12 uct (other than a card or product used solely  
13 for telephone services) or any other similar  
14 product,

15 regardless of whether the amount of the funds or  
16 monetary value may be increased or reloaded.

17 **Subtitle A—Establishment of the**  
18 **Agency**

19 **SEC. 111. ESTABLISHMENT OF THE CONSUMER FINANCIAL**  
20 **PROTECTION AGENCY.**

21 (a) AGENCY ESTABLISHED.—There is established the  
22 Consumer Financial Protection Agency as an independent  
23 agency to regulate the provision of consumer financial  
24 products or services under this title, the enumerated con-



1 sumer laws, and the authorities transferred under sub-  
2 titles F and H.

3 (b) **PRINCIPAL OFFICE.**—The principal office of the  
4 Agency shall be located in the city of Washington, District  
5 of Columbia, at 1 or more sites.

6 **SEC. 112. DIRECTOR.**

7 (a) **ESTABLISHMENT OF POSITION.**—

8 (1) **IN GENERAL.**—There is hereby established  
9 the position of the Director of the Agency who shall  
10 be the head of the Agency.

11 (2) **AUTHORITY TO PRESCRIBE REGULA-**  
12 **TIONS.**—The Director may prescribe such regula-  
13 tions and issue such orders in accordance with this  
14 Act as the Director may determine to be necessary  
15 for carrying out this Act and all other laws within  
16 the Director's jurisdiction.

17 (b) **APPOINTMENT; TERM.**—

18 (1) **APPOINTMENT.**—The Director shall be ap-  
19 pointed by the President, by and with the advice and  
20 consent of the Senate, from among individuals who  
21 are citizens of the United States.

22 (2) **TERM.**—The Director shall be appointed for  
23 a term of 5 years.

24 (3) **REMOVAL.**—The Director may be removed  
25 before the end of a term only for cause.

1 (4) VACANCY.—

2 (A) IN GENERAL.—A vacancy in the posi-  
3 tion of Director which occurs before the expira-  
4 tion of the term for which a Director was ap-  
5 pointed shall be filled in the manner established  
6 in paragraph (1) and the Director appointed to  
7 fill such vacancy shall be appointed only for the  
8 remainder of such term.

9 (B) ACTING DIRECTOR.—

10 (i) IN GENERAL.—In the event of a  
11 vacancy in the position of Director or dur-  
12 ing the absence or disability of the Direc-  
13 tor, an Acting Director shall be appointed  
14 in the manner provided in section 3345, of  
15 title 5, United States Code.

16 (ii) AUTHORITY OF ACTING DIREC-  
17 TOR.—Any individual serving as Acting Di-  
18 rector under this subparagraph shall be  
19 vested with all authority, duties, and privi-  
20 leges of the Director.

21 (5) SERVICE AFTER END OF TERM.—An indi-  
22 vidual may serve as Director after the expiration of  
23 the term for which appointed until a successor Di-  
24 rector has been appointed and qualified.

1 (c) PROHIBITION ON FINANCIAL INTERESTS.—The  
2 Director shall not have a direct or indirect financial inter-  
3 est in any covered person.

4 (d) COMPENSATION.—The Director shall receive com-  
5 pensation at the rate prescribed for Level I of the Execu-  
6 tive Schedule under section 5313 of title 5, United States  
7 Code.

8 **SEC. 113. CONSUMER FINANCIAL PROTECTION OVERSIGHT**  
9 **BOARD.**

10 (a) ESTABLISHED.—There is hereby established the  
11 Consumer Financial Protection Oversight Board as an in-  
12 strumentality of the United States.

13 (b) DUTIES AND POWERS.—

14 (1) DUTY TO ADVISE DIRECTOR.—The Board  
15 shall advise the Director on—

16 (A) the consistency of a proposed regula-  
17 tion of the Director with prudential, market, or  
18 systemic objectives administered by the agencies  
19 that comprise the Board;

20 (B) the overall strategies and policies in  
21 carrying out the duties of the Director under  
22 this title; and

23 (C) actions the Director can take to en-  
24 hance and ensure that all consumers are subject  
25 to robust financial protection.

1           (2) LIMITATION ON POWERS.—The Board may  
2           not exercise any executive authority, and the Direc-  
3           tor may not delegate to the Board any of the func-  
4           tions, powers, or duties of the Director.

5           (c) COMPOSITION.—The Board shall be comprised of  
6 7 members as follows:

7           (1) The Chairman of the Board of Governors.

8           (2) The head of the agency responsible for  
9           chartering and regulating national banks.

10          (3) The Chairperson of the Federal Deposit In-  
11          surance Corporation.

12          (4) The Chairman of the National Credit Union  
13          Administration.

14          (5) The Chairman of the Federal Trade Com-  
15          mission.

16          (6) The Secretary of Housing and Urban Devel-  
17          opment.

18          (7) The Chairman of the liaison committee of  
19          representatives of State agencies to the Financial In-  
20          stitutions Examination Council.

21          (d) REPRESENTATIVE OF ADDITIONAL INTERESTS.—

22          (1) COMPOSITION.—Notwithstanding subsection  
23          (c), the President, by and with the advice and con-  
24          sent of the Senate, shall appoint 5 additional mem-  
25          bers of the Board from among experts in the fields

1 of consumer protection, fair lending and civil rights,  
2 representatives of depository institutions that pri-  
3 marily serve underserved communities, or represent-  
4 atives of communities that have been significantly  
5 impacted by higher-priced mortgage loans, as such  
6 communities are identified by the Director through  
7 an analysis of data received by reason of the provi-  
8 sions of the Home Mortgage Disclosure Act of 1975  
9 or other data on lending patterns.

10 (2) AFFILIATION.—With respect to members  
11 appointed pursuant to paragraph (1), not more than  
12 3 shall be members of any one political party.

13 (e) MEETINGS.—

14 (1) IN GENERAL.—The Board shall meet upon  
15 notice by the Director, but in no event shall the  
16 Board meet less frequently than once every 3  
17 months.

18 (2) SPECIAL MEETINGS.—Any member of the  
19 Board may, upon giving written notice to the Direc-  
20 tor, require a special meeting of the Board.

21 (f) PROHIBITION ON ADDITIONAL COMPENSATION.—  
22 Members of the Board may not receive additional pay, al-  
23 lowances, or benefits by reason of their service on the  
24 Board.

1 (g) COMPLAINTS RELATED TO REQUIRED OFFERING  
2 OF SPECIFIC FINANCIAL PRODUCTS OR SERVICES.—The  
3 Board shall establish procedures to receive and analyze  
4 complaints from any person claiming that the Director is  
5 not in compliance with the requirements under section  
6 140A.

7 **SEC. 114. EXECUTIVE AND ADMINISTRATIVE POWERS.**

8 The Director may exercise all executive and adminis-  
9 trative functions of the Agency, including to—

10 (1) establish regulations for conducting the  
11 Agency's general business in a manner not incon-  
12 sistent with this title;

13 (2) bind the Agency and enter into contracts;

14 (3) direct the establishment of and maintain di-  
15 visions or other offices within the Agency in order to  
16 fulfill the responsibilities of this title, the enumer-  
17 ated consumer laws, and the authorities transferred  
18 under subtitles F and H, and to satisfy the require-  
19 ments of other applicable law;

20 (4) coordinate and oversee the operation of all  
21 administrative, enforcement, and research activities  
22 of the Agency;

23 (5) adopt and use a seal;

24 (6) determine the character of and the necessity  
25 for the Agency's obligations and expenditures, and

1 the manner in which they shall be incurred, allowed,  
2 and paid;

3 (7) delegate authority, at the Director's discre-  
4 tion, to any officer or employee of the Agency to  
5 take action under any provision of this title or under  
6 other applicable law;

7 (8) to implement this title and the Agency's au-  
8 thorities under the enumerated consumer laws and  
9 under subtitles F and H through regulations, orders,  
10 guidance, interpretations, statements of policy, ex-  
11 aminations, and enforcement actions; and

12 (9) perform such other functions as may be au-  
13 thorized or required by law.

14 **SEC. 115. ADMINISTRATION.**

15 (a) OFFICERS.—The Director shall appoint the fol-  
16 lowing officials:

17 (1) A secretary, who shall be charged with  
18 maintaining the records of the Agency and per-  
19 forming such other activities as the Director directs.

20 (2) A general counsel, who shall be charged  
21 with overseeing the legal affairs of the Agency and  
22 performing such other activities as the Director di-  
23 rects.

24 (3) An inspector general, who shall have the au-  
25 thority and functions of an inspector general of a

1 designated Federal entity under the Inspector Gen-  
2 eral Act of 1978 (5 U.S.C. App. 3).

3 (4) An Ombudsperson, who shall—

4 (A) develop and maintain expertise in and  
5 understanding of the law relating to consumer  
6 financial products;

7 (B) at the request of a Federal agency or  
8 a State agency, and with the prior approval of  
9 the Director, advise such agency with respect to  
10 actions that may affect consumers;

11 (C) advise consumers who may have a le-  
12 gitimate potential or actual claim against a  
13 Federal agency involving the provision of con-  
14 sumer financial products regarding their rights  
15 under this title;

16 (D) identify Federal agency actions that  
17 have potential implications for consumers and,  
18 if appropriate, and with the prior approval of  
19 the Director, advise the relevant Federal agen-  
20 cies with respect to those implications;

21 (E) provide information to private citizens,  
22 civic groups, Federal agencies, State agencies,  
23 and other interested parties regarding the  
24 rights of those parties under this title;



1 (F) develop, maintain, and provide exper-  
2 tise designed to assist covered persons, espe-  
3 cially smaller depository institutions and other  
4 smaller entities to comply with regulations and  
5 other requirements issued to implement the pro-  
6 visions of this title, and where such assistance  
7 for smaller depository institutions shall be pro-  
8 vided jointly by the Agency and the appropriate  
9 Federal banking agency;

10 (G) develop procedures to assist covered  
11 persons, especially smaller depository institu-  
12 tions and other smaller entities, in responding  
13 to or challenging actions taken by the Director  
14 or the Agency to implement the provisions of  
15 this title and to ensure that safeguards exist to  
16 preserve the confidentiality of covered persons  
17 using those procedures; and

18 (H) perform such other duties as the Di-  
19 rector may delegate to the Ombudsperson.

20 (b) PERSONNEL.—

21 (1) APPOINTMENT.—

22 (A) IN GENERAL.—The Director may fix  
23 the number of, and appoint and direct, all em-  
24 ployees of the Agency.

1           (B) EXPEDITED HIRING.—The Director  
2           may appoint, without regard to the provisions  
3           of sections 3309 through 3318, of title 5,  
4           United States Code, candidates directly to posi-  
5           tions for which public notice has been given.

6           (C) HIRING VETERANS.—In hiring employ-  
7           ees of the Agency, the Director shall establish  
8           appropriate targets, including timetables, to  
9           hire veterans (as defined in paragraphs (1) and  
10          (2) of section 2108 of title 5, United States  
11          Code) as employees of the Agency. In estab-  
12          lishing appropriate targets under this para-  
13          graph, the Director may consider, among other  
14          relevant factors, the proportion of veterans  
15          hired by Federal agencies with comparable  
16          functions or types of occupations and their ex-  
17          periences in hiring veterans.

18          (2) COMPENSATION.—

19               (A) PAY.—The Director shall fix, adjust,  
20               and administer the pay for all employees of the  
21               Agency without regard to the provisions of  
22               chapter 51 or subchapter III of chapter 53 of  
23               title 5, United States Code.

24               (B) BENEFITS.—The Director may provide  
25               additional benefits to Agency employees if the

1 same type of benefits are then being provided  
2 by the Board of Governors or, if not then being  
3 provided, could be provided by the Board of  
4 Governors under applicable provisions of law or  
5 regulations.

6 (C) MINIMUM STANDARD.—The Director  
7 shall at all times provide compensation and ben-  
8 efits to classes of employees that, at a min-  
9 imum, are equivalent to the compensation and  
10 benefits provided by the Board of Governors for  
11 the corresponding class of employees in any fis-  
12 cal year.

13 (c) SPECIFIC FUNCTIONAL UNITS.—

14 (1) RESEARCH.—The Agency shall establish a  
15 unit whose functions shall include—

16 (A) conducting research on consumer fi-  
17 nancial counseling and education, including—

18 (i) on the topics of debt, credit, sav-  
19 ings, financial product usage, and financial  
20 planning;

21 (ii) exploring effective methods, tools,  
22 and approaches; and

23 (iii) identifying ways to incorporate  
24 new technology for the delivery and evalua-

1                   tion of financial counseling and education  
2                   efforts;

3                   (B) researching, analyzing, and reporting  
4                   on—

5                   (i) current and prospective develop-  
6                   ments in markets for consumer financial  
7                   products or services, including market  
8                   areas of alternative consumer financial  
9                   products or services with high growth  
10                  rates;

11                  (ii) consumer awareness, under-  
12                  standing, and use of disclosures and com-  
13                  munications regarding consumer financial  
14                  products or services;

15                  (iii) consumer awareness and under-  
16                  standing of costs, risks, and benefits of  
17                  consumer financial products or services;

18                  (iv) consumer behavior with respect to  
19                  consumer financial products or services, in-  
20                  cluding performance on mortgage loan;  
21                  and

22                  (v) experiences of traditionally under-  
23                  served consumers, including un-banked and  
24                  under-banked consumers, regarding con-  
25                  sumer financial products or services;

1 (C) identifying priorities for consumer fi-  
2 nancial education efforts, based on consumer  
3 complaints, research or analysis conducted pur-  
4 suant to subparagraph (A), or other informa-  
5 tion; and

6 (D) testing and identifying methods of  
7 educating consumers to determine which meth-  
8 ods are most effective.

9 (2) COMMUNITY AFFAIRS.—The Director shall  
10 establish a unit whose functions shall include pro-  
11 viding information, guidance, and technical assist-  
12 ance regarding the provision of consumer financial  
13 products or services to traditionally underserved con-  
14 sumers and communities.

15 (3) CONSUMER COMPLAINTS.—

16 (A) IN GENERAL.—The Director shall es-  
17 tablish a unit whose functions shall include es-  
18 tablishing a central database, or utilizing an ex-  
19 isting database, for collecting and tracking in-  
20 formation on consumer complaints about con-  
21 sumer financial products or services and resolu-  
22 tion of complaints.

23 (B) COORDINATION.—In performing the  
24 functions described in subparagraph (A), the  
25 Director shall coordinate with the Federal

1 banking agencies, other Federal agencies, and  
2 other regulatory agencies or enforcement au-  
3 thorities.

4 (C) DATA SHARING REQUIRED.—To the  
5 extent permitted by law and the regulations  
6 prescribed by the Director regarding the con-  
7 fidential treatment of information, the Director  
8 shall share data relating to consumer com-  
9 plaints with Federal banking agencies, other  
10 Federal agencies, and State regulators. To the  
11 extent permitted by law and the regulations  
12 prescribed by the Federal banking agencies and  
13 other Federal agencies regarding the confiden-  
14 tial treatment of information, the Federal bank-  
15 ing agencies and other Federal agencies, respec-  
16 tively, shall share data relating to consumer  
17 complaints with the Director and the Agency.

18 (4) CONSUMER FINANCIAL EDUCATION.—

19 (A) IN GENERAL.—The Agency shall es-  
20 tablish a unit to be named the Office of Finan-  
21 cial Literacy, whose functions shall include ac-  
22 tivities designed to facilitate the education of  
23 consumers on consumer financial products and  
24 services, including through the dissemination of  
25 materials to consumers on such topics.

1 (B) DIRECTOR.—The Office of Financial  
2 Literacy shall be headed by a director.

3 (C) DUTIES.—Such unit shall—

4 (i) develop goals for programs to be  
5 provided by persons that provide consumer  
6 financial education and counseling, includ-  
7 ing programs through which such per-  
8 sons—

9 (I) provide one-on-one financial  
10 counseling;

11 (II) help individuals understand  
12 basic banking and savings tools;

13 (III) help individuals understand  
14 their credit history and credit score;

15 (IV) assist individuals in efforts  
16 to plan for major purchases, reduce  
17 their debt, and improve their financial  
18 stability; and

19 (V) work with individuals to de-  
20 sign plans for long-term savings;

21 (ii) develop recommendations regard-  
22 ing effective certification of persons pro-  
23 viding programs, or performing the activi-  
24 ties, described in clause (i), including rec-  
25 ommendations regarding—

1 (I) certification processes and  
2 standards for certification;

3 (II) appropriate certifying bodies;  
4 and

5 (III) mechanisms for funding the  
6 certification processes;

7 (iii) develop a technology tool to col-  
8 lect data on financial education and coun-  
9 seling outcomes; and

10 (iv) conduct research to identify effec-  
11 tive methods, tools, technology, and strate-  
12 gies to educate and counsel consumers  
13 about personal finance management, in-  
14 cluding on the topics of debt, credit, sav-  
15 ings, financial product usage, and financial  
16 planning.

17 (D) COORDINATION.—Such unit shall co-  
18 ordinate with other units within the Agency in  
19 carrying out its functions, including—

20 (i) working with the unit established  
21 under paragraph (2) to—

22 (I) provide information and re-  
23 sources to community organizations,  
24 nonprofit organizations, and other en-  
25 tities to assist in helping educate con-



1                   sumers about consumer financial  
2                   products and services; and

3                   (II) develop a marketing strategy  
4                   to promote financial education and  
5                   one-on-one counseling; and

6                   (ii) working with the unit established  
7                   under paragraph (1) to conduct research  
8                   related to consumer financial education  
9                   and counseling.

10           (d) SINGLE TOLL-FREE TELEPHONE NUMBER FOR  
11 CONSUMER COMPLAINTS AND INQUIRIES.—

12           (1) CALL INTAKE SYSTEM.—The Consumer Fi-  
13 nancial Protection Agency shall establish a single,  
14 toll-free telephone number for consumer complaints  
15 and inquiries concerning institutions regulated by  
16 such agencies and a system for collecting and moni-  
17 toring complaints and, as soon as practicable, a sys-  
18 tem for routing such calls to the Federal financial  
19 institution regulatory agency that primarily super-  
20 vises the financial institution, or that is otherwise  
21 the appropriate Federal agency to address the sub-  
22 ject of the complaint or inquiry.

23           (2) ROUTING CALLS TO STATES.—To the extent  
24 practicable, State agencies may receive appropriate

1 call transfers from the system established under  
2 paragraph (1) if—

3 (A) the State agency's system has the  
4 functional capacity to receive calls routed by the  
5 system; and

6 (B) the State agency has satisfied any con-  
7 ditions of participation in the system that the  
8 Council, coordinating with State agencies  
9 through the chairperson of the State Liaison  
10 Committee, may establish.

11 (e) REPORT TO THE CONGRESS.—Before the end of  
12 the 6-month period beginning on the date of the enact-  
13 ment of this Act, the Federal financial institution regu-  
14 latory agencies shall submit a report to the Committee on  
15 Financial Services of the House of Representatives and  
16 the Committee on Banking, Housing, and Urban Affairs  
17 of the Senate describing the agencies' efforts to estab-  
18 lish—

19 (1) a public interagency Web site for directing  
20 and referring Internet consumer complaints and in-  
21 quires concerning any financial institution to the  
22 Consumer Financial Protection Agency for purposes  
23 of collecting, monitoring, and responding to such  
24 complaints and, where appropriate, a system for re-  
25 ferring complaints to the Federal financial institu-

1       tion regulatory agency, other Federal agency, or  
2       State agency that is otherwise the appropriate agen-  
3       cy to address the subject of the complaint or inquiry;  
4       and

5           (2) a system to expedite the prompt and effec-  
6       tive rerouting of any misdirected consumer com-  
7       plaint or inquiry documents between or among the  
8       agencies, with prompt referral of any complaint or  
9       inquiry to the appropriate Federal financial institu-  
10      tion regulatory agency, and to participating State  
11      agencies.

12      (f) OFFICE OF FAIR LENDING AND EQUAL OPPOR-  
13      TUNITY.—

14           (1) ESTABLISHMENT.—Before the end of the  
15      180-day period beginning on the date of the enact-  
16      ment of this Act, the Director shall establish within  
17      the Agency the Office of Fair Lending and Equal  
18      Opportunity.

19           (2) FUNCTIONS.— The Office of Fair Lending  
20      and Equal Opportunity shall have such powers and  
21      duties as the Director may delegate the Office which  
22      shall include the following functions:

23           (A) Providing oversight and enforcement of  
24      Federal laws intended to ensure the fair, equi-  
25      table, and nondiscriminatory access to credit for

1 both individuals and communities that are en-  
2 forced by the Agency, including the Equal  
3 Credit Opportunity Act and the Home Mort-  
4 gage Disclosure Act.

5 (B) Coordinating fair lending enforcement  
6 efforts of the Agency with other Federal agen-  
7 cies and State regulators, as appropriate, to  
8 promote consistent, efficient and effective en-  
9 forcement of Federal fair lending laws.

10 (C) Working with private industry, fair  
11 lending, civil rights, consumer and community  
12 advocates on the promotion of fair lending com-  
13 pliance and education.

14 (D) Providing annual reports to the Con-  
15 gress on the Agency's efforts to fulfill its fair  
16 lending mandate.

17 (3) ADMINISTRATION OF OFFICE.—There is  
18 hereby established the position of Assistant Director  
19 of the Agency for Fair Lending and Equal Oppor-  
20 tunity who—

21 (A) shall be appointed by the Director;

22 (B) shall carry out such duties as the Di-  
23 rector may delegate to such Assistant Director;  
24 and

1 (C) shall serve as the Director of the Of-  
2 fice of Fair Lending and Equal Opportunity.

3 (4) PROHIBITIONS ON PARTICIPATION IN PRO-  
4 GRAMS WITH RESPECT TO CERTAIN INDICTED ORGA-  
5 NIZATIONS.—

6 (A) PROHIBITION.—The Director of the  
7 Office of Fair Lending and Equal Opportunity  
8 may not allow a covered organization to partici-  
9 pate in any program established by such Direc-  
10 tor.

11 (B) COVERED ORGANIZATION.—In this  
12 paragraph, the term “covered organization”  
13 means any of the following:

14 (i) Any organization that has been in-  
15 dicted for a violation under any Federal or  
16 State law governing the financing of a  
17 campaign for election for public office or  
18 any law governing the administration of an  
19 election for public office, including a law  
20 relating to voter registration.

21 (ii) Any organization that had its  
22 State corporate charter terminated due to  
23 its failure to comply with Federal or State  
24 lobbying disclosure requirements.

1 (iii) Any organization that has filed a  
2 fraudulent form with any Federal or State  
3 regulatory agency.

4 (iv) Any organization that—  
5 (I) employs any applicable indi-  
6 vidual, in a permanent or temporary  
7 capacity;

8 (II) has under contract or retains  
9 any applicable individual; or

10 (III) has any applicable indi-  
11 vidual acting on the organization's be-  
12 half or with the express or apparent  
13 authority of the organization.

14 (C) ADDITIONAL DEFINITIONS.—In this  
15 paragraph:

16 (i) The term “organization” includes  
17 the Association of Community Organiza-  
18 tions for Reform Now (in this paragraph  
19 referred to as “ACORN”) and any  
20 ACORN-related affiliate.

21 (ii) The term “ACORN-related affil-  
22 iate” means any of the following:

23 (I) Any State chapter of ACORN  
24 registered with the Secretary of  
25 State's office in that State.

1 (II) Any organization that shares  
2 directors, employees, or independent  
3 contractors with ACORN.

4 (III) Any organization that has a  
5 financial stake in ACORN.

6 (IV) Any organization whose fi-  
7 nances, whether federally funded,  
8 donor-funded, or raised through orga-  
9 nizational goods and services, are  
10 shared or controlled by ACORN.

11 (iii) The term “applicable individual”  
12 means an individual who has been indicted  
13 for a violation under Federal or State law  
14 relating to an election for Federal or State  
15 office.

16 (D) REVISION OF FEDERAL ACQUISITION  
17 REGULATION.—The Federal Acquisition Regu-  
18 lation shall be revised to carry out the provi-  
19 sions of this paragraph relating to contracts.

20 (E) SEVERABILITY.—If any provision of  
21 this section or any application of such provision  
22 to any person or circumstance is held to be un-  
23 constitutional, the remainder of this section and  
24 the application of the provision to any other  
25 person or circumstance shall not be affected.

1 **SEC. 116. CONSUMER ADVISORY BOARD.**

2 (a) ESTABLISHMENT REQUIRED.—The Director shall  
3 establish a Consumer Advisory Board to advise and con-  
4 sult with the Director in the exercise of the functions of  
5 the Director and the Agency under this title, the enumer-  
6 ated consumer laws, and to provide information on emerg-  
7 ing practices in the consumer financial products or serv-  
8 ices industry.

9 (b) MEMBERSHIP.—

10 (1) IN GENERAL.—In appointing the members  
11 of the Consumer Advisory Board, the Director shall  
12 seek—

13 (A) to assemble experts in financial serv-  
14 ices, community development, fair lending and  
15 civil rights, consumer protection, and consumer  
16 financial products or services; and

17 (B) to represent the interests of covered  
18 persons and consumers.

19 (2) PROHIBITION ON MEMBERSHIP WITH RE-  
20 SPECT TO CERTAIN INDICTED ORGANIZATIONS.—The  
21 director may not appoint an employee of a covered  
22 organization (as defined in section 115(f)(4)(B)) to  
23 the Consumer Advisory Board.

24 (c) POLITICAL AFFILIATION.—Not more than 1 more  
25 than half of the members of the Consumer Advisory Board  
26 may be members of the same political party.



1 (d) MEETINGS.—The Consumer Advisory Board shall  
2 meet from time to time at the call of the Director, but,  
3 at a minimum, shall meet at least twice in each year.

4 (e) COMPENSATION AND TRAVEL EXPENSES.—Mem-  
5 bers of the Consumer Advisory Board who are not full-  
6 time employees of the United States shall—

7 (1) be entitled to receive compensation at a rate  
8 fixed by the Director while attending meetings of the  
9 Consumer Advisory Board, including travel time;  
10 and

11 (2) be allowed travel expenses, including trans-  
12 portation and subsistence, while away from their  
13 homes or regular places of business.

14 **SEC. 117. COORDINATION.**

15 (a) COORDINATION WITH OTHER FEDERAL AGEN-  
16 CIES AND STATE REGULATORS.—The Director shall co-  
17 ordinate with the Securities and Exchange Commission,  
18 the Commodity Futures Trading Commission, the Sec-  
19 retary of the Treasury, and other Federal agencies and  
20 State regulators, as appropriate, to promote consistent  
21 regulatory treatment of, and enforcement related to, con-  
22 sumer and investment products, services, and laws.

23 (b) COORDINATION OF CONSUMER EDUCATION INI-  
24 TIATIVES.—

1           (1) IN GENERAL.—The Director shall coordi-  
2           nate with each agency that is a member of the Fi-  
3           nancial Literacy and Education Commission estab-  
4           lished by the Financial Literacy and Education Im-  
5           provement Act (20 U.S.C. 9701 et seq.) to assist  
6           each agency in enhancing its existing financial lit-  
7           eracy and education initiatives to better achieve the  
8           goals in paragraph (2) and to ensure the consistency  
9           of such initiatives across Federal agencies.

10           (2) GOALS OF COORDINATION.—In coordinating  
11           with the agencies described in paragraph (1), the  
12           Director shall seek to improve efforts to educate  
13           consumers about financial matters generally, the  
14           management of their own financial affairs, and their  
15           judgments about the appropriateness of certain fi-  
16           nancial products.

17           (c) COORDINATION.—The Agency may coordinate in-  
18           vestigations, compliance examinations, information shar-  
19           ing, and related activities in support of activities under-  
20           taken pursuant to the Fair Housing Act by other Federal  
21           agencies.

22   **SEC. 118. REPORTS TO THE CONGRESS.**

23           (a) REPORTS REQUIRED.—The Director shall pre-  
24           pare and submit to the President and the appropriate  
25           committees of the Congress a report at the beginning of

1 each regular session of the Congress, beginning with the  
2 session following the designated transfer date.

3 (b) CONTENTS.—The reports required by subsection  
4 (a) shall include—

5 (1) a list of the significant regulations and or-  
6 ders adopted by the Director, as well as other sig-  
7 nificant initiatives conducted by the Director, during  
8 the preceding year and the Director's plan for regu-  
9 lations, orders, or other initiatives to be undertaken  
10 during the upcoming period;

11 (2) an analysis of complaints about consumer  
12 financial products or services that the Agency has  
13 received and collected in its central database on  
14 complaints during the preceding year;

15 (3) a list, with a brief statement of the issues,  
16 of the public supervisory and enforcement actions to  
17 which the Agency is a party (including adjudication  
18 proceedings conducted under subtitle E) during the  
19 preceding year;

20 (4) the actions taken regarding regulations, or-  
21 ders, and supervisory actions with respect to covered  
22 persons which are not credit unions or depository in-  
23 stitutions, including descriptions of the types of such  
24 covered persons, financial activities, and consumer

1 financial products or services affected by such regu-  
2 lations, orders, and supervisory actions;

3 (5) an appraisal of significant actions, including  
4 actions under Federal or State law, by State attor-  
5 neys general or State regulators relating to this title,  
6 the authorities transferred under subtitles F and H,  
7 and the enumerated consumer laws;

8 (6) an analysis of the Agency's efforts to fulfill  
9 the fair lending mission of the Agency; and

10 (7) an appraisal of the regulatory and legal dif-  
11 ficulties encountered by the Agency in carrying out  
12 the mission and duties of the Agency with respect to  
13 consumer protection, including a description of—

14 (A) the difficulties and hardships encoun-  
15 tered with respect to coordinating with other  
16 Federal and State government entities;

17 (B) the regulatory and enforcement limita-  
18 tions placed on the Agency by this Act;

19 (C) the practices of persons, covered and  
20 uncovered under this Act, that allow such per-  
21 sons to harm consumers and escape regulation  
22 or enforcement, including any trends identified;  
23 and

1 (D) legislative and administrative rec-  
2 ommendations with respect to solving or alle-  
3 viating identified difficulties.

4 (c) ANNUAL APPEARANCE BEFORE THE CON-  
5 GRESS.—The Director shall appear before the House  
6 Committee on Financial Services at an annual hearing,  
7 after the report is submitted under subsection (a)—

8 (1) to discuss the efforts, activities, objectives  
9 and plans of the Agency; and

10 (2) discuss and answer questions concerning  
11 such report.

12 **SEC. 119. FUNDING; FEES AND ASSESSMENTS; PENALTIES**  
13 **AND FINES.**

14 (a) TRANSFER OF FUNDS FROM THE BOARD OF  
15 GOVERNORS.—

16 (1) TRANSFER REQUIRED.—Each year, begin-  
17 ning on the designated transfer date, the Board of  
18 Governors shall transfer funds in an amount equal-  
19 ing 10 percent of the Federal Reserve System's total  
20 system expenses (as reported in the Budget Review  
21 of the Board of Governors most recent Annual Re-  
22 port to Congress) to the Director for the purposes  
23 of carrying out the authorities granted in this title,  
24 under the enumerated consumer laws, and trans-  
25 ferred under subtitles F and H.

1           (2) PROCEDURES.—The Board of Governors, in  
2           consultation with the Agency, shall make appro-  
3           priate arrangements to transfer funds to the Direc-  
4           tor in accordance with this subsection.

5           (b) FEES AND ASSESSMENTS.—

6           (1) ASSESSMENT REQUIRED.—

7           (A) IN GENERAL.—Taking into account  
8           such other sums available to the Agency and  
9           subject to the provisions of this subsection and  
10          subsection (d), the Director shall assess fees on  
11          covered persons to meet the Agency's expenses  
12          for carrying out the duties and responsibilities  
13          of the Agency, including supervising such cov-  
14          ered persons.

15          (B) BASIS FOR ASSESSMENT.—The Agency  
16          shall assess fees on covered persons pursuant to  
17          this subsection based on the size and complexity  
18          of the covered person, and the compliance  
19          record of the covered person under the enumer-  
20          ated consumer laws, the laws and authorities  
21          transferred under subtitles F and H, and this  
22          title.

23          (2) REGULATIONS.—

1 (A) IN GENERAL.—The Director shall pre-  
2 scribe regulations to govern the imposition and  
3 collection of fees and assessments.

4 (B) FACTORS REQUIRED TO BE AD-  
5 DRESSED.—Regulations prescribed by the Di-  
6 rector under this subsection shall specify and  
7 define—

8 (i) the basis of fees or assessments  
9 (such as the outstanding number of con-  
10 sumer credit accounts, off-balance sheet re-  
11 ceivables attributable to the covered per-  
12 son, total consolidated assets, total assets  
13 under management, or volume of consumer  
14 financial transactions or use of service pro-  
15 viders);

16 (ii) the amount and frequency of fees  
17 or assessments; and

18 (iii) such other factors that the Direc-  
19 tor determines are appropriate, which shall  
20 include a covered person's compliance  
21 record under the enumerated consumer  
22 laws, the authorities transferred under  
23 subtitles F and H, and this title.

24 (3) ASSESSMENTS ON DEPOSITORY INSTITU-  
25 TION COVERED PERSONS.—

1 (A) DEPOSITORY INSTITUTION COVERED  
2 PERSON DEFINED.—For purposes of this sec-  
3 tion, the term “depository institution covered  
4 person” means a covered person that is an in-  
5 sured depository institution or credit union.

6 (B) ASSESSMENTS.—

7 (i) FEES REQUIRED.—The Director  
8 shall assess fees for supervision as are ap-  
9 propriate on depository institution covered  
10 persons, taking into account the size and  
11 complexity of the covered person, and the  
12 compliance record of the covered person  
13 under the enumerated consumer laws, the  
14 laws and authorities transferred under  
15 subtitles F and H, and this title.

16 (ii) LIMITATION ON CERTAIN FEES.—  
17 The Agency shall not assess examination  
18 fees on an institution referred to in section  
19 123(a), or an institution whose examina-  
20 tion responsibilities have been delegated to  
21 an appropriate agency, pursuant to section  
22 122(c)(10).

23 (iii) BASIS FOR FEE AMOUNTS.—Fees  
24 assessed by the Director under this sub-  
25 paragraph may be established at levels nec-



1           essary to meet the Agency's expenses for  
2           carrying out the duties and responsibilities  
3           of the Director and the Agency under this  
4           title with regard to depository institution  
5           covered persons.

6           (C) COORDINATION DURING IMPLEMENTA-  
7           TION PERIOD.—The Director and the agencies  
8           responsible for chartering and or supervising  
9           depository institution covered persons shall co-  
10          ordinate on the levels of fees assessed on depos-  
11          itory institution covered persons under this  
12          paragraph, so that levels of assessments under  
13          this subparagraph combined with levels of as-  
14          sessments by agencies responsible for chartering  
15          and or supervising depository institution cov-  
16          ered persons shall be no more than the assess-  
17          ments such depository institution covered per-  
18          son was required to pay for the 12-month pe-  
19          riod ending on December 31, 2009.

20          (D) MARGINAL ASSESSMENT RATE.—

21           (i) IN GENERAL.—In setting assess-  
22          ment rates for depository institution cov-  
23          ered persons, the Director shall not impose  
24          assessments that result in higher marginal  
25          assessment rates for depository institution

1 covered persons with assets of less than  
2 \$25,000,000,000 than the marginal rates  
3 for depository institutions covered persons  
4 with assets that exceed that amount.

5 (ii) RULE OF CONSTRUCTION.—  
6 Clause (i) shall not be construed as lim-  
7 iting or impairing the authority of the Di-  
8 rector to set assessments that would result  
9 in higher marginal assessment rates on the  
10 larger depository institution covered per-  
11 sons.

12 (E) LIMITATIONS ON ASSESSMENTS.—

13 (i) ASSESSMENTS FOR ADMINISTRA-  
14 TIVE COSTS.—Notwithstanding any provi-  
15 sion in this title, no depository institution  
16 covered person shall be charged an assess-  
17 ment to be used for the supervision, exam-  
18 ination, enforcement or regulation by the  
19 Agency of nondepository covered persons.

20 (ii) AMOUNTS PAID FOR CONSUMER  
21 COMPLIANCE SUPERVISION.—Notwith-  
22 standing any provision in this title, no de-  
23 pository institution covered person shall  
24 pay more for consumer compliance super-

1 vision than it paid before the date of en-  
2 actment of this Act.

3 (4) ASSESSMENTS ON NONDEPOSITORY COV-  
4 ERED PERSONS.—

5 (A) NONDEPOSITORY COVERED PERSON  
6 DEFINED.—For purposes of this section, the  
7 term “nondepository covered person”—

8 (i) means a covered person that is not  
9 a credit union or insured depository insti-  
10 tution; and

11 (ii) includes any bank holding com-  
12 pany.

13 (B) ASSESSMENTS.—

14 (i) FEES REQUIRED.—The Director  
15 shall assess fees for fees for registration,  
16 examination, and supervision of nondeposi-  
17 tory covered persons.

18 (ii) BASIS FOR FEE AMOUNTS.— Fees  
19 assessed by the Director under this sub-  
20 paragraph may be established at levels nec-  
21 essary to meet the Agency’s expenses for  
22 carrying out the duties and responsibilities  
23 of the Director and the Agency, including  
24 supervising such covered persons, taking

1                   into account such other sums available to  
2                   the Agency.

3                   (iii) REGISTRATION FEE MINIMUMS.—

4                   Registration fees imposed on a nondeposi-  
5                   tory covered person under this paragraph  
6                   shall, at a minimum, be imposed on such  
7                   covered person at the time the person reg-  
8                   isters (or periodically renews any such reg-  
9                   istration) with the Agency, in accordance  
10                  with regulations prescribed by the Direc-  
11                  tor.

12                  (C) NONDEPOSITORY COVERED PERSON  
13                  ASSESSMENT NOT LESS THAN FOR DEPOSITORY  
14                  COVERED PERSONS.—Assessment rates levied  
15                  by the Director under this section on a non-  
16                  depository institution covered persons shall be  
17                  no less than assessments levied by the Agency  
18                  under this section on a depository institution  
19                  covered person with similar characteristics.

20                  (e) AUTHORIZATION OF APPROPRIATIONS.—

21                  (1) IN GENERAL.—For the purposes of carrying  
22                  out the authorities granted in this title, under the  
23                  enumerated consumer laws, and the laws and au-  
24                  thorities transferred under subtitles F and H, there

1 are authorized to be appropriated to the Director  
2 such sums as may be necessary for any fiscal year.

3 (2) APPORTIONMENT.—Notwithstanding any  
4 other provision of law, such amounts shall be subject  
5 to apportionment under section 1517 of title 31,  
6 United States Code, and restrictions that generally  
7 apply to the use of appropriated funds in title 31,  
8 United States Code, and other laws.

9 (3) OTHER AVAILABLE FUNDS TAKEN INTO AC-  
10 COUNT.—Sums appropriated under this subsection  
11 shall take into account such other sums available to  
12 the Agency under this section.

13 (d) CONSUMER FINANCIAL PROTECTION AGENCY  
14 DEPOSITORY INSTITUTION FUND.—

15 (1) ESTABLISHMENT.—

16 (A) IN GENERAL.—There is established in  
17 the Treasury a separate fund to be known as  
18 the “Consumer Financial Protection Agency  
19 Depository Institution Fund” (hereafter in this  
20 section referred to as the “CFPA Depository  
21 Fund”).

22 (B) AMOUNTS IN FUND NOT AVAILABLE  
23 FOR CERTAIN PURPOSES.—Other than pursuant  
24 to subsection (f), amounts on deposit in the  
25 CFPA Depository Fund shall not be used in the

1 supervision and examination of nondepository  
2 institution covered persons.

3 (2) ALL TRANSFERRED FUNDS DEPOSITED.—

4 All amounts transferred to the Agency under sub-  
5 section (a) shall be deposited into the CFPA Depository Fund.  
6

7 (3) ALL APPLICABLE SUPERVISORY FEES AND  
8 ASSESSMENTS DEPOSITED.—The Director shall de-  
9 posit all amounts received from assessments under  
10 subsection (b)(3) in the CFPA Depository Fund.

11 (e) CONSUMER FINANCIAL PROTECTION AGENCY  
12 NONDEPOSITORY INSTITUTION FUND.—

13 (1) ESTABLISHMENT.—

14 (A) IN GENERAL.—There is established in  
15 the Treasury a separate fund called the Con-  
16 sumer Financial Protection Agency Nondeposi-  
17 tory Institution Fund (hereafter in this section  
18 referred to as the “CFPA Nondepository  
19 Fund”).

20 (B) AMOUNTS IN FUND NOT AVAILABLE  
21 FOR CERTAIN PURPOSES.—Other than pursuant  
22 to subsection (f), amounts on deposit in the  
23 CFPA Nondepository Fund shall not be used  
24 for the supervision and examination of deposi-  
25 tory institution covered persons.

1           (2) ALL APPLICABLE SUPERVISORY FEES AND  
2 ASSESSMENTS DEPOSITED.—The Director shall de-  
3 posit all amounts received from assessments under  
4 subsection (b)(4) in the CFPA Nondepository Fund.

5 (f) GENERAL PROVISIONS RELATING TO FUNDS.—

6           (1) MAINTENANCE OF FUNDS.—

7           (A) AGENCY FUNDS MAINTAINED BY  
8 TREASURY.—The Consumer Financial Protec-  
9 tion Agency Depository Institution Fund estab-  
10 lished under subsection (d) and the Consumer  
11 Financial Protection Agency Nondepository In-  
12 stitution Fund established under subsection (e)  
13 shall each be—

14                   (i) maintained and administered by  
15 the Secretary; and

16                   (ii) maintained separately and not  
17 commingled.

18           (B) AGENCY'S AUTHORITY.—Any provision  
19 of this Act forbidding the commingling or use  
20 of the CFPA Depository Fund and the CFPA  
21 Nondepository Fund shall not be construed as  
22 limiting or impairing the authority of the Agen-  
23 cy to use the same facilities and resources in  
24 the course of conducting supervisory and regu-  
25 latory functions with respect to depository insti-

1           tutions and nondepository institutions, or to in-  
2           tegrate such functions.

3           (C) ACCOUNTING REQUIREMENTS.—

4           (i) ACCOUNTING FOR USE OF FACILI-  
5           TIES AND RESOURCES.—The Agency shall  
6           keep a full and complete accounting of all  
7           costs and expenses associated with the use  
8           of any facility or resource used in the  
9           course of any function specified in sub-  
10          paragraph (B) and shall allocate, in the  
11          manner provided in subparagraph (D), any  
12          such costs and expenses incurred by the  
13          Agency—

14                   (I) with respect to depository in-  
15                   stitution covered persons, to the  
16                   CFPA Depository Fund; and

17                   (II) with respect to nondepository  
18                   covered persons, to the CFPA Non-  
19                   depository fund.

20          (D) ALLOCATION OF ADMINISTRATIVE EX-  
21          PENSES.—Any personnel, administrative, or  
22          other overhead expense of the Agency shall be  
23          allocated—

24                   (i) fully to the CFPA Depository  
25                   Fund if the expense was incurred directly



1 as a result of the Agency's responsibilities  
2 solely with respect to depository institution  
3 covered persons;

4 (ii) fully to the CFPA Nondepository  
5 Fund, if the expense was incurred directly  
6 as a result of the Agency's responsibilities  
7 solely with respect to nondepository cov-  
8 ered persons;

9 (iii) between the CFPA Depository  
10 Fund and the CFPA Nondepository Fund,  
11 in amounts reflecting the relative degree to  
12 which the expense was incurred as a result  
13 of the activities of depository institution  
14 covered persons, and nondepository covered  
15 persons; and

16 (iv) if the Director is unable to make  
17 a complete allocation under clause (i), (ii),  
18 or (iii), between the CFPA Depository  
19 Fund and the CFPA Nondepository Fund,  
20 in amounts reflecting the relative propor-  
21 tion that, as of the end of the preceding  
22 year—

23 (I) the aggregate assets of all de-  
24 pository institution covered persons

1 bears to the aggregate assets of all  
2 covered persons; and

3 (II) the aggregate assets of all  
4 nondepository covered persons bears  
5 to the aggregate assets of all covered  
6 persons.

7 (E) AGENCY FUND.—The “Agency fund”  
8 means the Consumer Financial Protection  
9 Agency Depository Institution Fund established  
10 under subsection (d), and, the Consumer Fi-  
11 nancial Protection Agency Nondepository Insti-  
12 tution Fund established under subsection (e) ,  
13 and the Consumer Financial Protection Agency  
14 Civil Penalty Fund established under subsection  
15 (g)

16 (2) INVESTMENT.—

17 (A) AMOUNTS IN FUNDS MAY BE IN-  
18 VESTED.—The Director may request the Sec-  
19 retary to invest the portion of any Agency fund  
20 that, in the Director’s judgment, is not required  
21 to meet the current needs of such fund.

22 (B) ELIGIBLE INVESTMENTS.—Invest-  
23 ments pursuant to subparagraph (A) shall be  
24 made by the Secretary in obligations of the  
25 United States or obligations that are guaran-

1           teed as to principal and interest by the United  
2           States, with maturities suitable to the needs of  
3           the Agency fund involved, as determined by the  
4           Director.

5           (C) INTEREST AND PROCEEDS CRED-  
6           ITED.—The interest on, and the proceeds from  
7           the sale or redemption of, any obligations held  
8           in the respective Agency Fund shall be credited  
9           to and form a part of the respective Agency  
10          Fund.

11          (3) USE OF FUNDS.—Funds obtained by, trans-  
12          ferred to, or credited to any Agency fund shall be  
13          immediately available to the Agency, and remain  
14          available until expended, to pay the expenses of the  
15          Agency in carrying out the duties and responsibil-  
16          ities of the Director and the Agency, including the  
17          payment of compensation of the Director and offi-  
18          cers and employees of the Agency.

19          (2) FEES, ASSESSMENTS AND OTHER FUNDS  
20          NOT GOVERNMENT FUNDS.—Funds obtained by or  
21          transferred to any Agency fund shall not be con-  
22          strued to be Government funds or appropriated  
23          monies.

24          (3) AMOUNTS NOT SUBJECT TO APPORTION-  
25          MENT.—Notwithstanding any other provision of law,

1 amounts in any Agency fund shall not be subject to  
2 apportionment for purposes of chapter 15 of title 31,  
3 United States Code, or under any other authority.

4 (g) PENALTIES AND FINES.—

5 (1) ESTABLISHMENT OF VICTIMS RELIEF  
6 FUND.—There is established in the Treasury of the  
7 United States a fund to be known as the “Consumer  
8 Financial Protection Agency Civil Penalty Fund”  
9 (hereafter in this section referred to as the “Civil  
10 Penalty Fund”).

11 (2) DEPOSITS.— If the Agency obtains a civil  
12 penalty against any person in any judicial or admin-  
13 istrative action under this title, any law or authority  
14 transferred under subtitles F and H, or any enumer-  
15 ated consumer law, the Agency shall deposit into the  
16 Civil Penalty Fund the amount of the penalty col-  
17 lected.

18 (3) PAYMENT TO VICTIMS.—Amounts in the  
19 Civil Penalty Fund shall be available to the Director,  
20 without fiscal year limitation, for payments to the  
21 victims of activities for which civil penalties have  
22 been imposed under this title, the law and authori-  
23 ties transferred under subtitles F and H, or any  
24 enumerated consumer law.

1 **SEC. 120. AMENDMENTS RELATING TO OTHER ADMINIS-**  
2 **TRATIVE PROVISIONS.**

3 (a) ACT OF OCTOBER 28, 1974.—Section 111 of  
4 Public Law 93—495 (12 U.S.C. 250) is amended by in-  
5 serting “the Consumer Financial Protection Agency,”  
6 after “Federal Deposit Insurance Corporation,”.

7 (b) PAPERWORK REDUCTION ACT.—Section 2(5) of  
8 the Paperwork Reduction Act (44 U.S.C. 3502(5)) by in-  
9 serting “the Consumer Financial Protection Agency,”  
10 after “the Securities and Exchange Commission,”.

11 **SEC. 120A. EFFECTIVE DATE.**

12 This subtitle shall take effect on the date of the en-  
13 actment of this Act.

14 **Subtitle B—General Powers of the**  
15 **Director and Agency**

16 **SEC. 121. MANDATE AND OBJECTIVES.**

17 (a) MANDATE.—The Director shall seek to promote  
18 transparency, simplicity, fairness, accountability, and  
19 equal access in the market for consumer financial products  
20 or services.

21 (b) OBJECTIVES.—The Director may exercise the au-  
22 thorities granted in this title, in the enumerated consumer  
23 laws, and transferred under subtitles F and H for the pur-  
24 poses of ensuring that, with respect to consumer financial  
25 products or services—

1           (1) consumers have and can use the informa-  
2           tion they need to make responsible decisions about  
3           consumer financial products or services;

4           (2) consumers are protected from abuse, unfair-  
5           ness, deception, and discrimination;

6           (3) markets for consumer financial products or  
7           services operate fairly and efficiently with ample  
8           room for sustainable growth and innovation; and

9           (4) traditionally underserved consumers and  
10          communities have equal access to responsible finan-  
11          cial services.

12 **SEC. 122. AUTHORITIES.**

13          (a) **IN GENERAL.**—The Director may exercise the au-  
14          thorities granted in this title, in the enumerated consumer  
15          laws, and transferred under subtitles F and H, to admin-  
16          ister, enforce, and otherwise implement the provisions of  
17          this title, the authorities transferred in subtitles F and  
18          H, and the enumerated consumer laws.

19          (b) **RULEMAKING, ORDERS, AND GUIDANCE.**—

20                 (1) **IN GENERAL.**—The Director may prescribe  
21                 regulations and issue orders and guidance as may be  
22                 necessary or appropriate to enable it to administer  
23                 and carry out the purposes and objectives of this  
24                 title, the authorities transferred under subtitles F  
25                 and H, and the enumerated consumer laws, and to

1 prevent evasions of this title, any such authority,  
2 and any such law.

3 (2) STANDARDS FOR RULEMAKING.—In pre-  
4 scribing a regulation under this title or pursuant to  
5 the authorities transferred under subtitles F and H  
6 or the enumerated consumer laws, the Director  
7 shall—

8 (A) consider the potential benefits and  
9 costs to consumers and covered persons, includ-  
10 ing the potential reduction of consumers' access  
11 to consumer financial products or services, re-  
12 sulting from such regulation; and

13 (B) consult with the Federal banking agen-  
14 cies, State bank supervisors, the Federal Trade  
15 Commission, or other Federal agencies, as ap-  
16 propriate, regarding the consistency of a pro-  
17 posed regulation with prudential, consumer pro-  
18 tection, civil rights, market, or systemic objec-  
19 tives administered by such agencies or super-  
20 visors.

21 (3) EXEMPTIONS.—

22 (A) IN GENERAL.—The Director, by regu-  
23 lation or order, may conditionally or uncondi-  
24 tionally exempt any covered person, service pro-  
25 vider, or any consumer financial product or

1 service or any class of covered persons, class of  
2 service providers, or consumer financial prod-  
3 ucts or services, from any provision of this title,  
4 any enumerated consumer law, or from any reg-  
5 ulation under any such provision or law, as the  
6 Director deems necessary or appropriate to  
7 carry out the purposes and objectives of this  
8 title taking into consideration the factors in  
9 subparagraph (B).

10 (B) FACTORS.—In issuing an exemption  
11 by regulation or order as permitted in subpara-  
12 graph (A), the Director shall as appropriate  
13 take into consideration the following:

14 (i) The total assets of the covered per-  
15 son.

16 (ii) The volume of transactions involv-  
17 ing consumer financial products or services  
18 in which the covered person engages.

19 (iii) The extent to which the covered  
20 person engages in 1 or more financial ac-  
21 tivities.

22 (iv) Existing laws or regulations which  
23 are applicable to the consumer financial  
24 product or service and the extent to which



1           such laws or regulations provide consumers  
2           with adequate protections.

3           (C) RULE OF CONSTRUCTION.—No provi-  
4           sion of this section shall be construed as alter-  
5           ing, amending, or affecting any authority under  
6           sections 304(a), 304(i), 305(a), and 306(b) of  
7           the Home Mortgage Disclosure Act of 1975 and  
8           sections 703(a)(1), 703(a)(2), 703(a)(3),  
9           705(f), and 705(g) of the Equal Credit Oppor-  
10          tunity Act for determining whether a covered  
11          person should be provided an exemption.

12          (c) EXAMINATIONS AND REPORTS.—

13           (1) IN GENERAL.—Except as provided under  
14          section 123, the Director may on a periodic basis ex-  
15          amine a covered person or service provider, with re-  
16          spect to any consumer financial product or service,  
17          for purposes of ensuring compliance with the re-  
18          quirements of this title, the enumerated consumer  
19          laws, and any regulations prescribed by the Director  
20          under this title or pursuant to the authorities trans-  
21          ferred under subtitles F and H, and enforcing com-  
22          pliance with such requirements.

23           (2) EXAMINATION PROGRAM.—The Director  
24          shall exercise any authority of the Director under  
25          paragraph (1) in a manner designed to ensure that

1 such authorities are exercised with respect to cov-  
2 ered persons or service providers, without regard to  
3 charter or corporate form, based on the Director's  
4 assessment of the risks posed to consumers in the  
5 relevant product markets and geographic markets,  
6 and taking into consideration, as applicable, the fol-  
7 lowing factors:

8 (A) The asset size of the covered persons.

9 (B) The volume of transactions involving  
10 consumer financial products or services in  
11 which the covered persons engage.

12 (C) The risks to consumers created by the  
13 provision of such consumer financial products  
14 or services.

15 (D) In the case of State-chartered institu-  
16 tions, the extent to which such institutions are  
17 subject to oversight by State authorities for  
18 consumer protection.

19 (3) COORDINATION.—The Director shall coordi-  
20 nate the Agency's supervisory activities with the su-  
21 pervisory activities of conducted by the Federal  
22 banking agencies and the State bank supervisors, in-  
23 cluding establishing their respective schedules for ex-  
24 amining covered persons and requirements regarding  
25 reports to be submitted by covered persons.

1           (4) REPORTS.—The Director may require re-  
2           ports from a covered person for purposes of ensuring  
3           compliance with the requirements of this title, the  
4           enumerated consumers laws, and any regulation pre-  
5           scribed by the Director under this title or pursuant  
6           to the authorities transferred under subtitles F and  
7           H, and enforcing compliance with such require-  
8           ments, and enforcing compliance with such require-  
9           ments.

10           (5) CONTENT OF REPORTS.—The reports au-  
11           thorized in paragraph (4) may include such informa-  
12           tion as necessary to keep the Agency informed as  
13           to—

14                   (A) the compliance systems or procedures  
15                   of the covered person or any affiliate thereof,  
16                   with applicable provisions of this title or any  
17                   other law that the Agency has jurisdiction to  
18                   enforce; and

19                   (B) matters related to the provision of con-  
20                   sumer financial products or services including  
21                   the servicing or maintenance of accounts or ex-  
22                   tensions of credit.

23           (6) USE OF EXISTING REPORTS.—In general,  
24           the Agency shall, to the fullest extent possible, use—

1 (A) reports that a covered person, or any  
2 affiliate thereof, or any service provider to such  
3 covered person or affiliate, has provided or been  
4 required to provide to a Federal or State agen-  
5 cy; and

6 (B) information that has been reported  
7 publicly.

8 (7) ACCESS BY THE AGENCY TO REPORTS OF  
9 OTHER REGULATORS.—

10 (A) EXAMINATION AND FINANCIAL CONDI-  
11 TION REPORTS.—Upon providing reasonable as-  
12 surances of confidentiality, the Agency shall  
13 have access to any report of examination or fi-  
14 nancial condition, including a report containing  
15 data regarding consumer complaints, made by a  
16 Federal banking agency or other Federal agen-  
17 cy having supervision of a covered person, or a  
18 service provider, (other than returns and return  
19 information described in section 6103 of the In-  
20 ternal Revenue Code of 1986) and to all revi-  
21 sions made to any such report.

22 (B) PROVISION OF OTHER REPORTS TO  
23 AGENCY.—In addition to the reports described  
24 in subparagraph (A), a Federal banking agency  
25 may, in its discretion, furnish to the Agency

1 any other report or other confidential super-  
2 visory information concerning any insured de-  
3 pository institution, any credit union, or other  
4 entity examined by such agency under authority  
5 of any Federal law.

6 (8) ACCESS BY OTHER REGULATORS TO RE-  
7 PORTS OF THE AGENCY.—

8 (A) EXAMINATION REPORTS.—Upon pro-  
9 viding reasonable assurances of confidentiality,  
10 a Federal banking agency, a State regulator, or  
11 any other Federal agency having supervision of  
12 a covered person shall have access to any report  
13 of examination made by the Agency with re-  
14 spect to the covered person or service provider,  
15 and to all revisions made to any such report.

16 (B) PROVISION OF OTHER REPORTS TO  
17 OTHER REGULATORS.—In addition to the re-  
18 ports described in subparagraph (A), the Agen-  
19 cy may, in the discretion of the Agency, furnish  
20 to a Federal banking agency any other report  
21 or other confidential supervisory information  
22 concerning any insured depository institution,  
23 any credit union, or other entity examined by  
24 the Agency under authority of any Federal law.

1           (9) PRESERVATION OF AUTHORITY.—No provi-  
2           sion in paragraph (3) shall be construed as pre-  
3           venting the Agency from conducting an examination  
4           authorized by this title or under the authorities  
5           transferred under subtitles F and H or pursuant to  
6           any enumerated consumer law. No provision of this  
7           title shall be construed as limiting the authority of  
8           the Director to require reports from a covered per-  
9           son, as permitted under paragraph (1), regarding in-  
10          formation owned or under the control of the covered  
11          person, regardless of whether such information is  
12          maintained, stored, or processed by another person.

13           (10) DELEGATION.—

14           (A) IN GENERAL.—The Director may dele-  
15           gate the examination authorities of the Agency  
16           under this title to any appropriate agency, as  
17           defined in section 123, for any insured deposi-  
18           tory institution or insured credit union that is  
19           not subject to section 123 upon a petition by an  
20           appropriate agency.

21           (B) STANDARD FOR DELEGATION.—The  
22           Director shall provide such delegation if, in the  
23           Director's sole discretion, the Director deter-  
24           mines that—

1 (i) the delegation is consistent with  
2 the public interest;

3 (ii) the appropriate agency is capable  
4 of enforcing compliance with this Act, and  
5 with any regulation prescribed under this  
6 Act; and

7 (iii) such capability is comparable to  
8 or superior to the capability of the Agency,  
9 in terms of expertise, demonstrated com-  
10 mitment, and overall effectiveness, in en-  
11 forcing such compliance.

12 (C) EFFECT OF DELEGATION.—The in-  
13 sured depository institution or insured credit  
14 union shall be subject to the examination pro-  
15 cess described in section 123(b).

16 (D) NO EFFECT ON ENFORCEMENT.—The  
17 Director's delegation authority under this para-  
18 graph shall not apply to the Director's enforce-  
19 ment responsibilities under subsection (e).

20 (11) REPORTS OF TAX LAW NONCOMPLI-  
21 ANCE.—The Director shall provide the Commis-  
22 sioner of Internal Revenue with any report of exam-  
23 ination or related information identifying possible  
24 tax law noncompliance.

1           (d) EXCLUSIVE RULEMAKING AND EXAMINATION  
2 AUTHORITY.—Notwithstanding any other provision of  
3 Federal law other than section 123 and subsections (f)  
4 and (h), to the extent that a Federal law authorizes the  
5 Director and another Federal agency to prescribe regula-  
6 tions, issue guidance, conduct examinations, or require re-  
7 ports under that law for purposes of assuring compliance  
8 with this title, any enumerated consumer law, the laws for  
9 which authorities were transferred under subtitles F and  
10 H, and any regulations prescribed under this title or pur-  
11 suant to any such authority, the Director shall have the  
12 exclusive authority to prescribe regulations, issue guid-  
13 ance, conduct examinations, require reports, or issue ex-  
14 emptions with regard to any person subject to that law  
15 and with respect to any activity regulated under any enu-  
16 merated consumer law.

17           (e) PRIMARY ENFORCEMENT AUTHORITY.—

18           (1) THE AGENCY TO HAVE PRIMARY ENFORCE-  
19           MENT AUTHORITY.—To the extent that a Federal  
20           law authorizes the Agency and another Federal  
21           agency to enforce that law, the Agency shall have  
22           primary authority to enforce that Federal law with  
23           respect to any person in accordance with this sub-  
24           section.



1           (2) COORDINATION WITH FEDERAL TRADE  
2 COMMISSION.—

3           (A) NOTICE.—If the Commission is au-  
4 thorized to enforce any Federal law described in  
5 paragraph (1), or a regulation prescribed under  
6 any such Federal law, the Commission shall  
7 serve written notice to the Director of any en-  
8 forcement action at least 30 days prior to initi-  
9 ating such an enforcement action, except that if  
10 exigent circumstances are present, the Commis-  
11 sion may provide notice immediately upon initi-  
12 ating such enforcement action.

13           (B) INTERVENTION BY THE DIRECTOR.—  
14 Upon receiving any notice under subparagraph  
15 (A) with respect to an enforcement action, the  
16 Director may intervene in such enforcement ac-  
17 tion and upon intervening—

18                   (i) be heard on all matters arising in  
19 such enforcement action; and

20                   (ii) file petitions for appeal in such  
21 enforcement action.

22           (C) PENDENCY OF AGENCY ACTION.—  
23 Whenever a civil action has been instituted by  
24 or on behalf of the Agency for any violation of  
25 any Federal law described in paragraph (1), or

1 a regulation prescribed under any such Federal  
2 law, the Commission may not, during the pend-  
3 eny of that action instituted by or on behalf of  
4 the Agency, institute a civil action under such  
5 law or regulation against any defendant named  
6 in the Agency complaint in such action for any  
7 violation alleged in the Agency complaint.

8 (D) AGREEMENTS BETWEEN AGENCIES.—

9 (i) NEGOTIATIONS AUTHORIZED.—

10 The Director may negotiate an agreement  
11 with the Commission to establish proce-  
12 dures to ensure that the enforcement ac-  
13 tions of the 2 agencies are appropriately  
14 coordinated.

15 (ii) SCOPE OF NEGOTIATED AGREE-  
16 MENT.—The terms of any agreement nego-  
17 tiated pursuant to clause (i) may modify or  
18 supersede the provisions of subparagraphs  
19 (A), (B), and (C).

20 (3) COORDINATION WITH OTHER FEDERAL  
21 AGENCY.—

22 (A) REFERRAL.—Any Federal agency  
23 (other than the Federal Trade Commission)  
24 that authorized to enforce a Federal law de-  
25 scribed in paragraph (1) may recommend in

1 writing to the Director that the Agency initiate  
2 an enforcement proceeding to the extent the  
3 Agency is authorized by that Federal law or by  
4 this title. The recommendation shall be accom-  
5 panied by a written explanation of the concerns  
6 giving rise to the recommendation.

7 (B) BACKSTOP ENFORCEMENT AUTHORITY  
8 OF OTHER FEDERAL AGENCY.—If the Agency  
9 does not, before the end of the 120-day period  
10 beginning on the date on which the Director re-  
11 ceives a recommendation under subparagraph  
12 (A), initiate an enforcement proceeding, the  
13 other agency referred to in subparagraph (A)  
14 may initiate an enforcement proceeding as per-  
15 mitted by that Federal law.

16 (4) INSTITUTIONS SUBJECT TO SPECIAL EXAM-  
17 INATION AND ENFORCEMENT PROCEDURES.—This  
18 subsection shall not apply to institutions subject to  
19 section 123.

20 (f) PRESERVATION OF OTHER AUTHORITY.—

21 (1) ATTORNEY GENERAL.—No provision of this  
22 title shall be construed as affecting any authority of  
23 the Attorney General.

24 (2) SECRETARY OF THE TREASURY.— No pro-  
25 vision of this title shall be construed as affecting any

1 authority of the Secretary of the Treasury, including  
2 with respect to prescribing regulations, initiating en-  
3 forcement proceedings, or taking other actions with  
4 respect to a person providing tax planning or tax  
5 preparation services.

6 (3) FAIR HOUSING ACT.—No provision of this  
7 title shall be construed as affecting any authority  
8 arising under the Fair Housing Act.

9 (g) EFFECT ON OTHER AUTHORITY.—No provision  
10 of this section or section 123 shall be construed as modi-  
11 fying or limiting the authority of any appropriate Federal  
12 banking agency or the Director or Agency to interpret,  
13 or take enforcement action under, any law or regulation  
14 the interpretation or enforcement of which is committed  
15 to the banking agency or the Director or Agency, which  
16 shall include, in the case of the Director and the Agency,  
17 this Act, the enumerated consumer laws, and the regula-  
18 tions prescribed under this Act or such laws.

19 (h) PRESERVATION OF FEDERAL TRADE COMMIS-  
20 SION AUTHORITY.—No provision of this title shall be con-  
21 strued as modifying, limiting, or otherwise affecting the  
22 authority of the Federal Trade Commission under the  
23 Federal Trade Commission Act or other laws other than  
24 the enumerated consumer laws.

1 **SEC. 123. EXAMINATION AND ENFORCEMENT FOR SMALL**  
2 **BANKS, THRIFTS, AND CREDIT UNIONS.**

3 (a) SCOPE OF INSTITUTIONS SUBJECT TO THIS SEC-  
4 TION.—

5 (1) INSTITUTIONS COVERED.—This section  
6 shall apply to—

7 (A) any insured depository institution with  
8 total assets of \$10,000,000,000 or less; or

9 (B) any insured credit union with total as-  
10 sets of \$1, 500,000,000 or less.

11 (2) APPROPRIATE AGENCY.—For purposes of  
12 this title, the term “appropriate agency” means—

13 (A) in the case of an insured depository in-  
14 stitution, the appropriate Federal banking  
15 agency as such term is defined in section 3 of  
16 the Federal Deposit Insurance Act;

17 (B) in the case of an insured credit union,  
18 the National Credit Union Administration.

19 (b) EXAMINATIONS.—

20 (1) IN GENERAL.—The appropriate agency  
21 shall on a periodic basis examine, or require reports  
22 from, an institution referred to in subsection (a) for  
23 purposes of ensuring compliance with the require-  
24 ments of this title, the enumerated consumer laws,  
25 and any regulation prescribed by the Director under  
26 this title or pursuant to the authorities transferred

1 under subtitles F and H, and enforcing compliance  
2 with such requirements.

3 (2) AGENCY ROLE IN EXAMINATIONS.—

4 (A) The appropriate agency shall provide  
5 all reports, records, and documentation related  
6 to the examination process to the Agency on a  
7 timely and ongoing basis.

8 (B) The Director and Agency may, at its  
9 discretion, include an examiner on any examina-  
10 tion conducted under paragraph (1). The ap-  
11 propriate agency shall involve such Agency ex-  
12 aminer in the entire examination process, in-  
13 cluding setting the scope of an examination,  
14 participating in the examination, and providing  
15 input on the examination report, matters re-  
16 quiring attention and examination ratings.

17 (c) ENFORCEMENT.—

18 (1) IN GENERAL.—Notwithstanding any other  
19 provision of this title other than this subsection, the  
20 appropriate agency shall have primary authority to  
21 enforce violations identified at institutions referred  
22 to in subsection (a) of any of the requirements of  
23 this title, the enumerated consumers laws, and any  
24 regulation prescribed by the Director under this title

1 or pursuant to the authorities transferred under  
2 subtitles F and H.

3 (2) COORDINATION WITH APPROPRIATE AGEN-  
4 CY.—

5 (A) REFERRAL.—

6 (i) IN GENERAL.—The Agency may  
7 recommend in writing to the appropriate  
8 agency that the appropriate agency initiate  
9 an enforcement proceeding to the extent  
10 the appropriate agency is authorized by  
11 that Federal law or by this title.

12 (ii) EXPLANATION.—Any rec-  
13 ommendation under clause (i) shall be ac-  
14 companied by a written explanation of the  
15 concerns giving rise to the recommenda-  
16 tion.

17 (B) BACKSTOP ENFORCEMENT AUTHORITY  
18 OF AGENCY.—If the appropriate agency does  
19 not, before the end of the 120-day period begin-  
20 ning on the date on which the appropriate  
21 agency receives a recommendation under sub-  
22 paragraph (A), initiate an enforcement pro-  
23 ceeding, the Agency may initiate an enforce-  
24 ment proceeding as permitted by Federal law.

1 (d) ACTIONS ARISING OUT OF CONSUMER COM-  
2 PLAINT SYSTEM.—Notwithstanding any provision of this  
3 section, if through the consumer complaint system admin-  
4 istered by the Agency under section 115 (c) (3), the Direc-  
5 tor has reasonable cause to believe that an institution re-  
6 ferred to in subsection (a) demonstrates noncompliance  
7 with any provision of this title, the enumerated consumer  
8 laws, or any regulation prescribed by the Director under  
9 this title or pursuant to the authorities transferred under  
10 subtitles F and H, the Director may directly investigate  
11 such institution for such noncompliance and take any ac-  
12 tion permitted under subtitle E that the Director deems  
13 appropriate.

14 (e) REMOVAL OF APPROPRIATE AGENCY FOR PAR-  
15 TICULAR INSTITUTION.—

16 (1) HEIGHTENED SUPERVISION.—The Direc-  
17 tor—

18 (A) may provide notice to an appropriate  
19 agency that the Director is considering issuing  
20 a removal order under paragraph (2); and

21 (B) shall have an Agency examiner partici-  
22 pate in the examination process under sub-  
23 section (b) for at least 1 examination cycle.

24 (2) REMOVAL BY ORDER.—If, after the comple-  
25 tion of at least 1 examination cycle following the



1 provision of notice to an appropriate agency under  
2 paragraph (1), the Director determines in writing  
3 that the appropriate agency has failed to adequately  
4 conduct consumer compliance examinations or bring  
5 appropriate enforcement actions against an institu-  
6 tion referred to in subsection (a), the Director may  
7 order the removal of the appropriate agency from its  
8 responsibilities under this section for such institu-  
9 tion.

10 (3) AGENCY AUTHORITY UPON REMOVAL.—  
11 Upon removal pursuant to paragraph (2), the Agen-  
12 cy shall examine and enforce against such institution  
13 as if the institution were subject to section 122.

14 (4) EFFECTIVE DATE.—An order under para-  
15 graph (2) shall take effect 30 days after a deter-  
16 mination by the Secretary of the Treasury pursuant  
17 to paragraphs (5) and (6).

18 (5) AUTOMATIC APPEAL.—An order issued by  
19 the Director pursuant to paragraph (2) shall be  
20 automatically appealed to the Secretary.

21 (6) DECISION BY THE SECRETARY OF THE  
22 TREASURY.—

23 (A) DETERMINATION.—The order issued  
24 pursuant to paragraph (2) shall be deemed af-  
25 firmed unless the Secretary of the Treasury de-

1           nies the determination of the Director within  
2           120 days of the issuance of the order pursuant  
3           to paragraph (2).

4                   (B) RULE OF CONSTRUCTION.—Nothing in  
5           subparagraph (A) shall be construed as prohib-  
6           iting the Secretary of the Treasury from mak-  
7           ing a determination to either affirm or deny an  
8           order issued pursuant to paragraph (2) prior to  
9           the passage of the time period in subparagraph  
10          (A).

11                   (7) REGULATIONS.—By the transfer date, the  
12          Secretary shall issue regulations that establish the  
13          standards the Director shall apply in making a de-  
14          termination to remove an appropriate agency and  
15          the process, procedures, and standards for an ap-  
16          peal. Such standards shall require the Director to  
17          consider at least the following in issuing an order re-  
18          moving an appropriate agency for an institution re-  
19          ferred to in subsection (a)(1):

20                   (A) Reports of examination of such institu-  
21          tion.

22                   (B) Any enforcement actions taken by an  
23          appropriate agency against such institution and  
24          the results of those actions.

1 (C) Consumer complaints issued against  
2 such institution.

3 (D) Actions taken by State attorneys gen-  
4 eral and private rights of action against such  
5 institution.

6 (f) POLICIES AND PROCEDURES.—Within 180 days  
7 after the designated transfer date, the Agency and the ap-  
8 propriate agency shall develop policies and procedures for  
9 implementing this section.

10 (g) ASSESSMENTS.—

11 (1) LIMITATION ON CERTAIN FEES.—The Agen-  
12 cy shall not assess examination fees on an institution  
13 referred to in subsection (a).

14 (2) RULE OF CONSTRUCTION.—No provision of  
15 this section shall be construed as preventing the ap-  
16 propriate agency from assessing fees on an institu-  
17 tion referred to in paragraph (1) to meet the appro-  
18 priate agency's expenses for carrying out such exam-  
19 ination and supervision responsibilities pursuant to  
20 this section.

21 **SEC. 124. SIMULTANEOUS AND COORDINATED SUPER-**  
22 **VISORY ACTION.**

23 (a) EXAMINATIONS.—A Federal banking agency and  
24 the Agency shall, with respect to each insured depository  
25 institution, credit union, or other covered person super-

1 vided by the Federal banking agency and the Agency, re-  
2 spectively—

3 (1) coordinate the scheduling of examinations of  
4 the insured depository institution, and credit union,  
5 or other covered person;

6 (2) conduct simultaneous examinations of each  
7 insured depository institution, credit union or other  
8 covered person, unless such institution requests ex-  
9 aminations to be conducted separately;

10 (3) share each draft report of examination with  
11 the other agency and permit the receiving agency a  
12 reasonable opportunity (which shall not be less than  
13 a period of 30 days after the date of receipt) to com-  
14 ment on the draft report before such report is made  
15 final; and

16 (4) prior to issuing a final report of examina-  
17 tion or taking supervisory action, an agency shall  
18 take into consideration concerns, if any, raised in  
19 the comments made by the other agency.

20 (b) COORDINATION WITH STATE BANK SUPER-  
21 VISORS.—The Agency shall pursue arrangements and  
22 agreements with State bank supervisors to coordinate ex-  
23 aminations consistent with subsection (a).

24 (c) RESOLUTION OF CONFLICT IN SUPERVISION.—

25 (1) REQUEST OF DEPOSITORY INSTITUTION.—

1 (A) IN GENERAL.—If the proposed mate-  
2 rial supervisory determinations of the Agency  
3 and a Federal banking agency are conflicting,  
4 an insured depository institution, credit union,  
5 or other covered person may request the agen-  
6 cies to coordinate and present a joint statement  
7 of coordinated supervisory action.

8 (B) LIMITATION.—A request of an insured  
9 depository institution, credit union, or other  
10 covered person shall not be used to appeal a su-  
11 pervisory rating or determination by the Agency  
12 or a Federal banking agency.

13 (2) JOINT STATEMENT.—The agencies receiving  
14 a request from an insured depository institution,  
15 credit union, or covered person under paragraph (1)  
16 shall provide a joint statement resolving the conflict  
17 under such subparagraph before the end of the 30-  
18 day period beginning on the date the agencies re-  
19 ceive such request.

20 (d) APPEALS TO GOVERNING PANEL.—

21 (1) IN GENERAL.—If the agencies receiving a  
22 request from an insured depository institution, credit  
23 union, or covered person under subsection (c)(1) do  
24 not issue a joint statement under subsection (c)(2),  
25 or if either agency takes or attempts to take any su-

1       pervisory action relating to the request for the joint  
2       statement without the consent of the other agency,  
3       the insured depository institution, credit union, or  
4       other covered person may institute an appeal to a  
5       governing panel under this subsection.

6               (2) TIMETABLE.—Any appeal under paragraph  
7       (1) with regard to a failure of agencies to issue a  
8       joint statement shall be filed before the end of the  
9       30-day period beginning at the end of the 30-day pe-  
10      riod during which such joint statement was due  
11      under subsection (c)(2).

12              (e) COMPOSITION OF GOVERNING PANEL.—The gov-  
13      erning panel for an appeal under this section shall be com-  
14      posed of—

15              (1) 2 individuals—

16                      (A) 1 of whom is a representative from the  
17                      Agency;

18                      (B) 1 of whom is a representative of the  
19                      Federal banking agency which received the re-  
20                      quest to which the appeal relates; and

21                      (C) neither of whom—

22                              (i) have participated in the material  
23                              supervisory determinations under appeal;  
24                              and

1 (ii) report directly or indirectly to the  
2 individual who made the supervisory deter-  
3 minations under appeal; and

4 (2) 1 individual who is a representative from—

5 (A) the Federal banking agency that heads  
6 the Financial Institution Examination Council;  
7 or

8 (B) if the Financial Institutions Examina-  
9 tion Council is headed by a Federal banking  
10 agency that is a party to the appeal, the Fed-  
11 eral banking agency that is next scheduled to  
12 head the Financial Institutions Examination  
13 Council.

14 (f) CONDUCT OF APPEAL.—

15 (1) CONTENT OF FILING APPEAL.—The insured  
16 depository institution, credit union, or other covered  
17 person which institutes an appeal under subsection  
18 (d)(1) shall include in the filing of such appeal all  
19 the facts and legal arguments pertaining to the mat-  
20 ter appealed.

21 (2) APPEARANCE.—The insured depository in-  
22 stitution, credit union, or other covered person which  
23 institutes an appeal under this section may appear  
24 before the governing panel in person or by telephone,  
25 through counsel, employees or representatives of or

1 for such institution, credit union, or other covered  
2 person.

3 (3) REQUESTS FOR ADDITIONAL INFORMA-  
4 TION.— Any governing panel convened under this  
5 section may request the insured depository institu-  
6 tion, credit union, or other covered person, the  
7 Agency, or the Federal banking agency to produce  
8 additional information relevant to the appeal.

9 (4) FINAL WRITTEN DETERMINATIONS .—Any  
10 governing panel convened under this section, by a  
11 majority vote of the members of the panel, shall pro-  
12 vide a final determination, in writing, within 30 days  
13 of the filing of an informationally complete appeal,  
14 or such longer period as the panel and the insured  
15 depository institution, credit union, or other covered  
16 person may jointly agree.

17 (5) PUBLIC INFORMATION.—A redacted copy of  
18 any determination by a governing panel convened  
19 under this section shall be made public upon the  
20 issuance of such determination.

21 (g) PROHIBITION AGAINST RETALIATION.—The Di-  
22 rector and the Federal banking agencies shall prescribe  
23 regulations to provide safeguards from retaliation against  
24 any insured depository institution, credit union, or other  
25 covered person which institutes an appeal under this sec-



1 tion, as well as against any officer or and employee of any  
2 such institution, credit union, or other person.

3 (h) MATERIAL SUPERVISORY DETERMINATION DE-  
4 FINED.—For purposes of this section, the term “material  
5 supervisory determination”—

6 (1) includes any action relating to any super-  
7 vision or examinations; and

8 (2) does not include—

9 (A) a determination by any Federal bank-  
10 ing agency to appoint a conservator or receiver  
11 for an insured depository institution or a liqui-  
12 dating agent for an insured credit union, as the  
13 case may be, or a decision to take action pursu-  
14 ant to section 38 of the Federal Deposit Insur-  
15 ance Act or section 212 of the Federal Credit  
16 Union Act, as the case may be; or

17 (B) any regulation or guidance, or order of  
18 general applicability.

19 **SEC. 125. LIMITATIONS ON AUTHORITY OF AGENCY AND DI-**  
20 **RECTOR.**

21 (a) EXCLUSION FOR MERCHANTS, RETAILERS, AND  
22 SELLERS OF NONFINANCIAL SERVICES.—

23 (1) IN GENERAL.—Notwithstanding any provi-  
24 sion of this title (other than paragraph (4)) and sub-  
25 ject to paragraph (2), the Director and the Agency

1        may not exercise any rulemaking, supervisory, en-  
2        forcement or other authority, including authority to  
3        order assessments, under this title with respect to—

4                (A) credit extended directly by a merchant,  
5        retailer, or seller of nonfinancial services to a  
6        consumer, in a case in which the good or service  
7        being provided is not itself a consumer financial  
8        product or services, exclusively for the purpose  
9        of enabling that consumer to purchase goods or  
10       services directly from the merchant, retailer, or  
11       seller of nonfinancial services; or

12                (B) collection of debt, directly by the mer-  
13        chant, retailer, or seller of nonfinancial services,  
14        arising from such credit extended.

15        (2) EXCEPTION FOR EXISTING AUTHORITY.—

16        The Director may exercise any rulemaking authority  
17        regarding an extension of credit described in para-  
18        graph (1)(A) or the collection of debt arising from  
19        such extension, as may be authorized by the enumer-  
20        ated consumer laws or any law or authority trans-  
21        ferred under subtitle F or H.

22        (3) RULE OF CONSTRUCTION.—No provision of  
23        this title shall be construed as modifying, limiting,  
24        or superseding the authority of the Federal Trade  
25        Commission or any other agency with respect to

1 credit extended, or the collection of debt arising  
2 from such extension, directly by a merchant, retailer,  
3 or seller of nonfinancial services to a consumer ex-  
4 clusively for the purpose of enabling that consumer  
5 to purchase goods or services directly from the mer-  
6 chant, retailer, or seller of nonfinancial services.

7 (4) EXCLUSION NOT APPLICABLE TO CERTAIN  
8 CREDIT TRANSACTIONS.—Paragraph (1) shall not  
9 apply to—

10 (A) any credit transaction, including the  
11 collection of the debt arising from such exten-  
12 sion, in which the merchant, retailer, or seller  
13 of nonfinancial services assigns, sells, or other-  
14 wise conveys such debt owed by the consumer  
15 to another person; or

16 (B) any credit transaction—

17 (i) in which the credit provided ex-  
18 ceeds the market value of the product or  
19 service provided, or

20 (ii) with respect to which the Director  
21 finds that the sale of the product or service  
22 is done as a subterfuge so as to evade or  
23 circumvent the provisions of this title.

24 (b) EXCLUSION FOR PERSONS REGULATED BY THE  
25 SECURITIES AND EXCHANGE COMMISSION.—

1           (1) IN GENERAL.—No provision of this title  
2 shall be construed as altering, amending, or affect-  
3 ing the authority of the Securities and Exchange  
4 Commission or any securities commission (or any  
5 agency or office performing like functions) of any  
6 State to adopt rules, initiate enforcement pro-  
7 ceedings, or take any other action with respect to a  
8 person regulated by the Securities and Exchange  
9 Commission or any securities commission (or any  
10 agency or office performing like functions) of any  
11 State. The Director and Agency shall have no au-  
12 thority to exercise any power to enforce this title  
13 with respect to a person regulated by the Securities  
14 and Exchange Commission or any securities commis-  
15 sion (or any agency or office performing like func-  
16 tions) of any State.

17           (2) CONSULTATION AND COORDINATION.—Not-  
18 withstanding paragraph (1), the Securities and Ex-  
19 change Commission shall consult and coordinate  
20 with the Director with respect to any rule (including  
21 any advance notice of proposed rulemaking) regard-  
22 ing an investment product or service that is the  
23 same type of product as, or that competes directly  
24 with, a consumer financial product or service that is

1 subject to the jurisdiction of the Agency under this  
2 title or under any other law.

3 (c) EXCLUSION FOR PERSONS REGULATED BY THE  
4 COMMODITY FUTURES TRADING COMMISSION.—

5 (1) IN GENERAL.—No provision of this title  
6 shall be construed as altering, amending, or affect-  
7 ing the authority of the Commodity Futures Trading  
8 Commission to adopt rules, initiate enforcement pro-  
9 ceedings, or take any other action with respect to a  
10 person regulated by the Commodity Futures Trading  
11 Commission. The Director and the Agency shall  
12 have no authority to exercise any power to enforce  
13 this title with respect to a person regulated by the  
14 Commodity Futures Trading Commission.

15 (2) CONSULTATION AND COORDINATION.—Not-  
16 withstanding paragraph (1), the Commodity Futures  
17 Trading Commission shall consult and coordinate  
18 with the Director with respect to any rule (including  
19 any advance notice of proposed rulemaking) regard-  
20 ing a product or service that is the same type of  
21 product as, or that competes directly with, a con-  
22 sumer financial product or service that is subject to  
23 the jurisdiction of the Agency under this title or  
24 under any other law.

1 (d) EXCLUSION FOR PERSONS REGULATED BY THE  
2 FEDERAL HOUSING FINANCE AGENCY.—No provision of  
3 this title shall be construed as altering, amending, or af-  
4 fecting the authority of the Federal Housing Finance  
5 Agency to adopt rules, initiate enforcement proceedings,  
6 or take any other action with respect to a person regulated  
7 by the Federal Housing Finance Agency. The Director  
8 and Agency shall have no authority to exercise any power  
9 to enforce this title with respect to a person regulated by  
10 the Federal Housing Agency. For purposes of this sub-  
11 section, the term “person regulated by the Federal Hous-  
12 ing Finance Agency” means any Federal home loan bank,  
13 and any joint office of 1 or more Federal home loan banks.

14 (e) EXCLUSION FOR PERSONS REGULATED BY A  
15 STATE INSURANCE REGULATOR.—

16 (1) IN GENERAL.—No provision of this title  
17 shall be construed as altering, amending, or affect-  
18 ing the authority of any State insurance regulator to  
19 adopt rules, initiate enforcement proceedings, or  
20 take any other action with respect to a person regu-  
21 lated by any State insurance regulator. Except as  
22 provided in paragraphs (2) and (3), the Agency shall  
23 have no authority to exercise any power to enforce  
24 this title with respect to a person regulated by any  
25 State insurance regulator.

1           (2) DESCRIPTION OF ACTIVITIES.—Paragraph  
2           (1) shall not apply to any person described in such  
3           paragraph to the extent such person is engaged in  
4           any financial activity described in any subparagraph  
5           of section 101(19) or is otherwise subject to any of  
6           the enumerated consumer laws or the authorities  
7           transferred under subtitle F or H.

8           (3) PRESERVATION OF CERTAIN AUTHORI-  
9           TIES.—Nothing in this title shall be construed as  
10          limiting the authority of the Director and the Agen-  
11          cy from exercising powers under this Act with re-  
12          spect to the provision by a covered person of a prod-  
13          uct or service, not otherwise subject to this Act, for  
14          or on behalf of a person regulated by a State insur-  
15          ance regulator, in connection with a financial activ-  
16          ity.

17          (f) EXCLUSION FOR QUALIFIED RETIREMENT OR EL-  
18          IGIBLE DEFERRED COMPENSATION PLANS AND AR-  
19          RANGEMENTS.—

20          (1) IN GENERAL.—No provision of this title  
21          shall be construed as altering, amending, or affect-  
22          ing the authority of the Secretary of the Treasury,  
23          the Secretary of Labor, or the Commissioner of In-  
24          ternal Revenue to adopt regulations, initiate enforce-

1       ment proceedings, or take any actions with respect  
2       to—

3               (A) any retirement or eligible deferred  
4       compensation plan or arrangement qualified  
5       under or meeting the requirements of section  
6       401(a), 403(a), 403(b), 457(b), 408 or 408A of  
7       the Internal Revenue Code; or

8               (B) any educational savings arrangement  
9       under section 529 of such Code.

10       (2) LIMITATION ON AGENCY AUTHORITY.—

11               (A) IN GENERAL.—The Director and the  
12       Agency may not exercise any power to enforce  
13       this title with respect to services provided di-  
14       rectly (or indirectly if the services relate to the  
15       operation of such plan or arrangement) to—

16               (i) any retirement or eligible deferred  
17       compensation plan or arrangement quali-  
18       fied under or meeting the requirements of  
19       section 401(a), 403(a), 403(b), 457(b),  
20       408, or 408A of the Internal Revenue  
21       Code; or

22               (ii) any educational savings arrange-  
23       ment under section 529 of such Code.

24               (B) SERVICES DEFINED.—For purposes  
25       subparagraph (A), the term “services” shall in-



1           clude, for example, services for custody and in-  
2           vestment of assets, administration, compliance,  
3           and participant assistance.

4           (g) EXCLUSION FOR ACCOUNTANTS, TAX PRE-  
5           PARERS, AND ATTORNEYS.—

6           (1) IN GENERAL.—Except as permitted in para-  
7           graph (2), the Director and the Agency may not ex-  
8           ercise any rulemaking, supervisory, enforcement or  
9           other authority, including authority to order assess-  
10          ments, over—

11           (A) any person that is a certified public ac-  
12          countant, permitted to practice as a certified  
13          public accounting firm, or certified or licensed  
14          for such purpose by a State, or any individual  
15          who is employed by or holds an ownership inter-  
16          est with respect to a person described in this  
17          subparagraph when such person is performing  
18          or offering to perform customary and usual ac-  
19          counting activities, including the provision of  
20          accounting, tax, advisory, other services that  
21          are subject to the regulatory authority of a  
22          state board of accountancy or a federal author-  
23          ity, or other services that are incidental to such  
24          customary and usual accounting activities, to  
25          the extent that such incidental services are not

1           offered or provided by the person separate and  
2           apart from such customary and usual account-  
3           ing activities and are not offered or provided to  
4           consumers who are not receiving such cus-  
5           tomary and usual accounting activities;

6           (B) any person other than a person de-  
7           scribed in subparagraph (A) that performs in-  
8           come tax preparation activities for consumers;  
9           or

10           (C) any individual who is providing legal  
11           advice or services for which a license to practice  
12           law is required under the law of the State in  
13           which the advice or services are provided and  
14           which are performed within the scope of an at-  
15           torney-client relationship established by an  
16           agreement, but only to the extent of such legal  
17           advice or services.

18           (2) NO EXCLUSION WITH RESPECT TO REG-  
19           ISTRATION OF MOST ATTORNEYS.—Notwithstanding  
20           paragraph (1), this subsection shall not apply to any  
21           authority granted to the Director or the Agency  
22           under section 128 with respect to a licensed attor-  
23           ney, except to the extent a licensed attorney is solely  
24           providing legal services in connection with—

1 (A) the preparation and filing of a bank-  
2 ruptcy petition; or

3 (B) court proceedings to avoid a fore-  
4 closure.

5 (3) DESCRIPTION OF ACTIVITIES.—Paragraph  
6 (1) shall not apply to—

7 (A) any person described in paragraph  
8 (1)(A) to the extent such person is engaged in  
9 any activity which is not a customary and usual  
10 accounting activity described in paragraph  
11 (1)(A) or incidental thereto but which is a fi-  
12 nancial activity described in any subparagraph  
13 of section 101(19);

14 (B) any person described in paragraph  
15 (1)(B) or (1)(C) to the extent such person is  
16 engaged in any activity which is a financial ac-  
17 tivity described in any subparagraph of section  
18 101(19); or

19 (C) any person described in paragraph  
20 (1)(A), (1)(B) or (1)(C) that is otherwise sub-  
21 ject to any of the enumerated consumer laws or  
22 the authorities transferred under subtitle F or  
23 H.

24 (h) EXCLUSION FOR REAL ESTATE LICENSEES.—

1           (1) IN GENERAL.—Except as permitted in para-  
2           graph (2), the Director and the Agency may not ex-  
3           ercise any rulemaking, supervisory, enforcement or  
4           other authority, including authority to order assess-  
5           ments, over a person that is licensed or registered as  
6           a real estate broker, real estate agent, in accordance  
7           with State law, but only to the extent that such per-  
8           son—

9                   (A) acts as a real estate agent or broker  
10                  for a buyer, seller, lessor, or lessee of real prop-  
11                  erty;

12                  (B) brings together parties interested in  
13                  the sale, purchase, lease, rental, or exchange of  
14                  real property;

15                  (C) negotiates, on behalf of any party, any  
16                  portion of a contract relating to the sale, pur-  
17                  chase, lease, rental, or exchange of real prop-  
18                  erty (other than in connection with providing fi-  
19                  nancing with respect to any such transaction);

20                  (D) engages in any activity for which a  
21                  person engaged in the activity is required to be  
22                  registered or licensed as a real estate agent or  
23                  real estate broker under any applicable law; or

1           (E) offers to engage in any activity, or act  
2           in any capacity, described in subparagraph (A),  
3           (B), (C), or (D).

4           (2) DESCRIPTION OF ACTIVITIES.—Paragraph  
5           (1) shall not apply to any person described in such  
6           paragraph to the extent such person is engaged in  
7           any financial activity described in any subparagraph  
8           of section 101(19) or is otherwise subject to any of  
9           the enumerated consumer laws or the authorities  
10          transferred under subtitle F or H.

11          (i) EXCLUSION FOR AUTO DEALERS.—

12           (1) IN GENERAL.—The Director and the Agen-  
13          cy may not exercise any rulemaking, supervisory, en-  
14          forcement or any other authority, including author-  
15          ity to order assessments, over—

16           (A) a motor vehicle dealer that is primarily  
17          engaged in the sale and servicing of motor vehi-  
18          cles, the leasing and servicing of motor vehicles,  
19          or both; or

20           (B) a person that—

21           (i) is controlled by, or is under com-  
22          mon control with, one or more motor vehi-  
23          cle dealers; and

24           (ii) primarily engages in the extension  
25          of, or arranging for the extension of, retail

1 credit or retail leases involving motor vehi-  
2 cles, where 90 percent of such extension,  
3 or arranging for such extension, is made  
4 with respect to customers of one or more  
5 motor vehicle dealers that control such per-  
6 son or with which such person is under  
7 common control.

8 (2) CERTAIN FUNCTIONS EXCEPTED.—The pro-  
9 visions of paragraph (1) shall not apply to any per-  
10 son to the extent that person—

11 (A) provides consumers with any services  
12 related to residential mortgages; or

13 (B) operates a line of business that in-  
14 volves the extension of retail credit or retail  
15 leases involving motor vehicles, and in which—

16 (i) the extension of retail credit or re-  
17 tail leases is routinely provided directly to  
18 consumers; and

19 (ii) the contract governing such exten-  
20 sion of retail credit or retail leases is not  
21 routinely assigned to a third party finance  
22 or leasing source.

23 (3) NO IMPACT ON PRIOR AUTHORITY.—Noth-  
24 ing in this subsection shall be construed to modify,  
25 limit, or supersede the rulemaking or enforcement

1 authority over motor vehicle dealers that could be  
2 exercised by any Federal department or agency on  
3 the day prior to the enactment of this title.

4 (4) NO TRANSFER OF CERTAIN AUTHORITY.—  
5 Notwithstanding subtitle F or any other provision of  
6 law under this title, the consumer financial protec-  
7 tion functions of the Board of Governors and the  
8 Federal Trade Commission shall not be transferred  
9 to the Director or the Agency to the extent such  
10 functions are with respect to a person described  
11 under paragraph (1).

12 (5) DEFINITIONS.—For purposes of this sub-  
13 section:

14 (A) MOTOR VEHICLE.—The term “motor  
15 vehicle” means any self-propelled vehicle de-  
16 signed for transporting persons or property on  
17 a street, highway, or other road.

18 (B) MOTOR VEHICLE DEALER.—The term  
19 “motor vehicle dealer” means any person resi-  
20 dent in the United States or any territory of  
21 the United States, and licensed by a State, a  
22 territory of the United States, or the District of  
23 Columbia to engage in the sale of motor vehi-  
24 cles.

1 (j) NO AUTHORITY TO IMPOSE USURY LIMIT.—No  
2 provision of this title shall be construed as conferring au-  
3 thority on the Director or the Agency to establish a usury  
4 limit applicable to an extension of credit offered or made  
5 by a covered person to a consumer, unless explicitly au-  
6 thorized by law.

7 (k) EXCLUSION FOR MANUFACTURED HOME RE-  
8 TAILERS AND MODULAR HOME RETAILERS.—

9 (1) IN GENERAL.—The Director and the Agen-  
10 cy may not exercise any rulemaking, supervisory, en-  
11 forcement or other authority, including authority to  
12 order assessments, over a person to the extent such  
13 person—

14 (A) acts as an agent or broker for a buyer  
15 or seller of a manufactured home or a modular  
16 home;

17 (B) facilitates the purchase by a consumer  
18 of a manufactured home or modular home, by  
19 negotiating the purchase price or terms of the  
20 sales contract (other than providing financing  
21 with respect to such transaction); or

22 (C) offers to engage in any activity de-  
23 scribed in subparagraphs (A) or (B).

24 (2) DESCRIPTION OF ACTIVITIES.—Paragraph  
25 (1) shall not apply to any person described in such



1 paragraph to the extent such person is engaged in  
2 any financial activity described in any subparagraph  
3 of section 101(19) or is otherwise subject to any of  
4 the enumerated consumer laws or the authorities  
5 transferred under subtitle F or H.

6 (3) DEFINITIONS.—For purposes of this sub-  
7 section:

8 (A) MANUFACTURED HOME.—The term  
9 “manufactured home” has the meaning given  
10 such term in section 603 of the National Manu-  
11 factured Housing Construction and Safety  
12 Standards Act of 1974 (42 U.S.C. 5402).

13 (B) MODULAR HOME.—The term “mod-  
14 ular home” means a house built in a factory in  
15 two or more modules that meet the State or  
16 local building codes where the house will be lo-  
17 cated and where such modules are transported  
18 to the building site, installed on foundations,  
19 and completed.

20 **SEC. 126. COLLECTION OF INFORMATION; CONFIDEN-**  
21 **TIALITY REGULATIONS.**

22 (a) COLLECTION OF INFORMATION.—

23 (1) IN GENERAL.—In conducting research on  
24 the provision of consumer financial products or serv-  
25 ices, the Director shall have the power to gather in-

1 formation from time to time regarding the organiza-  
2 tion, business conduct, and practices of covered per-  
3 sons or service providers.

4 (2) SPECIFIC AUTHORITY.—In order to gather  
5 such information, the Director shall have the  
6 power—

7 (A) to gather and compile information;

8 (B) to require persons to file with the  
9 Agency, in such form and within such reason-  
10 able period of time as the Director may pre-  
11 scribe, by regulation or order, annual or special  
12 reports, or answers in writing to specific ques-  
13 tions, furnishing information the Director may  
14 require; and

15 (C) to make public such information ob-  
16 tained by it under this section as is in the pub-  
17 lic interest in reports or otherwise in the man-  
18 ner best suited for public information and use.

19 (b) CONFIDENTIALITY REGULATIONS.—The Director  
20 shall prescribe regulations regarding the confidential  
21 treatment of information obtained from persons in connec-  
22 tion with the exercise of any authority of the Agency or  
23 Director under this title and the enumerated consumer  
24 laws and the authorities transferred under subtitles F and  
25 H.

1 (c) PRIVACY CONSIDERATIONS.—In collecting infor-  
2 mation from any person, publicly releasing information  
3 held by the Agency, or requiring covered persons to pub-  
4 licly report information, the Director and the Agency shall  
5 take steps to ensure that proprietary, personal or con-  
6 fidential consumer information that are protected from  
7 public disclosure under section 552(b) or 552a of title 5,  
8 United States Code, or any other provision of law are not  
9 made public under this title.

10 **SEC. 127. MONITORING; ASSESSMENTS OF SIGNIFICANT**  
11 **REGULATIONS; REPORTS.**

12 (a) MONITORING.—

13 (1) IN GENERAL.—The Agency shall monitor  
14 for risks to consumers in the provision of consumer  
15 financial products or services, including develop-  
16 ments in markets for such products or services.

17 (2) MEANS OF MONITORING.—Such monitoring  
18 may be conducted by examinations of covered per-  
19 sons or service providers, analysis of reports ob-  
20 tained from covered persons or service providers, as-  
21 sessment of consumer complaints, surveys and inter-  
22 views of covered persons, service providers, and con-  
23 sumers, and review of available databases.

24 (3) CONSIDERATIONS.—In allocating the re-  
25 sources of the Agency to perform the monitoring re-

1       quired by this section, the Director may consider,  
2       among other factors—

3               (A) likely risks and costs to consumers as-  
4               sociated with buying or using a type of con-  
5               sumer financial product or service;

6               (B) consumers' understanding of the risks  
7               of a type of consumer financial product or serv-  
8               ice;

9               (C) the state of the law that applies to the  
10              provision of a consumer financial product or  
11              service, including the extent to which the law is  
12              likely to adequately protect consumers;

13              (D) rates of growth in the provision of a  
14              consumer financial product or service;

15              (E) extent, if any, to which the risks of a  
16              consumer financial product or service may dis-  
17              proportionately affect traditionally underserved  
18              consumers, if any; or

19              (F) types, number, and other pertinent  
20              characteristics of covered persons that provide  
21              the product or service.

22              (4) REPORTS.—The Agency shall publish at  
23              least 1 report of significant findings of the moni-  
24              toring required by paragraph (1) in each calendar

1 year, beginning in the calendar year that is 1 year  
2 after the designated transfer date.

3 (b) ASSESSMENT OF SIGNIFICANT REGULATIONS.—

4 (1) IN GENERAL.—The Agency shall conduct an  
5 assessment of each significant regulation prescribed  
6 or order issued by the Director under this title,  
7 under the authorities transferred under subtitles F  
8 and H or pursuant to any enumerated consumer law  
9 that addresses, among other relevant factors, the ef-  
10 fectiveness of the regulation in meeting the purposes  
11 and objectives of this Act and the specific goals stat-  
12 ed by the Director.

13 (2) BASIS FOR ASSESSMENT.—The assessment  
14 shall reflect available evidence and any data that the  
15 Agency reasonably may collect.

16 (3) REPORTS.—The Agency shall publish a re-  
17 port of an assessment under this subsection not  
18 later than 3 years after the effective date of the reg-  
19 ulation or order, unless the Director determines that  
20 3 years is not sufficient time to study or review the  
21 impact of the regulation, but in no event shall the  
22 Agency publish a report of such assessment more  
23 than 5 years after the effective date of the regula-  
24 tion or order.

1           (4) PUBLIC COMMENTED REQUIRED.—Before  
2           publishing a report of its assessment, the Agency  
3           shall invite, with sufficient time allotted, public com-  
4           ment on, and may hold public hearings on, rec-  
5           ommendations for modifying, expanding, or elimi-  
6           nating the newly adopted significant regulation or  
7           order.

8           (c) INFORMATION GATHERING.—In conducting any  
9           monitoring or assessment required by this section, the  
10          Agency may gather information through a variety of meth-  
11          ods, including by conducting surveys or interviews of con-  
12          sumers.

13 **SEC. 128. AUTHORITY TO RESTRICT MANDATORY**  
14 **PREDISPUTE ARBITRATION.**

15          (a) IN GENERAL.—The Director, by regulation, may  
16          prohibit or impose conditions or limitations on the use of  
17          any agreement between a covered person and a consumer  
18          for a consumer financial product or service providing for  
19          arbitration of any future dispute between the parties if  
20          the Director finds that such a prohibition or imposition  
21          of conditions or limitations are in the public interest and  
22          for the protection of consumers.

23          (b) EFFECTIVE DATE.—Notwithstanding any other  
24          provision of law, any regulation prescribed by the Director  
25          under subsection (a) shall apply, consistent with the terms

1 of the regulation, to any agreement between a consumer  
2 and a covered person entered into after the end of the  
3 180-day period beginning on the effective date of the regu-  
4 lation, as established by the Director.

5 **SEC. 129. REGISTRATION AND SUPERVISION OF NON-**  
6 **DEPOSITORY COVERED PERSONS.**

7 (a) RISK-BASED PROGRAMS.—

8 (1) IN GENERAL.—The Agency shall develop  
9 risk-based programs to supervise covered persons  
10 that are not credit unions, depository institutions, or  
11 persons excluded under section 125 by prescribing  
12 registration requirements, reporting requirements,  
13 and examination standards and procedures.

14 (2) BASIS FOR PROGRAMS.—The risk-based su-  
15 pervisory programs established pursuant to para-  
16 graph (1) shall be based on—

17 (A) relevant registration and reporting in-  
18 formation about such covered persons, as deter-  
19 mined by the Agency; and

20 (B) the Agency's assessment of risks posed  
21 to consumers in the relevant geographic mar-  
22 kets and markets for consumer financial prod-  
23 ucts and services.

24 (b) REGISTRATION.—

1           (1) IN GENERAL.—The Director shall prescribe  
2 regulations regarding registration requirements for  
3 covered persons that are not credit unions or deposi-  
4 tory institutions.

5           (2) CONSULTATION WITH STATE AGENCIES.—  
6 In developing and implementing registration require-  
7 ments under this subsection, the Agency shall con-  
8 sult with State agencies regarding requirements or  
9 systems for registration (including coordinated or  
10 combined systems), where appropriate.

11          (3) EXCEPTION FOR RELATED PERSONS.—The  
12 Agency shall not impose requirements regarding the  
13 registration of a related person.

14          (4) REGISTRATION INFORMATION.—Subject to  
15 regulations prescribed by the Director, the Agency  
16 shall publicly disclose the registration information  
17 about a covered person which is not a bank holding  
18 company, credit union, or depository institution for  
19 the purposes of facilitating the ability of consumers  
20 to identify the covered person as registered with the  
21 Agency.

22          (c) REPORTING REQUIREMENTS.—

23           (1) IN GENERAL.—The Agency may require re-  
24 ports from covered persons that are not credit  
25 unions or depository institutions, or service providers



1       thereto, for the purposes of facilitating supervision  
2       of such covered persons or service providers.

3           (2) CONSISTENCY OF REPORTING REQUIRE-  
4       MENTS AND RISK-BASED STANDARDS.—The Agency  
5       shall impose reporting requirements under this sub-  
6       section that are consistent with the risk-based stand-  
7       ards developed and implemented under this section  
8       and the registration information pertaining to the  
9       relevant types or classes of covered persons.

10          (3) CONTENTS OF REPORTS.—Reporting re-  
11       quirements imposed under this paragraph may in-  
12       clude information regarding—

13           (A) the nature of the covered person’s  
14       business;

15           (B) the covered person’s name, legal form,  
16       ownership and management structure, and re-  
17       lated persons;

18           (C) the covered person’s locations of oper-  
19       ation;

20           (D) the covered person’s types and number  
21       of consumer financial products and services  
22       provided by the covered person;

23           (E) compliance with any requirement im-  
24       posed or enforced by the Agency, including any

1 requirement relating to registration, licensing,  
2 fees, or assessments; and

3 (F) the financial condition of such covered  
4 person, including a related person, for the pur-  
5 pose of assessing the ability of such person to  
6 perform its obligation to consumers.

7 (4) EXCEPTION FOR RELATED PERSONS.—  
8 Other than reports permitted under paragraph  
9 (3)(F) or in connection with a supervisory action or  
10 examination or pursuant to the powers granted in  
11 subtitle E, the Agency shall not impose requirements  
12 regarding reports of any related person.

13 (d) EXAMINATIONS.—

14 (1) EXAMINATIONS REQUIRED.—The Agency  
15 shall conduct examinations of covered persons that  
16 are not credit unions or depository institutions as  
17 part of the programs implemented under paragraphs  
18 (2) and (3) of section 122(c).

19 (2) EXAMINATION STANDARDS AND PROCE-  
20 DURES.—The Director shall establish risk-based  
21 standards and procedures for conducting examina-  
22 tions of covered persons required to be examined  
23 under paragraph (1), including the frequency and  
24 scope of such examinations, except that the Agency  
25 shall conduct examinations of such covered persons

1 that are determined to pose the highest risk to con-  
2 sumers based on factors determined by the Director,  
3 such as the operations, sales practices, or consumer  
4 financial products or services provided by such cov-  
5 ered persons.

6 (e) **AUTHORITY TO COLLECT INFORMATION REGARD-**  
7 **ING FEES OR ASSESSMENTS.**—To the extent permitted by  
8 Federal law, the Agency may obtain from the Secretary  
9 of the Treasury information relating to a covered person  
10 which is not a bank holding company, credit union, or de-  
11 pository institution, including information regarding com-  
12 pliance with a reporting or registration requirement under  
13 the subchapter II of chapter 53 of title 31, United States  
14 Code, for the purposes of, and only to the extent necessary  
15 in, investigating, determining, or enforcing compliance  
16 with a requirement relating to any fee or assessment im-  
17 posed by the Agency under this title.

18 **SEC. 130. EFFECTIVE DATE.**

19 This subtitle shall take effect on the designated  
20 transfer date.

21 **Subtitle C—Specific Authorities**

22 **SEC. 131. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE**  
23 **ACTS OR PRACTICES.**

24 (a) **IN GENERAL.**—The Agency may take any action  
25 authorized under subtitle E to prevent a person from com-

1 mitting or engaging in an unfair, deceptive, or abusive act  
2 or practice under Federal law in connection with any  
3 transaction with a consumer for a consumer financial  
4 product or service, or the offering of a consumer financial  
5 product or service.

6 (b) REGULATIONS.—

7 (1) IN GENERAL.—The Director may prescribe  
8 regulations identifying as unlawful unfair, deceptive,  
9 or abusive acts or practices in connection with any  
10 transaction with a consumer for a consumer finan-  
11 cial product or service or the offering of a consumer  
12 financial product or service.

13 (2) INCLUDES PREVENTION MEASURES.—Regu-  
14 lations prescribed under this section may include re-  
15 quirements for the purpose of preventing such acts  
16 or practices.

17 (c) UNFAIRNESS.—

18 (1) IN GENERAL.—The Director and the Agen-  
19 cy shall have no authority under this section to de-  
20 clare an act or practice in connection with a trans-  
21 action with a consumer for a consumer financial  
22 product or service, or the offering of a consumer fi-  
23 nancial product or service, to be unlawful on the  
24 grounds that such act or practice is unfair unless  
25 the Agency has a reasonable basis to conclude that

1 the act or practice causes or is likely to cause sub-  
2 stantial injury to consumers which is not reasonably  
3 avoidable by consumers and such substantial injury  
4 is not outweighed by countervailing benefits to con-  
5 sumers or to competition.

6 (2) ESTABLISHED PUBLIC POLICY AS FAC-  
7 TOR.—In determining whether an act or practice is  
8 unfair, the Agency may consider established public  
9 policies as evidence to be considered with all other  
10 evidence.

11 (d) CONSULTATION.—In prescribing any regulation  
12 under this section, the Director shall consult with the Fed-  
13 eral banking agencies, State bank supervisors, the Federal  
14 Trade Commission, or other Federal agencies, as appro-  
15 priate, regarding the consistency of a proposed regulation  
16 with prudential, consumer protection, civil rights, market,  
17 or systemic objectives administered by such agencies or  
18 supervisors.

19 **SEC. 132. DISCLOSURES.**

20 (a) IN GENERAL.—The Director may prescribe regu-  
21 lations to ensure the timely, appropriate and effective dis-  
22 closure to consumers of the costs, benefits, and risks asso-  
23 ciated with any consumer financial product or service.

24 (b) COORDINATION WITH OTHER LAWS.—In pre-  
25 scribing regulations under subsection (a), the Director

1 shall take into account disclosure requirements under  
2 other laws in order to enhance consumer compliance and  
3 reduce regulatory burden.

4 (c) COMPLIANCE.—

5 (1) MODEL DISCLOSURES.—The Agency may  
6 provide model disclosures to facilitate compliance  
7 with the requirements of regulations prescribed  
8 under this section.

9 (2) PER SE COMPLIANCE.—Compliance by a  
10 covered person with the model disclosures issued by  
11 the Agency under this subsection shall per se con-  
12 stitute compliance with the disclosure requirements  
13 of this section.

14 (3) ADDITIONAL GUIDANCE.—The Agency may  
15 issue exemptions, no action letters, and other guid-  
16 ance to promote compliance with disclosures require-  
17 ments of regulations prescribed under this section.

18 (d) COMBINED MORTGAGE LOAN DISCLOSURE.—  
19 Within 1 year after the designated transfer date, the Di-  
20 rector shall propose for public comment regulations and  
21 model disclosures that combine the disclosures required  
22 under the Truth in Lending Act and the Real Estate Set-  
23 tlement Procedures Act into a single, integrated disclosure  
24 for mortgage loan transactions covered by those laws, un-  
25 less the Director determines that any proposal issued by

1 the Board of Governors and the Department of Housing  
2 and Urban Development carries out the same purpose.

3 **SEC. 133. SALES PRACTICES.**

4 The Director may prescribe regulations and issue or-  
5 ders and guidance regarding the manner, settings, and cir-  
6 cumstances for the provision of any consumer financial  
7 products or services to ensure that the risks, costs, and  
8 benefits of the products or services, both initially and over  
9 the term of the products or services, are fully and accu-  
10 rately represented to consumers.

11 **SEC. 134. PILOT DISCLOSURES.**

12 (a) PILOT DISCLOSURES.—The Agency shall estab-  
13 lish standards and procedures for approval of pilot disclo-  
14 sures to be provided or made available by a covered person  
15 to consumers in connection with the provision of a con-  
16 sumer financial product or service, or the offering of a  
17 consumer financial product or service.

18 (b) STANDARDS.—The procedures shall provide that  
19 a pilot disclosure must be limited in time and scope and  
20 reasonably designed to contribute materially to the under-  
21 standing of consumer awareness and understanding of,  
22 and responses to, disclosures or communications about the  
23 risks, costs, and benefits of consumer financial products  
24 or services.

1 (c) TRANSPARENCY.—The procedures shall provide  
2 for public disclosure of pilots, but the Agency may limit  
3 disclosure to the extent necessary to encourage covered  
4 persons to conduct effective pilots.

5 **SEC. 135. ADOPTING OPERATIONAL STANDARDS TO DETER**  
6 **UNFAIR, DECEPTIVE, OR ABUSIVE PRAC-**  
7 **TICES.**

8 (a) AUTHORITY TO PRESCRIBE STANDARDS.—The  
9 States are encouraged to prescribe standards applicable  
10 to covered persons who are not insured depository institu-  
11 tions or credit unions, or service providers, to deter and  
12 detect unfair, deceptive, abusive, fraudulent, or illegal  
13 transactions in the provision of consumer financial prod-  
14 ucts or services, including standards for—

15 (1) background checks for principals, officers,  
16 directors, or key personnel;

17 (2) registration, licensing, or certification;

18 (3) bond or other appropriate financial require-  
19 ments to provide reasonable assurance of ability to  
20 perform its obligations to consumers;

21 (4) creating and maintaining records of trans-  
22 actions or accounts; or

23 (5) procedures and operations relating to the  
24 provision of, or maintenance of accounts for, con-  
25 sumer financial products or services.



1 (b) AGENCY AUTHORITY TO PRESCRIBE STAND-  
2 ARDS.—

3 (1) IN GENERAL.—The Director may prescribe  
4 regulations establishing minimum standards under  
5 this section for any class of covered persons other  
6 than covered persons which are subject to the juris-  
7 diction of a Federal banking agency or a State bank  
8 supervisor , or for any service provider.

9 (2) REGISTRATION AND LICENSING STAND-  
10 ARDS.—In addition to prescribing standards for the  
11 purposes described in subsection (a), the Director  
12 may prescribe registration or licensing standards ap-  
13 plicable to covered persons for the purposes of im-  
14 posing fees or assessments in accordance with this  
15 title.

16 (3) ENFORCEMENT OF STANDARDS.— The Di-  
17 rector may enforce under subtitle E compliance with  
18 standards adopted by the Director or a State pursu-  
19 ant to this section for covered persons or service  
20 providers operating in that State.

21 (c) CONSULTATION.—In prescribing minimum stand-  
22 ards under this section, the Director shall consult with the  
23 Federal banking agencies, State bank supervisors, the  
24 Federal Trade Commission, or other Federal agencies, as  
25 appropriate, regarding the consistency of a proposed regu-

1 lation with prudential, consumer protection, civil rights,  
2 market, or systemic objectives administered by such agen-  
3 cies or supervisors.

4 **SEC. 136. DUTIES.**

5 (a) IN GENERAL.—

6 (1) REGULATIONS ENSURING FAIR DEALING  
7 WITH CONSUMERS.—The Director shall prescribe  
8 regulations imposing duties on a covered person, or  
9 an employee of a covered person, or an agent or  
10 independent contractor for a covered person, who  
11 deals or communicates directly with consumers in  
12 the provision of a consumer financial product or  
13 service, as the Director deems appropriate or nec-  
14 essary to ensure fair dealing with consumers.

15 (2) CONSIDERATIONS FOR DUTIES.—In pre-  
16 scribing such regulations, the Director shall consider  
17 whether—

18 (A) the covered person, employee, agent, or  
19 independent contractor represents implicitly or  
20 explicitly that the person, employee, agent, or  
21 contractor is acting in the interest of the con-  
22 sumer with respect to any aspect of the trans-  
23 action;

24 (B) the covered person, employee, agent,  
25 or independent contractor provides the con-

1 consumer with advice with respect to any aspect of  
2 the transaction;

3 (C) the consumer's reliance on or use of  
4 any advice from the covered person, employee,  
5 agent, or independent contractor would be rea-  
6 sonable and justifiable under the circumstances;

7 (D) the benefits to consumers of imposing  
8 a particular duty would outweigh the costs; and

9 (E) any other factors as the Director con-  
10 siders appropriate.

11 (3) DUTIES RELATING TO COMPENSATION  
12 PRACTICES.—

13 (A) IN GENERAL.—The Director may pre-  
14 scribe regulations establishing duties regarding  
15 compensation practices applicable to a covered  
16 person, employee, agent, or independent con-  
17 tractor who deals or communicates directly with  
18 a consumer in the provision of a consumer fi-  
19 nancial product or service for the purpose of  
20 promoting fair dealing with consumers.

21 (B) NO COMPENSATION CAPS.—The Direc-  
22 tor may not prescribe a limit on the total dollar  
23 amount of compensation paid to any person.

24 (C) DISPARITY TREATMENT PROHIB-  
25 ITED.—The Director may not prescribe regula-

1           tions that directly or indirectly disparately  
2           treat, or are interpreted to disparately treat, or  
3           disparately impact any entity that employs cov-  
4           ered persons.

5           (4) REQUIREMENT TO INCLUDE DISCLAIMER ON  
6           PUBLIC STATEMENTS.—The Director shall ensure  
7           that the Agency’s website, and any statement made  
8           by the Director or the Agency to the public, includes  
9           a disclaimer stating that the Agency does not en-  
10          dorse any particular financial product or service and  
11          consumers are expected to exercise due diligence in  
12          deciding what financial products and services are ap-  
13          propriate for them.

14          (b) ADMINISTRATIVE PROCEEDINGS.—

15           (1) IN GENERAL.—Any regulation prescribed by  
16           the Director under this section shall be enforceable  
17           only by the Agency through an adjudication pro-  
18           ceeding under subtitle E or by a State regulator  
19           through an appropriate administrative proceeding as  
20           permitted under State law.

21           (2) EXCLUSIVITY OF REMEDY.—No action may  
22           be commenced in any court to enforce any require-  
23           ment of a regulation prescribed under this section,  
24           and no court may exercise supplemental jurisdiction  
25           over a claim asserted under a regulation prescribed

1 under this section based on allegations or evidence  
2 of conduct that otherwise may be subject to such  
3 regulation.

4 (3) RULE OF CONSTRUCTION.—The Agency,  
5 the Attorney General, and any State attorney gen-  
6 eral or State regulator shall not be precluded from  
7 enforcing any other Federal or State law against a  
8 person with respect to conduct that may be subject  
9 to a regulation prescribed by the Director under this  
10 section.

11 (c) EXCLUSIONS.—This section shall not be con-  
12 strued as authorizing the Director to prescribe regulations  
13 applicable to—

14 (1) an attorney licensed to practice law and in  
15 compliance with the applicable rules and standards  
16 of professional conduct, but only to the extent that  
17 the consumer financial product or service provided is  
18 within the attorney-client relationship with the con-  
19 sumer; or

20 (2) any trustee, custodian, or other person that  
21 holds a fiduciary duty in connection with a trust, in-  
22 cluding a fiduciary duty to a grantor or beneficiary  
23 of a trust, that is subject to and in compliance with  
24 the applicable law relating to such trust.

1 **SEC. 137. CONSUMER RIGHTS TO ACCESS INFORMATION.**

2 (a) IN GENERAL.—Subject to regulations prescribed  
3 by the Director, a covered person shall make available to  
4 a consumer, in an electronic form usable by the consumer,  
5 information in the control or possession of the covered per-  
6 son concerning the consumer financial product or service  
7 that the consumer obtained from such covered person in-  
8 cluding information relating to any transaction, series of  
9 transactions, or to the account including costs, charges  
10 and usage data.

11 (b) EXCEPTIONS.—A covered person shall not be re-  
12 quired by this section to make available to the consumer—

13 (1) any confidential commercial information, in-  
14 cluding an algorithm used to derive credit scores or  
15 other risk scores or predictors;

16 (2) any information collected by the covered  
17 person for the purpose of preventing fraud or money  
18 laundering, or detecting, or making any report re-  
19 garding other unlawful or potentially unlawful con-  
20 duct;

21 (3) any information required to be kept con-  
22 fidential by any other law (including section 6103 of  
23 the Internal Revenue Code of 1986); or

24 (4) any information that the covered person  
25 cannot retrieve in the ordinary course of its business  
26 with respect to that information.

1 (c) NO DUTY TO MAINTAIN RECORDS.—No provision  
2 of this section shall be construed as imposing any duty  
3 on a covered person to maintain or keep any information  
4 about a consumer.

5 (d) STANDARDIZED FORMATS FOR DATA.—The Di-  
6 rector, by regulation, shall prescribe standards applicable  
7 to covered persons to promote the development and use  
8 of standardized formats for information, including  
9 through the use of machine readable files, to be made  
10 available to consumers under this section.

11 (e) CONSULTATION.—The Director shall, when pre-  
12 scribing any regulation under this section, consult with the  
13 Federal banking agencies, State bank supervisors, the  
14 Federal Trade Commission, and the Commissioner of In-  
15 ternal Revenue to ensure that the regulations—

16 (1) impose substantively similar requirements  
17 on covered persons;

18 (2) take into account conditions under which  
19 covered persons do business both in the United  
20 States and in other countries; and

21 (3) do not require or promote the use of any  
22 particular technology in order to develop systems for  
23 compliance.

24 **SEC. 138. PROHIBITED ACTS.**

25 It shall be unlawful for any person—

1           (1) to advertise, market, offer, sell, enforce, or  
2           attempt to enforce, any term, agreement, change in  
3           terms, fee, or charge in connection with a consumer  
4           financial product or service that is not in conformity  
5           with this title or applicable regulation prescribed or  
6           order issued by the Director or to engage in any un-  
7           fair, deceptive, or abusive act or practice, except that  
8           no person shall be held to have violated this sub-  
9           section solely by virtue of providing or selling time  
10          or space to a person placing an advertisement;

11          (2) to fail or refuse to pay any fee or assess-  
12          ment imposed by the Agency under this title, to fail  
13          or refuse to permit access to or copying of records,  
14          to fail or refuse to establish or maintain records, or  
15          to fail or refuse to make reports or provide informa-  
16          tion to the Agency, as required by this title, an enu-  
17          merated consumer law, or pursuant to the authori-  
18          ties transferred by subtitles F and H, or any regula-  
19          tion prescribed or order issued by the Director this  
20          title or pursuant to any such authority; or

21          (3) to knowingly or recklessly provide substan-  
22          tial assistance to another person in violation of the  
23          provisions of section 131, or any regulation pre-  
24          scribed or order issued under such section, and any  
25          such person shall be deemed to be in violation of



1 that section to the same extent as the person to  
2 whom such assistance is provided.

3 **SEC. 139. TREATMENT OF REMITTANCE TRANSFERS.**

4 (a) DISCLOSURES REQUIRED FOR REMITTANCE  
5 TRANSFERS.—

6 (1) IN GENERAL.—Each remittance transfer  
7 provider shall make disclosures to consumers, as  
8 specified by this section and by regulation prescribed  
9 by the Director.

10 (2) SPECIFIC DISCLOSURES.—In addition to  
11 any other disclosures applicable under this title, a  
12 remittance transfer provider shall—

13 (A) disclose clearly and conspicuously, in  
14 writing and in a form that the consumer may  
15 keep, to each consumer who requests informa-  
16 tion regarding the fees or exchange rate for a  
17 remittance transfer, prior to the consumer mak-  
18 ing any payment in connection with the trans-  
19 fer—

20 (i) the total amount in United States  
21 dollars that will be required to be paid by  
22 the consumer in connection with the remit-  
23 tance transfer;

24 (ii) the amount of currency that the  
25 designated recipient of the remittance

1 transfer will receive, using the values of  
2 the currency into which the funds will be  
3 exchanged;

4 (iii) the fee charged by the remittance  
5 transfer provider for the remittance trans-  
6 fer;

7 (iv) any exchange rate to be used by  
8 the remittance transfer provider for the re-  
9 mittance transfer, unless the exchange rate  
10 is not fixed on send;

11 (v) the amount of time for which the  
12 information specified in this subparagraph  
13 (A) will be in effect;

14 (vi) the expected time interval within  
15 which the funds being transferred will be  
16 made available to the recipient; and

17 (vii) the location where the funds  
18 being transferred will be made available to  
19 the recipient if the funds are to be made  
20 available only at one location, or if the re-  
21 mittance transfer provider permits the re-  
22 cipient to choose from multiple locations  
23 where the funds being transferred will be  
24 made available to the recipient, the remit-  
25 tance transfer provider shall make avail-

1           able to the consumer or the recipient a re-  
2           source that lists such locations;

3           (B) at the time at which the consumer  
4           makes payment in connection with the remit-  
5           tance transfer, a receipt in writing disclosing  
6           clearly and conspicuously—

7                   (i) the information described in sub-  
8                   paragraph (A);

9                   (ii) the expected time interval within  
10                  which the funds being transferred will be  
11                  made available to the recipient, which shall  
12                  be not more than ten days after the date  
13                  the consumer makes payment in connec-  
14                  tion with the remittance transfer unless  
15                  otherwise prohibited by applicable State or  
16                  Federal law or the law of another country,  
17                  or as may be specified by the consumer so  
18                  long as the consumer has the choice to  
19                  order that the funds be made available to  
20                  the recipient not more than ten days after  
21                  the consumer makes payment in connec-  
22                  tion with the remittance transfer;

23                  (iii) the location where the funds  
24                  being transferred will be made available to  
25                  the recipient if the funds are to be made

1 available only at one location, or if the re-  
2 mittance transfer provider permits the re-  
3 cipient to choose from multiple locations  
4 where the funds being transferred will be  
5 made available to the recipient, the remit-  
6 tance transfer provider shall make avail-  
7 able to the consumer or the recipient a re-  
8 source that lists such locations;

9 (iv) the name and telephone number  
10 or address of the designated recipient, if  
11 provided to the remittance transfer pro-  
12 vider by the consumer;

13 (v) information about the rights of the  
14 consumer under this section to cancel the  
15 remittance transfer, to resolve errors and  
16 to receive refunds;

17 (vi) appropriate contact information  
18 for the remittance transfer provider;

19 (vii) a transaction reference number  
20 unique to that remittance transfer; and

21 (viii) information as to when the ex-  
22 change rate will be calculated (for example,  
23 when the funds are received by the recipi-  
24 ent), if the customer has been notified that  
25 the exchange rate is not fixed on send;

1 (C) at the time at which the consumer ini-  
2 tiates the remittance transfer, offer to provide  
3 in writing, prior to making any payment in con-  
4 nection with the transfer, the information listed  
5 in subparagraph (A); and

6 (D) in the case of an exchange rate not  
7 fixed on send, the remittance provider shall also  
8 disclose, at the time at which the consumer ini-  
9 tiates the remittance transfer, the range, using  
10 the high and low rates, for the prior 30 day pe-  
11 riod, that the consumer would have received if  
12 a representative amount had been exchanged by  
13 the remittance transfer provider, as well as a  
14 clear and conspicuous notice that the actual ex-  
15 change rate may vary.

16 If the actual rate used for the transfer is known to  
17 the remittance provider, either because such rate  
18 was set by the remittance provider itself or because  
19 the remittance provider receives confirmation of the  
20 actual exchange rate used, the remittance provider  
21 shall make available to consumers written or elec-  
22 tronic confirmation of the actual exchange rate used  
23 and the amount of currency that the recipient or the  
24 remittance transfer received, using the values of the  
25 currency into which the funds were exchanged. The

1 Director shall within 2 years after the date of the  
2 enactment of the Consumer Financial Protection  
3 Agency Act of 2009 prescribe consumer disclosures  
4 for transfers with rates not fixed on send that are  
5 functionally equivalent to those applicable to remit-  
6 tances where the exchange rate is specified by the  
7 remittance transfer provider at the time the con-  
8 sumer initiates the remittance transfer. To the  
9 greatest extent possible, the Director shall ensure  
10 that functional equivalence will enable remittance  
11 transfer providers to comply with all requirements in  
12 this Act and provide consumers with information  
13 sufficient to compare services providers, to time  
14 their use of the product, to discover errors in trans-  
15 mission and to seek remedies.

16 (3) EXEMPTION.—Notwithstanding require-  
17 ments under paragraph 2(A)(ii) or 2(A)(iv) or  
18 2(B)(i), no such disclosure is required—

19 (A) because of the requirements of another  
20 law, including the law of another country;

21 (B) because the transfer is being routed  
22 through the Directo a México offered by the  
23 Federal reserve banks; or

24 (C) because of any other circumstance  
25 deemed permissible by regulation of the Direc-

1           tor; If the actual rate used for the transfer is  
2           known to the remittance provider, the remit-  
3           tance provider shall make available to con-  
4           sumers written or electronic confirmation of the  
5           actual exchange rate used and the amount of  
6           currency that the recipient of the remittance  
7           transfer received, using the values of the cur-  
8           rency into which the funds were exchanged.

9           (4) PROVISION OF TOLL-FREE NUMBER AND  
10          WEB ACCESS.—

11           (A) In addition to providing the disclosures  
12           required by this section to a consumer at a re-  
13           mittance transfer provider location, a remit-  
14           tance transfer provider shall provide a toll-free  
15           telephone number or local number, and an  
16           Internet website that a consumer can access for  
17           which access no remittance transfer provider  
18           may assess a charge, to obtain the information  
19           required by paragraph (2)(A) for remittance  
20           transfers offered by that remittance transfer  
21           provider or information about the status of a  
22           remittance transfer for which a consumer has  
23           made payment.

24           (B) A remittance transfer provider that on  
25           an aggregate basis originates 30,000 or fewer

1 transfers on a calendar year basis (or such  
2 other amount as may be prescribed by the Di-  
3 rector) is not required to offer the web access  
4 prescribed in subparagraph (A), but is required  
5 to provide a toll-free telephone number or local  
6 number as prescribed in subparagraph (A).

7 (5) ALTERNATIVE METHODS OF DISCLOSURE.—  
8 Subject to subsection (e)(2), a remittance transfer  
9 provider may—

10 (A) if the transaction is conducted entirely  
11 by telephone (which shall include, but not be  
12 limited to, a mobile telephone) satisfy the re-  
13 quirements of paragraph (2)(A) orally or, at the  
14 option of the consumer, electronically through a  
15 message sent to the consumer through any elec-  
16 tronic means (including, but not limited to, an  
17 electronic mail address or a mobile telephone)  
18 as designated by the consumer;

19 (B) satisfy the requirements of paragraph  
20 (2)(A) electronically if the transfer is initiated  
21 by the consumer electronically through the re-  
22 mittance transfer provider's website or through  
23 any other electronic means; and

24 (C) satisfy the requirements of paragraph  
25 (2)(B) by mailing (or transmitting electronically



1 if the transfer is initiated electronically by the  
2 consumer through the remittance transfer pro-  
3 vider's website or the consumer otherwise con-  
4 sents in accordance with the provisions of sec-  
5 tion 101 of the Electronic Signatures in Global  
6 and National Commerce Act) the information  
7 required under such paragraph to the consumer  
8 not later than one business day after the date  
9 on which the transaction is conducted, if the  
10 transaction is conducted entirely by telephone  
11 (or electronically) and the consumer requests a  
12 written receipt.

13 (b) WRITTEN FOREIGN LANGUAGE DISCLOSURES.—

14 (1) IN GENERAL.—The disclosures required  
15 under subsections (a)(2)(A) and (a)(2)(B)(i) shall be  
16 made in English and—

17 (A) at each remittance transfer provider  
18 location, shall be made in the same languages  
19 principally used by the remittance transfer pro-  
20 vider, or any of its agents, to advertise, solicit,  
21 or market its remittance transfers business, ei-  
22 ther orally or in writing, at that location, if  
23 other than English, provided that such lan-  
24 guages are those for which the Director has

1 issued model disclosures as provided in sub-  
2 section (g); or

3 (B) on a remittance transfer provider's  
4 website, shall at a minimum be made in any  
5 other language for which the Director has  
6 issued model disclosures as provided in sub-  
7 section (g) if the remittance transfer provider,  
8 or any of its agents, advertises, solicits, or mar-  
9 kets its remittance transfers business in such  
10 language.

11 (2) DISPUTES CONCERNING TERMS.—If a dis-  
12 closure is required by this section to be in English  
13 and another language, the English version of the  
14 disclosure shall govern any dispute concerning the  
15 terms of the receipt. However, any discrepancies be-  
16 tween the English version and any other version due  
17 to the translation of the receipt from English to an-  
18 other language including errors or ambiguities shall  
19 be construed against the remittance transfer pro-  
20 vider or its agent and the remittance transfer pro-  
21 vider or its agent shall be liable for any damages  
22 caused by these discrepancies.

23 (c) REMITTANCE TRANSFER CANCELLATIONS, RE-  
24 FUNDS, AND ERRORS.—

25 (1) CANCELLATIONS.—

1 (A) After receiving the receipt required  
2 under subsection (a)(2)(B), a consumer may  
3 cancel the currency transaction—

4 (i) before leaving the premises of the  
5 remittance transfer provider where the  
6 consumer received the receipt, and

7 (ii) not later than 30 minutes after  
8 the time the consumer initiated the remit-  
9 tance transfer with the remittance transfer  
10 provider.

11 (B) If a consumer cancels the transaction,  
12 the remittance transfer provider shall imme-  
13 diately refund to the consumer the fees paid  
14 and the currency to be transferred, and issue a  
15 receipt indicating that the transaction has been  
16 cancelled.

17 (C) A consumer may not cancel a remit-  
18 tance transfer after the remittance transfer pro-  
19 vider has sent the funds to the recipient.

20 (D) A remittance transfer provider shall  
21 not be required to provide a refund if providing  
22 a refund would violate State or Federal law.

23 (2) REFUNDS.—

24 (A) If a remittance transfer provider re-  
25 ceives written notice from the consumer within

1 ten days of the promised date of delivery of a  
2 remittance transfer that no amount of the  
3 funds to be remitted was made available to the  
4 designated recipient in the foreign country, the  
5 remittance transfer provider shall—

6 (i) refund to the consumer the total  
7 amount in U.S. dollars that was paid by  
8 the consumer in connection with such re-  
9 mittance transfer;

10 (ii) promptly transmit the remittance  
11 transfer in accordance with the terms in  
12 the written receipt provided to the con-  
13 sumer pursuant to subsection (a)(2)(B);

14 (iii) provide such other remedy, as de-  
15 termined appropriate by rule of the Direc-  
16 tor for the protection of consumers; or

17 (iv) demonstrate to the consumer that  
18 the proceeds of the remittance transfer  
19 were made available to the recipient of the  
20 remittance provider.

21 (B) A remittance transfer provider shall  
22 not be required to provide a refund if providing  
23 a refund would violate State or Federal law.

24 (3) ERROR RESOLUTION.—

1           (A) IN GENERAL.—If a remittance transfer  
2 provider receives written notice from the con-  
3 sumer within 60 days of the promised date of  
4 delivery that an error occurred with respect to  
5 a remittance transfer, including that the full  
6 amount of the funds to be remitted was not  
7 made available to the designated recipient in  
8 the foreign country, the remittance transfer  
9 provider shall resolve the error pursuant to this  
10 paragraph.

11           (B) REMEDIES.—Not later than 120 days  
12 after the date of receipt of a notice from the  
13 consumer pursuant to subparagraph (A), the  
14 remittance transfer provider shall—

15                   (i) as applicable to the error and as  
16 designated by the consumer—

17                           (I) refund to the consumer the  
18 total amount in U.S. dollars that was  
19 paid by the consumer in connection  
20 with the remittance transfer that was  
21 not properly transmitted;

22                           (II) make available to the des-  
23 igned recipient, without additional  
24 cost to the designated recipient or to

1 the consumer, the amount appropriate  
2 to resolve the error;

3 (III) provide such other remedy,  
4 as determined appropriate by regula-  
5 tion of the Director for the protection  
6 of consumers; or

7 (ii) demonstrate to the consumer that  
8 there was no error.

9 (4) REGULATIONS.—The Director, in order to  
10 protect consumers, shall establish, by regulation,  
11 clear and appropriate standards for remittance  
12 transfer providers with respect to error resolution,  
13 cancellation and refunds.

14 (d) ENFORCEMENT AUTHORITY.—The Director shall  
15 have the sole authority to enforce the provisions of this  
16 section, and any regulations established pursuant to this  
17 section.

18 (e) APPLICABILITY OF OTHER PROVISIONS OF  
19 LAW.—

20 (1) APPLICABILITY OF TITLE 18 AND TITLE 31  
21 PROVISIONS.—A remittance transfer provider that is  
22 a money transmitting business as defined in section  
23 5330 of title 31, United States Code, may provide  
24 remittance transfers only if such provider is in com-  
25 pliance with the requirements of section 5330 of title

1 31, United States Code, and section 1960 of title  
2 18, United States Code, as applicable.

3 (2) RULE OF CONSTRUCTION.—Nothing in this  
4 section shall be construed—

5 (A) to affect the application to any trans-  
6 action, to any remittance provider, or to any  
7 other person of any of the provisions of sub-  
8 chapter II of chapter 53 of title 31, United  
9 States Code, section 21 of the Federal Deposit  
10 Insurance Act, or chapter 2 of title I of Public  
11 Law 91–508, or any regulations promulgated  
12 thereunder; or

13 (B) to cause any fund transfer that would  
14 not otherwise be treated as such under para-  
15 graph (2) to be treated as an electronic fund  
16 transfer, or as otherwise subject to this title, for  
17 the purposes of any of the provisions referred to  
18 in subparagraph (A) or any regulation pre-  
19 scribed under such subparagraph.

20 (f) DEFINITIONS.—For purposes of this section, the  
21 following definitions shall apply:

22 (1) DEPOSITORY INSTITUTION.—the term “de-  
23 pository institution” has the same meaning as in  
24 section 3 of the Federal Deposit Insurance Act and  
25 includes a credit union.

1           (2) NOT FIXED ON SEND.—The term “not fixed  
2           on send” when referring to an exchange rate used  
3           in a remittance transfer means an exchange rate  
4           that is not set by the remittance transfer provider  
5           at the time the consumer initiates the remittance  
6           transfer.

7           (3) REMITTANCE TRANSFER.—The term “re-  
8           mittance transfer” means the electronic (as defined  
9           in section 106(2) of the Electronic Signatures in  
10          Global and National Commerce Act) transfer of  
11          funds at the request of a consumer located in any  
12          State to a person in another country that is initiated  
13          by a remittance transfer provider, whether or not  
14          the consumer is an account holder of the remittance  
15          transfer provider or whether or not the remittance  
16          transfer is also an electronic fund transfer, as de-  
17          fined in section 903 of the Electronic Fund Transfer  
18          Act.

19          (4) REMITTANCE TRANSFER PROVIDER.—The  
20          term “remittance transfer provider” means any per-  
21          son or depository institution, or agent thereof, that  
22          originates remittance transfers on behalf of con-  
23          sumers in the normal course of its business, whether  
24          or not the consumer is an account holder of that  
25          person or depository institution.



1 (g) MODEL DISCLOSURES.—

2 (1) PUBLICATION.—Notwithstanding any provi-  
3 sions of this title, the Director shall establish and  
4 publish model disclosure forms to facilitate compli-  
5 ance with the disclosure requirements of this section  
6 and to aid the consumer in understanding the trans-  
7 action to which the subject disclosure form relates.

8 (2) LANGUAGES TO BE USED IN MODEL DIS-  
9 CLOSURES.—The Director shall make these disclo-  
10 sures available within one year of the effective date  
11 of this Act—

12 (A) in English, and

13 (B) the ten most frequently spoken lan-  
14 guages in the United States, other than  
15 English, used by consumers initiating remit-  
16 tance transfers, as may be determined by the  
17 Director.

18 (3) USE OF AUTOMATED EQUIPMENT.—In es-  
19 tablishing model forms under this subsection, the  
20 Director shall consider the use by lessors of data  
21 processing or similar automated equipment.

22 (4) USE OPTIONAL.—A remittance transfer pro-  
23 vider may utilize a model disclosure form established  
24 by the Director under this subsection for purposes

1 of compliance with this section, at the discretion of  
2 the remittance transfer provider.

3 (5) EFFECT OF USE.—Any remittance transfer  
4 provider that properly uses the material aspects of  
5 any model disclosure form established by the Direc-  
6 tor under this subsection shall be deemed to be in  
7 compliance with the disclosure requirements to  
8 which the form relates.

9 (h) REGULATION AND EXEMPTION AUTHORITY.—  
10 Notwithstanding any other provisions of this title, the Di-  
11 rector, in the sole discretion of the Director, in consulta-  
12 tion with relevant Federal and State government agencies  
13 may by regulation exempt from one or more requirements  
14 of this section, any category of remittance transfer pro-  
15 vider if the Director determines that under applicable Fed-  
16 eral or State law that such category of remittance transfer  
17 provider is subject to requirements substantially similar  
18 to those imposed under this section or that such law gives  
19 greater protection and benefit to the consumer, and that  
20 there is adequate provision for enforcement.

21 (i) APPLICABILITY OF STATE LAW.—

22 (1) This section does not annul, alter, affect, or  
23 exempt any person subject to the provisions of this  
24 section from complying with other applicable Federal  
25 law and the laws of any State relating to remittance

1 transfers and remittance transfer providers, except  
2 to the extent that those laws are inconsistent with  
3 the provisions of this section, and then only to the  
4 extent of the inconsistency.

5 (2) Notwithstanding any other provisions of  
6 this title, the Director may determine whether such  
7 inconsistencies exist. A State law is not inconsistent  
8 with this section if the protection such law affords  
9 any consumer is greater than the protection afforded  
10 by this section. If the Director determines that a  
11 State requirement is inconsistent, remittance trans-  
12 fer providers shall incur no liability under the law of  
13 that State for a good faith failure to comply with  
14 that law, notwithstanding that such determination is  
15 subsequently amended, rescinded, or determined by  
16 judicial or other authority to be invalid for any rea-  
17 son. This section does not extend the applicability of  
18 any such law to any class of persons or transactions  
19 to which it would not otherwise apply.

20 (3) This section does not annul, alter, or affect  
21 the laws of any State relating to the licensing or  
22 registration, supervision or examination of remit-  
23 tance transfer providers.

24 (4) Nothing in this section shall be construed as  
25 limiting the authority of a State attorney general or

1 State regulator to bring an action or other regu-  
2 latory proceeding arising solely under the law of that  
3 State.

4 (j) FEDERAL CREDIT UNION ACT AMENDMENT.—  
5 Paragraph (12)(A) of section 107 of the Federal Credit  
6 Union Act (12 U.S.C. 1757(12)(A)) is amended by insert-  
7 ing “and remittance transfers, as defined in section 139  
8 of the Consumer Financial Protection Agency Act of  
9 2009” after “and domestic electronic fund transfers”.

10 (k) AUTOMATED CLEARINGHOUSE SYSTEM.—

11 (1) EXPANSION OF SYSTEM.—The Board of  
12 Governors of the Federal Reserve System shall work  
13 with the Federal reserve banks to expand the use of  
14 the automated clearinghouse system for remittance  
15 transfers to foreign countries, with a focus on coun-  
16 tries that receive significant remittance transfers  
17 from the United States, based on—

18 (A) the volume and dollar amount of re-  
19 mittance transfers to those countries;

20 (B) the significance of the volume of such  
21 transfers, relative to the external financial flows  
22 of the receiving country; and

23 (C) the feasibility of such an expansion.

24 (2) REPORT TO THE CONGRESS.—Before the  
25 end of the 180-day period beginning on the date of

1 the enactment of this Act, and on April 30 biennially  
2 thereafter, the Board of Governors of the Federal  
3 Reserve System shall submit a report to the Direc-  
4 tor, the Committee on Banking, Housing, and  
5 Urban Affairs of the Senate, and the Committee on  
6 Financial Services of the House of Representatives  
7 on the status of the automated clearinghouse system  
8 and its progress in complying with the requirements  
9 of this section.

10 (l) REGULATORY GUIDANCE ON REMITTANCE  
11 TRANSFERS.—

12 (1) PROVISION OF GUIDELINES TO INSTITU-  
13 TIONS.—The Director shall provide guidelines to all  
14 remittance transfer providers regarding—

15 (A) the offering of low-cost remittance  
16 transfers;

17 (B) the availability of agency services to  
18 remittance transfer providers;

19 (C) compliance with the provisions of this  
20 Act; and

21 (D) specific options that allow remittance  
22 transfer providers to take advantage of auto-  
23 mated clearing systems, including the FedACH  
24 International Services offered by the Board of  
25 Governors of the Federal Reserve System and

1           the Federal reserve banks, to transmit remit-  
2           tances at low cost.

3           (2) CONTENT OF GUIDELINES.—Guidelines pro-  
4           vided to remittance transfer providers under this  
5           section shall include—

6                   (A) information as to the methods of pro-  
7                   viding remittance transfer services;

8                   (B) the potential economic opportunities in  
9                   providing low-cost remittance transfers; and

10                   (C) the potential value to depository insti-  
11                   tutions of broadening their financial bases to  
12                   include persons that use remittance transfers.

13           (3) ASSISTANCE TO FINANCIAL LITERACY COM-  
14           MISSION.—The Secretary of the Treasury and each  
15           agency referred to in subsection (a) shall, as part of  
16           their duties as members of the Financial Literacy  
17           and Education Commission, assist that Commission  
18           in improving the financial literacy and education of  
19           consumers who send remittances.

20           (m) REPORT ON FEASIBILITY OF AND IMPEDIMENTS  
21           TO USE OF REMITTANCE HISTORY IN CALCULATION OF  
22           CREDIT SCORE.—Before the end of the 365-day period  
23           beginning on the date of the enactment of this Act, the  
24           Director shall submit a report to the President, the Com-  
25           mittee on Banking, Housing, and Urban Affairs of the

1 Senate, and the Committee on Financial Services of the  
2 House of Representatives regarding—

3 (1) the manner in which a consumer's remit-  
4 tance history could be used to enhance a consumer's  
5 credit score;

6 (2) the current legal and business model bar-  
7 riers and impediments that impede the use of a con-  
8 sumer's remittance history to enhance the con-  
9 sumer's credit score; and

10 (3) recommendations on the manner in which  
11 maximum transparency and disclosure to consumers  
12 of exchange rates for remittance transfers subject to  
13 this Act may be accomplished, whether or not such  
14 exchange rates are known at the time of origination  
15 or payment by the consumer for the remittance  
16 transfer, including disclosure to the sender of the ac-  
17 tual exchange rate used and the amount of currency  
18 that the recipient of the remittance transfer re-  
19 ceived, using the values of the currency into which  
20 the funds were exchanged, as contained in sections  
21 919(a)(2)(D) and 919(a)(3) of the Electronic Fund  
22 Transfer Act (as amended by subsection (a)).

23 (n) EFFECTIVE DATE.—This section shall apply with  
24 respect to remittance transfers made after the end of the

1 180-day period beginning on the date of the enactment  
2 of this Act.

3 **SEC. 140. EFFECTIVE DATE.**

4 This subtitle shall take effect on the designated  
5 transfer date.

6 **SEC. 140A. NO AUTHORITY TO REQUIRE THE OFFERING OF**  
7 **FINANCIAL PRODUCTS OR SERVICES.**

8 The Director may not prescribe any regulation, issue  
9 any order or guidance, or take any other action, including  
10 any enforcement action, the effect of which would be to  
11 require a covered person to offer to any consumer a spe-  
12 cific financial product or service.

13 **SEC. 140B. APPRAISAL INDEPENDENCE REQUIREMENTS.**

14 (a) **PROMULGATION OF NEW REQUIREMENTS.**—The  
15 Director shall lead a Negotiated Rulemaking Committee  
16 under the Federal Advisory Committee Act and the Nego-  
17 tiated Rulemaking Act to promulgate appraisal independ-  
18 ence requirements for residential loan purposes, and such  
19 Committee shall promulgate such requirements not later  
20 than the end of the 60-day period beginning on the date  
21 of the enactment of this Act.

22 (b) **CERTAIN REGULATION REQUIREMENTS.**—Regu-  
23 lations promulgated by the Negotiated Rulemaking Com-  
24 mittee under this section shall not prohibit lenders, the  
25 Federal National Mortgage Association, or the Federal



1 Home Loan Mortgage Corporation from accepting any ap-  
2 praisal report completed by an appraiser selected, re-  
3 tained, or compensated in any manner by a mortgage loan  
4 originator—

5 (1) licensed or registered in accordance with  
6 section 1501 et seq. of the SAFE Mortgage Licens-  
7 ing Act of 2008; and

8 (2) subject to State or Federal laws that make  
9 it unlawful for a mortgage loan originator to make  
10 any payment, threat, or promise, directly or indi-  
11 rectly, to any appraiser of a property, for the pur-  
12 poses of influencing the independent judgment of the  
13 appraiser with respect to the value of the property,  
14 except that nothing in this section shall prohibit a  
15 person with an interest in a real estate transaction  
16 from asking an appraiser to—

17 (A) consider additional, appropriate prop-  
18 erty information;

19 (B) provide further detail, substantiation,  
20 or explanation for the appraiser's value conclu-  
21 sion; or

22 (C) correct errors in the appraisal report.

23 (c) SUNSET.—Effective on the date the appraisal  
24 independence requirements are promulgated pursuant to  
25 subsection (a), the Home Valuation Code of Conduct an-

1 nounced by the Federal Housing Finance Agency on De-  
2 cember 23, 2008, shall have no force or effect.

3 **Subtitle D—Preservation of State**  
4 **Law**

5 **SEC. 141. RELATION TO STATE LAW.**

6 (a) IN GENERAL.—

7 (1) RULE OF CONSTRUCTION.—This title shall  
8 not be construed as annulling, altering, or affecting,  
9 or exempting any person subject to the provisions of  
10 this title from complying with, the laws, regulations,  
11 orders, or interpretations, in effect in any State, ex-  
12 cept to the extent that such statute, regulation,  
13 order, or interpretation is inconsistent with the pro-  
14 visions of this title and then only to the extent of the  
15 inconsistency.

16 (2) GREATER PROTECTION UNDER STATE  
17 LAW.—For the purposes of this subsection, a stat-  
18 ute, regulation, order, or interpretation in effect in  
19 any State is not inconsistent with the provisions of  
20 this title if the protection such statute, regulation,  
21 order, or interpretation affords consumers is greater  
22 than the protection provided under this title. A de-  
23 termination regarding whether a statute, regulation,  
24 order, or interpretation in effect in any State is in-  
25 consistent with the provisions of this title may be

1 made by the Agency on its own motion or in re-  
2 sponse to a nonfrivolous petition initiated by any in-  
3 terested person.

4 (b) **RELATION TO OTHER PROVISIONS OF ENUMER-**  
5 **ATED CONSUMER LAWS THAT RELATE TO STATE LAW.—**  
6 No provision of this title, shall be construed as modifying,  
7 limiting, or superseding the operation of any provision of  
8 an enumerated consumer law that relates to the applica-  
9 tion of a law in effect in any State with respect to such  
10 Federal law.

11 **SEC. 142. PRESERVATION OF ENFORCEMENT POWERS OF**  
12 **STATES.**

13 (a) **IN GENERAL.—**

14 (1) **ACTION BY STATE.—**Any State attorney  
15 general may bring a civil action in the name of such  
16 State, as *parens patriae* on behalf of natural persons  
17 residing in such State, in any district court of the  
18 United States or State court having jurisdiction of  
19 the defendant, to secure monetary or equitable relief  
20 for violation of any provisions of this title or regula-  
21 tions issued thereunder.

22 (2) **RULE OF CONSTRUCTION.—**No provision of  
23 this title shall be construed as modifying, limiting,  
24 or superseding the operation of any provision of an  
25 enumerated consumer law that relates to the author-

1           ity of a State attorney general or State regulator to  
2           enforce such Federal law.

3           (b) CONSULTATION REQUIRED.—

4                 (1) NOTICE.—

5                     (A) IN GENERAL.—Before initiating any  
6                     action in a court or other administrative or reg-  
7                     ulatory proceeding against any covered person  
8                     to enforce any provision of this title, including  
9                     any regulation prescribed by the Director under  
10                    this title, a State attorney general or State reg-  
11                    ulator shall timely provide a copy of the com-  
12                    plete complaint to be filed and written notice  
13                    describing such action or proceeding to the  
14                    Agency, or the Agency's designee.

15                    (B) EMERGENCY ACTION.—If prior notice  
16                    is not practicable, the State attorney general or  
17                    State regulator shall provide a copy of the com-  
18                    plete complaint and the notice to the Agency  
19                    immediately upon instituting the action or pro-  
20                    ceeding.

21                    (C) CONTENTS OF NOTICE.—The notifica-  
22                    tion required under this section shall, at a min-  
23                    imum, describe—

24                             (i) the identity of the parties;

1 (ii) the alleged facts underlying the  
2 proceeding; and

3 (iii) whether there may be a need to  
4 coordinate the prosecution of the pro-  
5 ceeding so as not to interfere with any ac-  
6 tion, including any rulemaking, undertaken  
7 by the Director or Agency or another Fed-  
8 eral agency.

9 (2) AGENCY RESPONSE.—In any action de-  
10 scribed in paragraph (1), the Agency may—

11 (A) intervene in the action as a party;

12 (B) upon intervening—

13 (i) remove the action to the appro-  
14 priate United States district court, if the  
15 action was not originally brought there;  
16 and

17 (ii) be heard on all matters arising in  
18 the action; and

19 (C) appeal any order or judgment to the  
20 same extent as any other party in the pro-  
21 ceeding may.

22 (c) REGULATIONS.—The Director shall prescribe reg-  
23 ulations to implement the requirements of this section  
24 and, from time to time, provide guidance in order to fur-

1 ther coordinate actions with the State attorneys general  
2 and other regulators.

3 (d) PRESERVATION OF STATE AUTHORITY.—

4 (1) STATE CLAIMS.—No provision of this sec-  
5 tion shall be construed as limiting the authority of  
6 a State attorney general or State regulator to bring  
7 an action or other regulatory proceeding arising sole-  
8 ly under the law of that State.

9 (2) STATE SECURITIES REGULATORS.—No pro-  
10 vision of this title shall be construed as altering, lim-  
11 iting, or affecting the authority of a State securities  
12 commission (or any agency or office performing like  
13 functions) under State law to adopt rules, initiate  
14 enforcement proceedings, or take any other action  
15 with respect to a person regulated by such commis-  
16 sion or authority.

17 (3) STATE INSURANCE REGULATORS.—No pro-  
18 vision of this title shall be construed as altering, lim-  
19 iting, or affecting the authority of a State insurance  
20 commission or State insurance regulator under State  
21 law to adopt rules, initiate enforcement proceedings,  
22 or take any other action with respect to a person  
23 regulated by such commission or regulator.

1 **SEC. 143. PRESERVATION OF EXISTING CONTRACTS.**

2 This title, and regulations, orders, guidance, and in-  
3 terpretations prescribed, issued, and established by the  
4 Agency, shall not be construed to alter or affect the appli-  
5 cability of any regulation, order, guidance or interpreta-  
6 tion prescribed, issued, and established by the Comptroller  
7 of the Currency or the Director of the Office of Thrift  
8 Supervision regarding the applicability of State law under  
9 Federal banking law to any contract entered into on or  
10 before the date of the enactment of this Act, by national  
11 banks, Federal savings associations, or subsidiaries there-  
12 of that are regulated and supervised by the Comptroller  
13 of the Currency or the Director of the Office of Thrift  
14 Supervision, respectively.

15 **SEC. 144. STATE LAW PREEMPTION STANDARDS FOR NA-**  
16 **TIONAL BANKS AND SUBSIDIARIES CLARI-**  
17 **FIED.**

18 (a) IN GENERAL.—Chapter one of title LXII of the  
19 Revised Statutes of the United States (12 U.S.C. 21 et  
20 1 seq.) is amended by inserting after section 5136B the  
21 following new section:

22 **“SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NA-**  
23 **TIONAL BANKS AND SUBSIDIARIES CLARI-**  
24 **FIED.**

25 “(a) DEFINITIONS.—For purposes of this section, the  
26 following definitions shall apply:

1           “(1) NATIONAL BANK.—The term ‘national  
2 bank’ includes—

3           “(A) any bank organized under the laws of  
4 the United States; and

5           “(B) any Federal branch established in ac-  
6 cordance with the International Banking Act of  
7 1978.

8           “(2) STATE CONSUMER FINANCIAL LAWS.—The  
9 term ‘State consumer financial law’ means a State  
10 law that does not directly or indirectly discriminate  
11 against national banks and that regulates the man-  
12 ner, content, or terms and conditions of any finan-  
13 cial transaction (as may be authorized for national  
14 banks to engage in), or any account related thereto,  
15 with respect to a consumer.

16           “(3) OTHER DEFINITIONS.—The terms ‘affil-  
17 iate’, ‘subsidiary’, ‘includes’, and ‘including’ have the  
18 same meaning as in section 3 of the Federal Deposit  
19 Insurance Act.

20           “(b) PREEMPTION STANDARD.—

21           “(1) IN GENERAL.—National banks shall gen-  
22 erally comply with State laws. State laws are pre-  
23 empted only if—

24           “(A) application of a state law would have  
25 a discriminatory effect on national banks in



1 comparison with the effect of the law on a bank  
2 chartered by that State;

3 “(B) the Comptroller of the Currency de-  
4 termines by regulation or order on a case-by-  
5 case basis that a State law prevents or signifi-  
6 cantly interferes with the ability of an insured  
7 depository institution chartered as national  
8 bank to engage in the business of banking; or

9 “(C) the State law is preempted by Fed-  
10 eral law other than this Act.

11 “(2) SAVINGS CLAUSE.—This Act does not pre-  
12 empt or alter the applicability of any State law to  
13 any national bank subsidiary, affiliate, or other enti-  
14 ty that is not an insured depository institution char-  
15 tered as a national bank.

16 “(3) RULE OF CONSTRUCTION.—This Act does  
17 not occupy the field in any area of State law and a  
18 court shall review any claim that a State law is pre-  
19 empted by this Act as a matter of law and without  
20 deference to any agency claim that a State law is  
21 preempted under this Act.

22 “(4) REVIEW OF PREEMPTION DECISIONS.—A  
23 court shall review any claim that a State law is pre-  
24 empted by this Act as a matter of law and without  
25 deference to any agency claim that a state law is

1 preempted under this Act. Nothing in this sub-  
2 section shall affect the deference that a court affords  
3 to the Comptroller of the Currency regarding the  
4 meaning or interpretation of the National Bank Act  
5 or other Federal laws.

6 “(c) SUBSTANTIAL EVIDENCE.—No regulation of the  
7 Comptroller of the Currency prescribed under subsection  
8 (b)(1)(B), shall be interpreted or applied so as to invali-  
9 date, or otherwise declare inapplicable to a national bank,  
10 the provision of the State consumer financial law unless  
11 substantial evidence, made on the record of the pro-  
12 ceeding, supports the specific finding that the provision  
13 prevents or significantly interferes with the national  
14 bank’s exercise of a power explicitly granted by the Con-  
15 gress.

16 “(d) OTHER FEDERAL LAWS.—Notwithstanding any  
17 other provision of law, the Comptroller of the Currency  
18 may not prescribe regulation pursuant to subsection  
19 (b)(1)(B) until the Comptroller of the Currency, after con-  
20 sultation with the Consumer Financial Protection Agency,  
21 makes a finding, in writing, that a Federal law provides  
22 a substantive standard, applicable to a national bank,  
23 which regulates the particular conduct, activity, or author-  
24 ity that is subject to such provision of the State consumer  
25 financial law.

1           “(e) PERIODIC REVIEW OF PREEMPTION DETER-  
2 MINATIONS.—The Comptroller of the Currency shall peri-  
3 odically conduct a review, through notice and public com-  
4 ment, of each determination that a provision of Federal  
5 law preempts a State consumer financial law. The agency  
6 shall conduct such review within the 5-year period after  
7 prescribing or otherwise issuing such determination, and  
8 at least once during each 5-year period thereafter. After  
9 conducting the review of, and inspecting the comments  
10 made on, the determination, the agency shall timely pro-  
11 pose to continue, amend or rescind it, as may be appro-  
12 priate, in accordance with the procedures set forth in sub-  
13 sections (a) and (b) of section 5244 (12 U.S.C. 43(a)-(b)).

14           “(f) APPLICATION OF STATE CONSUMER FINANCIAL  
15 LAW TO SUBSIDIARIES AND AFFILIATES.—Notwith-  
16 standing any provision of this title, a State consumer fi-  
17 nancial law shall apply to a subsidiary or affiliate of a  
18 national bank to the same extent that the State consumer  
19 financial law applies to any person, corporation, or other  
20 entity subject to such State law.”.

21           (b) CLERICAL AMENDMENT.—The table of sections  
22 for chapter one of title LXII of the Revised Statutes of  
23 the United States is amended by inserting after the item  
24 relating to section 5136B the following new item:

“Sec. 5136C. State law preemption standards for national banks and subsidi-  
aries clarified.”.

1 **SEC. 145. VISITORIAL STANDARDS.**

2 Section 5136C of the Revised Statutes of the United  
3 States (as added by section 144) is amended by adding  
4 at the end the following new subsections:

5 “(h) VISITORIAL POWERS.—

6 “(1) RULE OF CONSTRUCTION.—No provision  
7 of this title which relates to visitorial powers or oth-  
8 erwise limits or restricts the supervisory, examina-  
9 tion, or regulatory authority to which any national  
10 bank is subject shall be construed as limiting or re-  
11 stricting the authority of any attorney general (or  
12 other chief law enforcement officer) of any State to  
13 bring any action in any court of appropriate jurisdic-  
14 tion—

15 “(A) to require a national bank to produce  
16 records relative to the investigation of violations  
17 of State consumer law, or Federal consumer  
18 laws;

19 “(B) to enforce any applicable Federal or  
20 State law, as authorized by such law; or

21 “(C) on behalf of residents of such State,  
22 to enforce any applicable provision of any Fed-  
23 eral or State law against a national bank, as  
24 authorized by such law, or to seek relief and re-  
25 cover damages for such residents from any vio-  
26 lation of any such law by any national bank.

1           “(2) CONSULTATION.—The attorney general (or  
2       other chief law enforcement officer) of any State  
3       shall consult with the head of the agency responsible  
4       for chartering and regulating national banks before  
5       acting under paragraph (1).

6           “(i) ENFORCEMENT ACTIONS.—The ability of the  
7       head of the agency responsible for chartering and regu-  
8       lating national banks to bring an enforcement action  
9       under this title or section 5 of the Federal Trade Commis-  
10      sion Act shall not be construed as precluding private par-  
11      ties from enforcing rights granted under Federal or State  
12      law in the courts.”.

13   **SEC. 146. CLARIFICATION OF LAW APPLICABLE TO NON-**  
14                           **DEPOSITORY INSTITUTION SUBSIDIARIES.**

15           Section 5136C of the Revised Statutes of the United  
16      States is amended by inserting after subsection (i) (as  
17      added by section 145) the following new subsection:

18           “(j) CLARIFICATION OF LAW APPLICABLE TO NON-  
19      DEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILI-  
20      ATES OF NATIONAL BANKS.—

21           “(1) DEFINITIONS.—For purposes of this sec-  
22      tion, the following definitions shall apply:

23                   “(A) DEPOSITORY INSTITUTION, SUB-  
24                   SIDIARY, AFFILIATE.—The terms ‘depository in-  
25                   stitution’, ‘subsidiary’, and ‘affiliate’ have the

1 same meanings as in section 3 of the Federal  
2 Deposit Insurance Act.

3 “(B) NONDEPOSITORY INSTITUTION.—The  
4 term ‘nondepository institution’ means any enti-  
5 ty that is not a depository institution.

6 “(2) IN GENERAL.—No provision of this title  
7 shall be construed as annulling, altering, or affecting  
8 the applicability of State law to any nondepository  
9 institution, subsidiary, other affiliate, or agent of a  
10 national bank.”.

11 **SEC. 147. STATE LAW PREEMPTION STANDARDS FOR FED-**  
12 **ERAL SAVINGS ASSOCIATIONS AND SUBSIDI-**  
13 **ARIES CLARIFIED.**

14 (a) IN GENERAL.—The Home Owners’ Loan Act (12  
15 U.S.C. 1461 et seq.) is amended by inserting after section  
16 5 the following new section:

17 **“SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FED-**  
18 **ERAL SAVINGS ASSOCIATIONS CLARIFIED.**

19 “(a) STATE CONSUMER FINANCIAL LAW DE-  
20 FINED.—For purposes of this section, the term ‘State con-  
21 sumer financial law’ means a State law that does not di-  
22 rectly or indirectly discriminate against Federal savings  
23 associations and that regulates the manner, content, or  
24 terms and conditions of any financial transaction (as may  
25 be authorized for Federal savings associations to engage

1 in), or any account related thereto, with respect to a con-  
2 sumer.

3 “(b) PREEMPTION STANDARD.—

4 “(1) IN GENERAL.—Federal savings associa-  
5 tions shall generally comply with State laws. State  
6 laws are preempted only if—

7 “(A) application of a state law would have  
8 a discriminatory effect on Federal savings asso-  
9 ciations in comparison with the effect of the law  
10 on a bank chartered by that State;

11 “(B) the Director of the Office of Thrift  
12 Supervision determines by regulation or order  
13 on a case-by-case basis that a State law pre-  
14 vents or significantly interferes with the ability  
15 of an insured depository institution chartered as  
16 a Federal savings associations to engage in the  
17 business of banking; or

18 “(C) the State law is preempted by Fed-  
19 eral law other than this Act.

20 “(2) SAVINGS CLAUSE.—This Act does not pre-  
21 empt or alter the applicability of any State law to  
22 any Federal savings associations subsidiary, affiliate,  
23 or other entity that is not an insured depository in-  
24 stitution chartered as a national bank.

1           “(3) RULE OF CONSTRUCTION.—This Act does  
2 not occupy the field in any area of State law and a  
3 court shall review any claim that a State law is pre-  
4 empted by this Act as a matter of law and without  
5 deference to any agency claim that a State law is  
6 preempted under this Act.

7           “(4) REVIEW OF PREEMPTION DECISIONS.—A  
8 court shall review any claim that a State law is pre-  
9 empted by this Act as a matter of law and without  
10 deference to any agency claim that a state law is  
11 preempted under this Act. Nothing in this sub-  
12 section shall affect the deference that a court affords  
13 to the Director of the Office of Thrift Supervision  
14 regarding the meaning or interpretation of the Na-  
15 tional Bank Act or other Federal laws.

16          “(c) OTHER FEDERAL LAW.—Notwithstanding any  
17 other provision of law, the Director of the Office of Thrift  
18 Supervision may not prescribe any regulation pursuant to  
19 subsection (b)(1)(B) until such Director, after consulta-  
20 tion with the Consumer Financial Protection Agency,  
21 makes a finding, in writing, that a Federal law provides  
22 a substantive standard, applicable to a Federal savings as-  
23 sociation, which regulates the particular conduct, activity,  
24 or authority that is subject to such provision of the State  
25 consumer financial law.



1           “(d) SUBSTANTIAL EVIDENCE.—No regulation pre-  
2 scribed by the Director of the Office of Thrift Supervision  
3 issued under subsection (b)(1)(B) shall be interpreted or  
4 applied so as to invalidate, or otherwise declare inappli-  
5 cable to a Federal savings association, the provision of the  
6 State consumer financial law unless substantial evidence,  
7 made on the record of the proceeding, supports the specific  
8 finding that the provision prevents or significantly inter-  
9 feres with the Federal savings association’s exercise of a  
10 power explicitly granted by the Congress.

11           “(e) PERIODIC REVIEW OF PREEMPTION DETER-  
12 MINATIONS.—The Director of the Office of Thrift Super-  
13 vision shall periodically conduct a review, through notice  
14 and public comment, of each determination that a provi-  
15 sion of Federal law preempts a State consumer financial  
16 law. The agency shall conduct such review within the 5-  
17 year period after prescribing or otherwise issuing such de-  
18 termination, and at least once during each 5-year period  
19 thereafter. After conducting the review of, and inspecting  
20 the comments made on, the determination, the agency  
21 shall timely propose to continue, amend or rescind it, as  
22 may be appropriate, in accordance with the procedures set  
23 forth in subsections (a) and (b) of section 5244 of the  
24 Revised Statutes of the United States (12 U.S.C. 43(a)-  
25 (b)).

1       “(f) APPLICATION OF STATE CONSUMER FINANCIAL  
2 LAW TO SUBSIDIARIES AND AFFILIATES.—Notwith-  
3 standing any provision of this Act, a State consumer fi-  
4 nancial law shall apply to a subsidiary or affiliate of a  
5 Federal savings association to the same extent that the  
6 State consumer financial law applies to any person, cor-  
7 poration, or other entity subject to such State law and  
8 consistent with Federal law.”.

9       (b) CLERICAL AMENDMENT.—The table of sections  
10 for the Home Owners’ Loan Act (12 U.S.C. 1461 et seq.)  
11 is amended by striking the item relating to section 6 and  
12 inserting the following new item:

“Sec. 6. State law preemption standards for Federal savings associations and  
subsidiaries clarified.”.

13 **SEC. 148. VISITORIAL STANDARDS.**

14       Section 6 of the Home Owners’ Loan Act (as added  
15 by section 147 of this title) is amended by adding at the  
16 end the following new subsections:

17       “(h) VISITORIAL POWERS.—

18               “(1) IN GENERAL.—No provision of this Act  
19 shall be construed as limiting or restricting the au-  
20 thority of any attorney general (or other chief law  
21 enforcement officer) of any State to bring any action  
22 in any court of appropriate jurisdiction—

23                       “(A) to require a Federal savings associa-  
24 tion to produce records relative to the investiga-

1           tion of violations of State consumer law, or  
2           Federal consumer laws;

3           “(B) to enforce any applicable Federal or  
4           State law, as authorized by such law; or

5           “(C) on behalf of residents of such State,  
6           to enforce any applicable provision of any Fed-  
7           eral or State law against a Federal savings as-  
8           sociation, as authorized by such law, or to seek  
9           relief and recover damages for such residents  
10          from any violation of any such law by any Fed-  
11          eral savings association.

12          “(2) CONSULTATION.—The attorney general (or  
13          other chief law enforcement officer) of any State  
14          shall consult with the Director or any successor  
15          agency before acting under paragraph (1).

16          “(i) ENFORCEMENT ACTIONS.—The ability of the Di-  
17          rector or any successor officer or agency to bring an en-  
18          forcement action under this Act or section 5 of the Federal  
19          Trade Commission Act shall not be construed as pre-  
20          cluding private parties from enforcing rights granted  
21          under Federal or State law in the courts.”.

1 **SEC. 149. CLARIFICATION OF LAW APPLICABLE TO NON-**  
2 **DEPOSITORY INSTITUTION SUBSIDIARIES.**

3 Section 6 of the Home Owners' Loan Act is amended  
4 by adding after subsection (i) (as added by section 148)  
5 the following new subsection:

6 “(j) CLARIFICATION OF LAW APPLICABLE TO NON-  
7 DEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILI-  
8 ATES OF FEDERAL SAVINGS ASSOCIATIONS.—

9 “(1) DEFINITIONS.—For purposes of this sec-  
10 tion, the following definitions shall apply:

11 “(A) DEPOSITORY INSTITUTION, SUB-  
12 SIDIARY, AFFILIATE.—The terms ‘depository in-  
13 stitution’, ‘subsidiary’, and ‘affiliate’ have the  
14 same meanings as in section 3 of the Federal  
15 Deposit Insurance Act.

16 “(B) NONDEPOSITORY INSTITUTION.—The  
17 term ‘nondepository institution’ means any enti-  
18 ty that is not a depository institution.

19 “(2) IN GENERAL.—No provision of this title  
20 shall be construed as preempting the applicability of  
21 State law to any nondepository institution, sub-  
22 sidiary, other affiliate, or agent of a Federal savings  
23 association.”.

24 **SEC. 150. EFFECTIVE DATE.**

25 This subtitle shall take effect on the designated  
26 transfer date.

## 1     **Subtitle E—Enforcement Powers**

### 2     **SEC. 151. DEFINITIONS.**

3           For purposes of this subtitle, the following definitions  
4 shall apply:

5           (1) CIVIL INVESTIGATIVE DEMAND AND DE-  
6 MAND.—The terms “civil investigative demand” and  
7 “demand” mean any demand issued by the Agency.

8           (2) AGENCY INVESTIGATION.—The term  
9 “Agency investigation” means any inquiry conducted  
10 by an Agency investigator for the purpose of  
11 ascertaining whether any person is or has been en-  
12 gaged in any conduct that violates this title, any  
13 enumerated consumer law, or any regulation pre-  
14 scribed or order issued by the Director under this  
15 title or under the authorities transferred under sub-  
16 titles F and H.

17           (3) AGENCY INVESTIGATOR.—The term “Agen-  
18 cy investigator” means any attorney or investigator  
19 employed by the Agency who is charged with the  
20 duty of enforcing or carrying into effect any provi-  
21 sions of this title, any enumerated consumer law, the  
22 authorities transferred under subtitles F and H, or  
23 any regulation prescribed or order issued under this  
24 title or pursuant to any such authority by the Direc-  
25 tor.

1           (4) CUSTODIAN.—The term “custodian” means  
2           the custodian or any deputy custodian designated by  
3           the Agency.

4           (5) DOCUMENTARY MATERIAL.—The term  
5           “documentary material” includes the original or any  
6           copy of any book, document, record, report, memo-  
7           randum, paper, communication, tabulation, chart,  
8           log, electronic file, or other data or data compila-  
9           tions stored in any medium.

10          (6) VIOLATION.—The term “violation” means  
11          any act or omission that, if proved, would constitute  
12          a violation of any provision of this title, any enumer-  
13          ated consumer law, any law for which authorities  
14          were transferred under subtitles F and H, or of any  
15          regulation prescribed or order issued by the Director  
16          under this title or pursuant to any such authority.

17 **SEC. 152. INVESTIGATIONS AND ADMINISTRATIVE DIS-**  
18 **COVERY.**

19          (a) JOINT INVESTIGATIONS.—

20               (1) IN GENERAL.—The Agency or, where ap-  
21               propriate, an Agency representative may engage in  
22               joint investigations and requests for information.

23               (2) FAIR LENDING.—The authority under para-  
24               graph (1) includes matters relating to fair lending,  
25               and where appropriate, joint investigations and re-

1       quests for information with the Secretary of Hous-  
2       ing and Urban Development, the Attorney General,  
3       or both.”

4       (b) SUBPOENAS.—

5           (1) IN GENERAL.—The Agency or an Agency  
6       investigator may issue subpoenas for the attendance  
7       and testimony of witnesses and the production of  
8       relevant papers, books, documents, or other material  
9       in connection with hearings under this title.

10          (2) FAILURE TO OBEY.—In case of contumacy  
11       or refusal to obey a subpoena issued pursuant to  
12       this paragraph and served upon any person, the dis-  
13       trict court of the United States for any district in  
14       which such person is found, resides, or transacts  
15       business, upon application by the Agency or an  
16       Agency investigator and after notice to such person,  
17       shall have jurisdiction to issue an order requiring  
18       such person to appear and give testimony or to ap-  
19       pear and produce documents or other material, or  
20       both.

21          (3) CONTEMPT.—Any failure to obey an order  
22       of the court under this subsection may be punished  
23       by the court as a contempt thereof.

24       (c) DEMANDS.—

1           (1) IN GENERAL.—Whenever the Agency has  
2           reason to believe that any person may be in posses-  
3           sion, custody, or control of any documentary mate-  
4           rial or tangible things, or may have any information,  
5           relevant to a violation, the Agency may, before the  
6           institution of any proceedings under this title or  
7           under any enumerated consumer law or pursuant to  
8           the authorities transferred under subtitles F and H,  
9           issue in writing, and cause to be served upon such  
10          person, a civil investigative demand requiring such  
11          person to—

12                   (A) produce such documentary material for  
13                   inspection and copying or reproduction in the  
14                   form or medium requested by the Agency;

15                   (B) submit such tangible things;

16                   (C) file written reports or answers to ques-  
17                   tions;

18                   (D) give oral testimony concerning docu-  
19                   mentary material or other information; or

20                   (E) furnish any combination of such mate-  
21                   rial, answers, or testimony.

22          (2) REQUIREMENTS.—Each civil investigative  
23          demand shall state the nature of the conduct consti-  
24          tuting the alleged violation which is under investiga-



1           tion and the provision of law applicable to such vio-  
2           lation.

3           (3) PRODUCTION OF DOCUMENTS.—Each civil  
4           investigative demand for the production of documen-  
5           tary material shall—

6                   (A) describe each class of documentary  
7                   material to be produced under the demand with  
8                   such definiteness and certainty as to permit  
9                   such material to be fairly identified;

10                   (B) prescribe a return date or dates which  
11                   will provide a reasonable period of time within  
12                   which the material so demanded may be assem-  
13                   bled and made available for inspection and  
14                   copying or reproduction; and

15                   (C) identify the custodian to whom such  
16                   material shall be made available.

17           (4) PRODUCTION OF THINGS.—Each civil inves-  
18           tigative demand for the submission of tangible  
19           things shall—

20                   (A) describe each class of tangible things  
21                   to be submitted under the demand with such  
22                   definiteness and certainty as to permit such  
23                   things to be fairly identified;

24                   (B) prescribe a return date or dates which  
25                   will provide a reasonable period of time within

1           which the things so demanded may be assem-  
2           bled and submitted; and

3                   (C) identify the custodian to whom such  
4           things shall be submitted.

5           (5) DEMAND FOR WRITTEN REPORTS OR AN-  
6           SWERS.—Each civil investigative demand for written  
7           reports or answers to questions shall—

8                   (A) propound with definiteness and cer-  
9           tainty the reports to be produced or the ques-  
10          tions to be answered;

11                   (B) prescribe a date or dates at which time  
12          written reports or answers to questions shall be  
13          submitted; and

14                   (C) identify the custodian to whom such  
15          reports or answers shall be submitted.

16           (6) ORAL TESTIMONY.—Each civil investigative  
17          demand for the giving of oral testimony shall—

18                   (A) prescribe a date, time, and place at  
19          which oral testimony shall be commenced; and

20                   (B) identify a Agency investigator who  
21          shall conduct the investigation and the custo-  
22          dian to whom the transcript of such investiga-  
23          tion shall be submitted.

24           (7) SERVICE.—

1           (A) Any civil investigative demand may be  
2 served by any Agency investigator at any place  
3 within the territorial jurisdiction of any court of  
4 the United States.

5           (B) Any such demand or any enforcement  
6 petition filed under this section may be served  
7 upon any person who is not found within the  
8 territorial jurisdiction of any court of the  
9 United States, in such manner as the Federal  
10 Rules of Civil Procedure prescribe for service in  
11 a foreign nation.

12           (C) To the extent that the courts of the  
13 United States have authority to assert jurisdic-  
14 tion over such person consistent with due proc-  
15 ess, the United States District Court for the  
16 District of Columbia shall have the same juris-  
17 diction to take any action respecting compliance  
18 with this section by such person that such dis-  
19 trict court would have if such person were per-  
20 sonally within the jurisdiction of such district  
21 court.

22           (8) METHOD OF SERVICE.—Service of any civil  
23 investigative demand or any enforcement petition  
24 filed under this section may be made upon a person,  
25 including any legal entity, by—

1 (A) delivering a duly executed copy of such  
2 demand or petition to the individual or to any  
3 partner, executive officer, managing agent, or  
4 general agent of such person, or to any agent  
5 of such person authorized by appointment or by  
6 law to receive service of process on behalf of  
7 such person;

8 (B) delivering a duly executed copy of such  
9 demand or petition to the principal office or  
10 place of business of the person to be served; or

11 (C) depositing a duly executed copy in the  
12 United States mails, by registered or certified  
13 mail, return receipt requested, duly addressed  
14 to such person at its principal office or place of  
15 business.

16 (9) PROOF OF SERVICE.—

17 (A) A verified return by the individual  
18 serving any civil investigative demand or any  
19 enforcement petition filed under this section  
20 setting forth the manner of such service shall  
21 be proof of such service.

22 (B) In the case of service by registered or  
23 certified mail, such return shall be accompanied  
24 by the return post office receipt of delivery of  
25 such demand or enforcement petition.

1           (10) PRODUCTION OF DOCUMENTARY MATE-  
2           RIAL.—The production of documentary material in  
3           response to a civil investigative demand shall be  
4           made under a sworn certificate, in such form as the  
5           demand designates, by the person, if a natural per-  
6           son, to whom the demand is directed or, if not a  
7           natural person, by any person having knowledge of  
8           the facts and circumstances relating to such produc-  
9           tion, to the effect that all of the documentary mate-  
10          rial required by the demand and in the possession,  
11          custody, or control of the person to whom the de-  
12          mand is directed has been produced and made avail-  
13          able to the custodian.

14          (11) SUBMISSION OF TANGIBLE THINGS.—The  
15          submission of tangible things in response to a civil  
16          investigative demand shall be made under a sworn  
17          certificate, in such form as the demand designates,  
18          by the person to whom the demand is directed or,  
19          if not a natural person, by any person having knowl-  
20          edge of the facts and circumstances relating to such  
21          production, to the effect that all of the tangible  
22          things required by the demand and in the posses-  
23          sion, custody, or control of the person to whom the  
24          demand is directed have been submitted to the cus-  
25          todian.

1           (12) SEPARATE ANSWERS.—Each reporting re-  
2           quirement or question in a civil investigative demand  
3           shall be answered separately and fully in writing  
4           under oath, unless it is objected to, in which event  
5           the reasons for the objection shall be stated in lieu  
6           of an answer, and it shall be submitted under a  
7           sworn certificate, in such form as the demand des-  
8           ignates, by the person, if a natural person, to whom  
9           the demand is directed or, if not a natural person,  
10          by any person responsible for answering each report-  
11          ing requirement or question, to the effect that all in-  
12          formation required by the demand and in the posses-  
13          sion, custody, control, or knowledge of the person to  
14          whom the demand is directed has been submitted.

15           (13) TESTIMONY.—

16           (A) PROCEDURE.—

17           (i) OATH AND RECORDATION.—Any  
18           Agency investigator before whom oral testi-  
19           mony is to be taken shall put the witness  
20           on oath or affirmation and shall person-  
21           ally, or by any individual acting under the  
22           direction of and in the presence of the in-  
23           vestigator, record the testimony of the wit-  
24           ness.

1 (ii) TRANSCRIPTIONS.—The testimony  
2 shall be taken stenographically and tran-  
3 scribed.

4 (iii) COPY TO CUSTODIAN.—After the  
5 testimony is fully transcribed, the Agency  
6 investigator before whom the testimony is  
7 taken shall promptly transmit a copy of  
8 the transcript of the testimony to the cus-  
9 todian.

10 (B) PARTIES PRESENT.—Any Agency in-  
11 vestigator before whom oral testimony is to be  
12 taken shall exclude from the place where the  
13 testimony is to be taken all other persons ex-  
14 cept the person giving the testimony, the attor-  
15 ney for such person, the officer before whom  
16 the testimony is to be taken, an investigator or  
17 representative of an agency with which the  
18 Agency is engaged in a joint investigation, and  
19 any stenographer taking such testimony.

20 (C) LOCATION.—The oral testimony of any  
21 person taken pursuant to a civil investigative  
22 demand shall be taken in the judicial district of  
23 the United States in which such person resides,  
24 is found, or transacts business, or in such other  
25 place as may be agreed upon by the Agency in-

1           investigator before whom the oral testimony of  
2           such person is to be taken and such person.

3           (D) ATTORNEY REPRESENTATION.—

4           (i) IN GENERAL.—Any person com-  
5           pelled to appear under a civil investigative  
6           demand for oral testimony pursuant to this  
7           section may be accompanied, represented,  
8           and advised by an attorney.

9           (ii) CONFIDENTIAL ADVICE.—The at-  
10          torney may advise the person summoned,  
11          in confidence, either upon the request of  
12          such person or upon the initiative of the  
13          attorney, with respect to any question  
14          asked of such person.

15          (iii) OBJECTIONS.—The person sum-  
16          moned or the attorney may object on the  
17          record to any question, in whole or in part,  
18          and shall briefly state for the record the  
19          reason for the objection.

20          (iv) REFUSAL TO ANSWER.—An objec-  
21          tion may properly be made, received, and  
22          entered upon the record when it is claimed  
23          that the person summoned is entitled to  
24          refuse to answer the question on grounds  
25          of any constitutional or other legal right or



1 privilege, including the privilege against  
2 self-incrimination, but such person shall  
3 not otherwise object to or refuse to answer  
4 any question, and shall not otherwise inter-  
5 rupt the oral examination, directly or  
6 through such person's attorney.

7 (v) PETITION FOR ORDER.—If such  
8 person refuses to answer any question, the  
9 Agency may petition the district court of  
10 the United States pursuant to this section  
11 for an order compelling such person to an-  
12 swer such question.

13 (vi) BASIS FOR COMPELLING TESTI-  
14 MONY.—If such person refuses to answer  
15 any question on grounds of the privilege  
16 against self-incrimination, the testimony of  
17 such person may be compelled in accord-  
18 ance with the provisions of section 6004 of  
19 title 18, United States Code.

20 (E) TRANSCRIPTS.—

21 (i) RIGHT TO EXAMINE.—After the  
22 testimony of any witness is fully tran-  
23 scribed, the Agency investigator shall af-  
24 ford the witness (who may be accompanied

1 by an attorney) a reasonable opportunity  
2 to examine the transcript.

3 (ii) READING THE TRANSCRIPT.—The  
4 transcript shall be read to or by the wit-  
5 ness, unless such examination and reading  
6 are waived by the witness.

7 (iii) REQUEST FOR CHANGES.—Any  
8 changes in form or substance which the  
9 witness desires to make shall be entered  
10 and identified upon the transcript by the  
11 Agency investigator with a statement of  
12 the reasons given by the witness for mak-  
13 ing such changes.

14 (iv) SIGNATURE.—The transcript  
15 shall be signed by the witness, unless the  
16 witness in writing waives the signing, is ill,  
17 cannot be found, or refuses to sign.

18 (v) AGENCY ACTION IN LIEU OF SIG-  
19 NATURE.—If the transcript is not signed  
20 by the witness during the 30-day period  
21 following the date upon which the witness  
22 is first afforded a reasonable opportunity  
23 to examine it, the Agency investigator shall  
24 sign the transcript and state on the record  
25 the fact of the waiver, illness, absence of

1           the witness, or the refusal to sign, together  
2           with any reasons given for the failure to  
3           sign.

4           (F) CERTIFICATION BY INVESTIGATOR.—

5           The Agency investigator shall certify on the  
6           transcript that the witness was duly sworn by  
7           the investigator and that the transcript is a  
8           true record of the testimony given by the wit-  
9           ness, and the Agency investigator shall prompt-  
10          ly deliver the transcript or send it by registered  
11          or certified mail to the custodian.

12          (G) COPY OF TRANSCRIPT.—The Agency

13          investigator shall furnish a copy of the tran-  
14          script (upon payment of reasonable charges for  
15          the transcript) to the witness only, except that  
16          the Agency may for good cause limit such wit-  
17          ness to inspection of the official transcript of  
18          the testimony of such witness.

19          (H) WITNESS FEES.—Any witness appear-

20          ing for the taking of oral testimony pursuant to  
21          a civil investigative demand shall be entitled to  
22          the same fees and mileage which are paid to  
23          witnesses in the district courts of the United  
24          States.

1 (d) CONFIDENTIAL TREATMENT OF DEMAND MATE-  
2 RIAL.—

3 (1) IN GENERAL.—Materials received as a re-  
4 sult of a civil investigative demand shall be subject  
5 to requirements and procedures regarding confiden-  
6 tiality, in accordance with regulations established by  
7 the Director.

8 (2) DISCLOSURE TO CONGRESS.—No regulation  
9 established by the Director regarding the confiden-  
10 tiality of materials submitted to, or otherwise ob-  
11 tained by, the Agency shall be intended to prevent  
12 disclosure to either House of the Congress or to an  
13 appropriate committee of the Congress, except that  
14 the Director may prescribe regulations allowing prior  
15 notice to any party that owns or otherwise provided  
16 the material to the Agency and has designated such  
17 material as confidential.

18 (e) PETITION FOR ENFORCEMENT.—

19 (1) IN GENERAL.—Whenever any person fails  
20 to comply with any civil investigative demand duly  
21 served upon such person under this section, or when-  
22 ever satisfactory copying or reproduction of material  
23 requested pursuant to the demand cannot be accom-  
24 plished and such person refuses to surrender such  
25 material, the Agency, through such officers or attor-

1 neys as the Director may designate, may file, in the  
2 district court of the United States for any judicial  
3 district in which such person resides, is found, or  
4 transacts business, and serve upon such person, a  
5 petition for an order of such court for the enforce-  
6 ment of this section.

7 (2) SERVICE OF PROCESS.—All process of any  
8 court to which application may be made as provided  
9 in this subsection may be served in any judicial dis-  
10 trict.

11 (f) PETITION FOR ORDER MODIFYING OR SETTING  
12 ASIDE DEMAND.—

13 (1) IN GENERAL.—Not later than 20 days after  
14 the service of any civil investigative demand upon  
15 any person under subsection (b), or at any time be-  
16 fore the return date specified in the demand, which-  
17 ever period is shorter, or within such period exceed-  
18 ing 20 days after service or in excess of such return  
19 date as may be prescribed in writing, subsequent to  
20 service, by any Agency investigator named in the de-  
21 mand, such person may file with the Agency a peti-  
22 tion for an order by the Agency modifying or setting  
23 aside the demand.

24 (2) COMPLIANCE DURING PENDENCY.—The  
25 time permitted for compliance with the demand in

1 whole or in part, as deemed proper and ordered by  
2 the Agency, shall not run during the pendency of  
3 such petition at the Agency, except that such person  
4 shall comply with any portions of the demand not  
5 sought to be modified or set aside.

6 (3) SPECIFIC GROUNDS.—Such petition shall  
7 specify each ground upon which the petitioner relies  
8 in seeking such relief, and may be based upon any  
9 failure of the demand to comply with the provisions  
10 of this section, or upon any constitutional or other  
11 legal right or privilege of such person.

12 (g) CUSTODIAL CONTROL.—At any time during  
13 which any custodian is in custody or control of any docu-  
14 mentary material, tangible things, reports, answers to  
15 questions, or transcripts of oral testimony given by any  
16 person in compliance with any civil investigative demand,  
17 such person may file, in the district court of the United  
18 States for the judicial district within which the office of  
19 such custodian is situated, and serve upon such custodian,  
20 a petition for an order of such court requiring the per-  
21 formance by such custodian of any duty imposed upon  
22 such custodian by this section or regulation prescribed by  
23 the Director.

24 (h) JURISDICTION OF COURT.—

1           (1) IN GENERAL.—Whenever any petition is  
2 filed in any district court of the United States under  
3 this section, such court shall have jurisdiction to  
4 hear and determine the matter so presented, and to  
5 enter such order or orders as may be required to  
6 carry into effect the provisions of this section.

7           (2) APPEAL.—Any final order so entered shall  
8 be subject to appeal pursuant to section 1291 of title  
9 28, United States Code.

10 **SEC. 153. HEARINGS AND ADJUDICATION PROCEEDINGS.**

11       (a) IN GENERAL.—The Agency may conduct hear-  
12 ings and adjudication proceedings with respect to any per-  
13 son in the manner prescribed by chapter 5 of title 5,  
14 United States Code in order to ensure or enforce compli-  
15 ance with—

16           (1) the provisions of this title, including any  
17 regulations prescribed by the Director under this  
18 title; and

19           (2) any other Federal law that the Agency is  
20 authorized to enforce, including an enumerated con-  
21 sumer law, and any regulations or order prescribed  
22 thereunder, unless such Federal law specifically lim-  
23 its the Agency from conducting a hearing or adju-  
24 dication proceeding and only to the extent of such  
25 limitation.

1 (b) SPECIAL RULES FOR CEASE-AND-DESIST PRO-  
2 CEEDINGS.—

3 (1) ISSUANCE.—

4 (A) NOTICE OF CHARGES.—If, in the opin-  
5 ion of the Agency, any covered person or service  
6 provider is engaging or has engaged in an activ-  
7 ity that violates a law, regulation, or any condi-  
8 tion imposed in writing on the person by the  
9 Agency, the Agency may issue and serve upon  
10 the person a notice of charges with respect to  
11 such violation.

12 (B) CONTENTS OF NOTICE.—The notice  
13 shall contain a statement of the facts consti-  
14 tuting any alleged violation and shall fix a time  
15 and place at which a hearing will be held to de-  
16 termine whether an order to cease-and-desist  
17 there from should issue against the person.

18 (C) TIME OF HEARING.—A hearing under  
19 this subsection shall be fixed for a date not ear-  
20 lier than 30 days nor later than 60 days after  
21 service of such notice unless an earlier or a  
22 later date is set by the Agency at the request  
23 of any party so served.

24 (D) NONAPPEARANCE DEEMED TO BE  
25 CONSENT TO ORDER.—Unless the party or par-



1           ties so served shall appear at the hearing per-  
2           sonally or by a duly authorized representative,  
3           they shall be deemed to have consented to the  
4           issuance of the cease-and-desist order.

5           (E) ISSUANCE OF ORDER.—In the event of  
6           such consent, or if upon the record made at any  
7           such hearing, the Agency shall find that any  
8           violation specified in the notice of charges has  
9           been established, the Agency may issue and  
10          serve upon the person an order to cease-and-de-  
11          sist from any such violation or practice.

12          (F) INCLUDES REQUIREMENT FOR COR-  
13          RECTIVE ACTION.—Such order may, by provi-  
14          sions which may be mandatory or otherwise, re-  
15          quire the person to cease-and-desist from the  
16          same, and, further, to take affirmative action to  
17          correct the conditions resulting from any such  
18          violation.

19          (2) EFFECTIVENESS OF ORDER.—A cease-and-  
20          desist order shall take effect at the end of the 30-  
21          day period beginning on the date of the service of  
22          such order upon the covered person or service pro-  
23          vider concerned (except in the case of a cease-and-  
24          desist order issued upon consent, which shall take  
25          effect at the time specified therein), and shall re-

1 main effective and enforceable as provided therein,  
2 except to such extent as it is stayed, modified, termi-  
3 nated, or set aside by action of the Agency or a re-  
4 viewing court.

5 (3) DECISION AND APPEAL.—

6 (A) PLACE OF AND PROCEDURES FOR  
7 HEARING.—Any hearing provided for in this  
8 subsection shall be held in the Federal judicial  
9 district or in the territory in which the resi-  
10 dence or home office of the person is located  
11 unless the person consents to another place,  
12 and shall be conducted in accordance with the  
13 provisions of chapter 5 of title 5 of the United  
14 States Code.

15 (B) TIME LIMIT FOR DECISION.—After  
16 such hearing, and within 90 days after the  
17 Agency has notified the parties that the case  
18 has been submitted to it for final decision, the  
19 Agency shall—

20 (i) render its decision (which shall in-  
21 clude findings of fact upon which its deci-  
22 sion is predicated) and shall issue; and

23 (ii) serve upon each party to the pro-  
24 ceeding an order or orders consistent with  
25 the provisions of this section. Judicial re-

1 view of any such order shall be exclusively  
2 as provided in this subsection.

3 (C) MODIFICATION OF ORDER GEN-  
4 ERALLY.—Unless a petition for review is timely  
5 filed in a court of appeals of the United States,  
6 as hereinafter provided in paragraph (4), and  
7 thereafter until the record in the proceeding has  
8 been filed as so provided, the Agency may at  
9 any time, upon such notice and in such manner  
10 as it shall deem proper, modify, terminate, or  
11 set aside any such order.

12 (D) MODIFICATION OF ORDER AFTER FIL-  
13 ING RECORD ON APPEAL.—Upon such filing of  
14 the record, the Agency may modify, terminate,  
15 or set aside any such order with permission of  
16 the court.

17 (4) APPEAL TO COURT OF APPEALS.—

18 (A) IN GENERAL.—Any party to any pro-  
19 ceeding under this subsection may obtain a re-  
20 view of any order served pursuant to this sub-  
21 section (other than an order issued with the  
22 consent of the person concerned) by the filing  
23 in the court of appeals of the United States for  
24 the circuit in which the principal office of the  
25 covered person is located, or in the United

1 States Court of Appeals for the District of Co-  
2 lumbia Circuit, within 30 days after the date of  
3 service of such order, a written petition praying  
4 that the order of the Agency be modified, termi-  
5 nated, or set aside.

6 (B) TRANSMITTAL OF COPY TO THE AGEN-  
7 CY.—A copy of such petition shall be forthwith  
8 transmitted by the clerk of the court to the  
9 Agency, and thereupon the Agency shall file in  
10 the court the record in the proceeding, as pro-  
11 vided in section 2112 of title 28 of the United  
12 States Code.

13 (C) JURISDICTION OF COURT.—Upon the  
14 filing of a petition under subparagraph (A),  
15 such court shall have jurisdiction, which upon  
16 the filing of the record shall except as provided  
17 in the last sentence of paragraph (3) be exclu-  
18 sive, to affirm, modify, terminate, or set aside,  
19 in whole or in part, the order of the Agency.

20 (D) SCOPE OF REVIEW.—Review of such  
21 proceedings shall be had as provided in chapter  
22 7 of title 5 of the United States Code.

23 (E) FINALITY.—The judgment and decree  
24 of the court shall be final, except that the same  
25 shall be subject to review by the Supreme Court

1           upon certiorari, as provided in section 1254 of  
2           title 28 of the United States Code.

3           (5) NO STAY.—The commencement of pro-  
4           ceedings for judicial review under paragraph (4)  
5           shall not, unless specifically ordered by the court,  
6           operate as a stay of any order issued by the Agency.

7           (c) SPECIAL RULES FOR TEMPORARY CEASE-AND-  
8           DESIST PROCEEDINGS.—

9           (1) ISSUANCE.—

10           (A) IN GENERAL.—Whenever the Agency  
11           determines that the violation specified in the  
12           notice of charges served upon a person, includ-  
13           ing a service provider, pursuant to subsection  
14           (b), or the continuation of such violation, is  
15           likely to cause the person to be insolvent or oth-  
16           erwise prejudice the interests of consumers be-  
17           fore the completion of the proceedings con-  
18           ducted pursuant to subsection (b), the Agency  
19           may issue a temporary order requiring the per-  
20           son to cease-and-desist from any such violation  
21           or practice and to take affirmative action to  
22           prevent or remedy such insolvency or other con-  
23           dition pending completion of such proceedings.

24           (B) OTHER REQUIREMENTS.—Any tem-  
25           porary order issued under this paragraph may

1 include any requirement authorized under this  
2 subtitle.

3 (C) EFFECT DATE OF ORDER.—Any tem-  
4 porary order issued under this paragraph shall  
5 take effect upon service upon the person and,  
6 unless set aside, limited, or suspended by a  
7 court in proceedings authorized by paragraph  
8 (2) of this subsection, shall remain effective and  
9 enforceable pending the completion of the ad-  
10 ministrative proceedings pursuant to such no-  
11 tice and until such time as the Agency shall dis-  
12 miss the charges specified in such notice, or if  
13 a cease-and-desist order is issued against the  
14 person, until the effective date of such order.

15 (2) APPEAL.—Within 10 days after the person  
16 concerned has been served with a temporary cease-  
17 and-desist order, the person may apply to the United  
18 States district court for the judicial district in which  
19 the home office of the person is located, or the  
20 United States District Court for the District of Co-  
21 lumbia, for an injunction setting aside, limiting, or  
22 suspending the enforcement, operation, or effective-  
23 ness of such order pending the completion of the ad-  
24 ministrative proceedings pursuant to the notice of  
25 charges served upon the person under subsection

1 (b), and such court shall have jurisdiction to issue  
2 such injunction.

3 (3) INCOMPLETE OR INACCURATE RECORDS.—

4 (A) TEMPORARY ORDER.—If a notice of  
5 charges served under subsection (b) specifies,  
6 on the basis of particular facts and cir-  
7 cumstances, that a person's books and records  
8 are so incomplete or inaccurate that the Agency  
9 is unable to determine the financial condition of  
10 that person or the details or purpose of any  
11 transaction or transactions that may have a  
12 material effect on the financial condition of that  
13 person, the Agency may issue a temporary  
14 order requiring—

15 (i) the cessation of any activity or  
16 practice which gave rise, whether in whole  
17 or in part, to the incomplete or inaccurate  
18 state of the books or records; or

19 (ii) affirmative action to restore such  
20 books or records to a complete and accu-  
21 rate state, until the completion of the pro-  
22 ceedings under subsection (b)(1).

23 (B) EFFECTIVE PERIOD.—Any temporary  
24 order issued under subparagraph (A)—

25 (i) shall take effect upon service; and

1 (ii) unless set aside, limited, or sus-  
2 pended by a court in proceedings under  
3 paragraph (2), shall remain in effect and  
4 enforceable until the earlier of—

5 (I) the completion of the pro-  
6 ceeding initiated under subsection (b)  
7 in connection with the notice of  
8 charges; or

9 (II) the date the Agency deter-  
10 mines, by examination or otherwise,  
11 that the person's books and records  
12 are accurate and reflect the financial  
13 condition of the person.

14 (d) SPECIAL RULES FOR ENFORCEMENT OF OR-  
15 DERS.—

16 (1) IN GENERAL.—The Agency may in its dis-  
17 cretion apply to the United States district court  
18 within the jurisdiction of which the principal office  
19 of the person is located, for the enforcement of any  
20 effective and outstanding notice or order issued  
21 under this section, and such court shall have juris-  
22 diction and power to order and require compliance  
23 herewith.

24 (2) EXCEPTION.—Except as otherwise provided  
25 in this subsection, no court shall have jurisdiction to



1       affect by injunction or otherwise the issuance or en-  
2       forcement of any notice or order or to review, mod-  
3       ify, suspend, terminate, or set aside any such notice  
4       or order.

5       (e) REGULATIONS.—The Director shall prescribe reg-  
6       ulations establishing such procedures as may be necessary  
7       to carry out this section.

8       **SEC. 154. LITIGATION AUTHORITY.**

9       (a) IN GENERAL.—If any person violates a provision  
10      of this title, any enumerated consumer law, any law for  
11      which authorities were transferred under subtitles F and  
12      H, or any regulation prescribed or order issued by the Di-  
13      rector under this title or pursuant to any such authority,  
14      the Agency may commence a civil action against such per-  
15      son to impose a civil penalty and to seek all appropriate  
16      legal and equitable relief including a permanent or tem-  
17      porary injunction as permitted by law.

18      (b) REPRESENTATION.—The Agency may act in its  
19      own name and through its own attorneys in enforcing any  
20      provision of this title, regulations under this title, or any  
21      other law or regulation, or in any action, suit, or pro-  
22      ceeding to which the Agency is a party.

23      (c) COMPROMISE OF ACTIONS.—The Agency may  
24      compromise or settle any action if such compromise is ap-  
25      proved by the court.

1 (d) NOTICE TO THE ATTORNEY GENERAL.—When  
2 commencing a civil action under this title, any enumerated  
3 consumer law, any law for which authorities were trans-  
4 ferred under subtitles F and H, or any regulation there-  
5 under, the Agency shall notify the Attorney General.

6 (e) APPEARANCE BEFORE THE SUPREME COURT.—  
7 The Agency may represent itself in its own name before  
8 the Supreme Court of the United States, if—

9 (1) the Agency makes a written request to the  
10 Attorney General within the 10-day period which be-  
11 gins on the date of entry of the judgment which  
12 would permit any party to file a petition for writ of  
13 certiorari; and

14 (2) the Attorney General concurs with such re-  
15 quest or fails to take action within 60 days of the  
16 Agency's request.

17 (f) FORUM.—Any civil action brought under this title  
18 may be brought in a United States district court or in  
19 any court of competent jurisdiction of a state in a district  
20 in which the defendant is located or resides or is doing  
21 business, and such court shall have jurisdiction to enjoin  
22 such person and to require compliance with this title, any  
23 enumerated consumer law, any law for which authorities  
24 were transferred under subtitles F and H, or any regula-

1 tion prescribed or order issued by the Director under this  
2 title or pursuant to any such authority.

3 (g) TIME FOR BRINGING ACTION.—

4 (1) IN GENERAL.—Except as otherwise per-  
5 mitted by law or equity, no action may be brought  
6 under this title more than 3 years after the date of  
7 the discovery of the violation to which an action re-  
8 lates.

9 (2) LIMITATIONS UNDER OTHER FEDERAL  
10 LAWS.—

11 (A) For purposes of this section, an action  
12 arising under this title shall not include claims  
13 arising solely under enumerated consumer laws.

14 (B) In any action arising solely under an  
15 enumerated consumer law, the Agency may  
16 commence, defend, or intervene in the action in  
17 accordance with the requirements of that law,  
18 as applicable.

19 (C) In any action arising solely under the  
20 laws for which authorities were transferred by  
21 subtitles F and H, the Agency may commence,  
22 defend, or intervene in the action in accordance  
23 with the requirements of that law, as applicable.

1 **SEC. 155. RELIEF AVAILABLE.**

2 (a) ADMINISTRATIVE PROCEEDINGS OR COURT AC-  
3 TIONS.—

4 (1) JURISDICTION.—The court (or Agency, as  
5 the case may be) in an action or adjudication pro-  
6 ceeding brought under this title, any enumerated  
7 consumer law, or any law for which authorities were  
8 transferred by subtitles F and H, shall have jurisdic-  
9 tion to grant any appropriate legal or equitable relief  
10 with respect to a violation of this title, any enumer-  
11 ated consumer law, and any law for which authori-  
12 ties were transferred by subtitles F and H, including  
13 a violation of a regulation prescribed or order issued  
14 under this title, any enumerated consumer law and  
15 any law for which authorities were transferred by  
16 subtitles F and H.

17 (2) RELIEF.—Such relief may include—

18 (A) rescission or reformation of contracts;

19 (B) refund of moneys or return of real  
20 property;

21 (C) restitution;

22 (D) disgorgement or compensation for un-  
23 just enrichment;

24 (E) payment of damages;

25 (F) public notification regarding the viola-  
26 tion, including the costs of notification;

1 (G) limits on the activities or functions of  
2 the person; and

3 (H) civil money penalties under subsection  
4 (c).

5 (3) NO EXEMPLARY OR PUNITIVE DAMAGES.—  
6 Nothing in this subsection shall be construed as au-  
7 thorizing the imposition of exemplary or punitive  
8 damages.

9 (b) RECOVERY OF COSTS.—In any action brought by  
10 the Agency, a State attorney general, or a State bank su-  
11 pervisor to enforce any provision of this title, any enumer-  
12 ated consumer law, any law for which authorities were  
13 transferred by subtitles F and H, or any regulation pre-  
14 scribed or order issued by the Director under this title  
15 or pursuant to any such authority, the Agency, State at-  
16 torney general, or State bank supervisor may recover the  
17 costs incurred by such Agency, attorney general, or super-  
18 visor in connection with prosecuting such action if the  
19 Agency, State attorney general, or State bank supervisors  
20 (as the case may be) is the prevailing party in the action.

21 (c) CIVIL MONEY PENALTY IN COURT AND ADMINIS-  
22 TRATIVE ACTIONS.—

23 (1) Any person that violates, through any act or  
24 omission, any provision of this title, any enumerated  
25 consumer law, or any regulation prescribed or order

1 issued by the Director under this title shall forfeit  
2 and pay a civil penalty pursuant to this subsection  
3 determined as follows:

4 (A) FIRST TIER.—For any violation of any  
5 law, regulation, final order or condition imposed  
6 in writing by the Agency, or for any failure to  
7 pay any fee or assessment imposed by the  
8 Agency (including any fee or assessment for  
9 which a related person may be liable), a civil  
10 penalty shall not exceed \$5,000 for each day  
11 during which such violation continues.

12 (B) SECOND TIER.—Notwithstanding sub-  
13 paragraph (A), for any violation of a regulation  
14 prescribed under section 136 or for any person  
15 that recklessly engages in a violation of this  
16 title, any enumerated consumer law, or any reg-  
17 ulation prescribed or order issued by the Direc-  
18 tor under this title, relating to the provision of  
19 an alternative consumer financial product or  
20 service, a civil penalty shall not exceed \$25,000  
21 for each day during which such violation con-  
22 tinues.

23 (C) THIRD TIER.—Notwithstanding sub-  
24 paragraphs (A) and (B), for any person that  
25 knowingly violates this title, any enumerated

1 consumer law, or any regulation prescribed or  
2 order issued by the Director under this title, a  
3 civil penalty shall not exceed \$1,000,000 for  
4 each day during which such violation continues.

5 (2) MITIGATING FACTORS.—In determining the  
6 amount of any penalty assessed under paragraph  
7 (1), the Agency or the court shall take into account  
8 the appropriateness of the penalty with respect to—

9 (A) the size of financial resources and good  
10 faith of the person charged;

11 (B) the gravity of the violation or failure  
12 to pay;

13 (C) the severity of the risks to or losses of  
14 the consumer, which may take into account the  
15 number of products or services sold or provided;

16 (D) the history of previous violations; and

17 (E) such other matters as justice may re-  
18 quire.

19 (3) AUTHORITY TO MODIFY OR REMIT PEN-  
20 ALTY.—The Agency may compromise, modify, or  
21 remit any penalty which may be assessed or had al-  
22 ready been assessed under paragraph (1). The  
23 amount of such penalty, when finally determined,  
24 shall be exclusive of any sums owed by the person  
25 to the United States in connection with the costs of

1 the proceeding, and may be deducted from any sums  
2 owing by the United States to the person charged.

3 (4) NOTICE AND HEARING.—No civil penalty  
4 may be assessed with respect to a violation of this  
5 title, any enumerated consumer law, or any regula-  
6 tion prescribed or order issued by the Director, un-  
7 less—

8 (A) the Agency gives notice and an oppor-  
9 tunity for a hearing to the person accused of  
10 the violation; or

11 (B) the appropriate court has ordered such  
12 assessment and entered judgment in favor of  
13 the Agency.

14 **SEC. 156. REFERRALS FOR CRIMINAL PROCEEDINGS.**

15 Whenever the Agency obtains evidence that any per-  
16 son, either domestic or foreign, has engaged in conduct  
17 that may constitute a violation of Federal criminal law,  
18 the Agency may transmit such evidence to the Attorney  
19 General, who may institute criminal proceedings under ap-  
20 propriate law. No provision of this section shall be con-  
21 strued as affecting any other authority of the Agency to  
22 disclose information.

23 **SEC. 157. EMPLOYEE PROTECTION.**

24 (a) IN GENERAL.—No covered person or service pro-  
25 vider shall terminate or in any other way discriminate



1 against, or cause to be terminated or discriminated  
2 against, any covered employee or any authorized rep-  
3 resentative of covered employees by reason of the fact that  
4 such employee or representative, whether at the employ-  
5 ee's initiative or in the ordinary course of the employee's  
6 duties (or any person acting pursuant to a request of the  
7 employee)—

8           (1) has provided information to the Agency or  
9           to any other State, local, or Federal Government au-  
10          thority or law enforcement official information relat-  
11          ing to any violation of, or any act or omission the  
12          employee reasonably believes to be a violation of any  
13          provision of this Act or any other law that is subject  
14          to the jurisdiction of the Agency, or any regulation,  
15          order, standard, or prohibition prescribed by the Di-  
16          rector;

17           (2) has testified or is about to testify in any  
18          proceeding resulting from the administration or en-  
19          forcement of any provision of this Act or any other  
20          law that is subject to the jurisdiction of the Agency,  
21          or any regulation, order, standard, or prohibition  
22          prescribed by the Director;

23           (3) has filed or instituted, or has caused to be  
24          filed or instituted, any proceeding under any enu-

1 merated consumer law or any law for which authori-  
2 ties were transferred by subtitles F and H; or

3 (4) has objected to, or refused to participate in,  
4 any activity, policy, practice, or assigned task that  
5 the employee (or other such person) reasonably be-  
6 lieved to be in violation of any law, regulation, order,  
7 standard, or prohibition, subject to the jurisdiction  
8 of, or enforceable by, the Agency.

9 (b) COVERED EMPLOYEE DEFINED.—For the pur-  
10 poses of this section, the term “covered employee” means  
11 any individual performing tasks related to the provision  
12 of a financial product or service to a consumer.

13 (c) TIMETABLES.—

14 (1) FILING COMPLAINT.—Any individual who  
15 believes that such individual has been discharged or  
16 otherwise discriminated against by any person in  
17 violation of subsection (a) may, before the end of the  
18 180-day period beginning on the date on which such  
19 violation occurs, file (or have any person file on be-  
20 half of such individual) a complaint with the Sec-  
21 retary of Labor (hereafter in this subsection referred  
22 to as the “Secretary”, notwithstanding section  
23 101(34)) alleging such discharge or discrimination  
24 and identifying the person responsible for such act.

1           (2) SECRETARY'S ACTION ON RECEIPT OF COM-  
2           PLAINT.—Upon receipt of a complaint by any indi-  
3           vidual under paragraph (1), the Secretary shall no-  
4           tify, in writing, the person named in the complaint  
5           who is alleged to have committed the violation of—

6                   (A) the filing of the complaint;

7                   (B) the allegations contained in the com-  
8           plaint;

9                   (C) the substance of the evidence sup-  
10          porting the complaint; and

11                  (D) the opportunities that will be afforded  
12          to such person under paragraph (3).

13          (3) INVESTIGATION, HEARING, AND ORDERS.—

14                  (A) FINDINGS.—Not later than 60 days  
15          after the date of receipt of a complaint filed  
16          under paragraph (1) and after affording the in-  
17          dividual filing the complaint and the person  
18          named in the complaint who is alleged to have  
19          committed the violation an opportunity to sub-  
20          mit to the Secretary a written response to the  
21          complaint and an opportunity to meet with a  
22          representative of the Secretary to present state-  
23          ments from witnesses, the Secretary shall ini-  
24          tiate an investigation and determine whether  
25          there is reasonable cause to believe that the

1 complaint has merit and notify, in writing, the  
2 complainant and the person alleged to have  
3 committed a violation of subsection (a) of the  
4 Secretary's findings.

5 (B) PRELIMINARY ORDER.—If the Sec-  
6 retary concludes that there is reasonable cause  
7 to believe that a violation of subsection (a) has  
8 occurred, the Secretary shall accompany the  
9 Secretary's findings with a preliminary order  
10 providing the relief prescribed by paragraph  
11 (3)(B).

12 (C) OBJECTIONS TO FINDINGS OR PRE-  
13 LIMINARY ORDER.—Not later than 30 days  
14 after the date of notification of findings under  
15 subparagraph (A), the person alleged to have  
16 committed the violation or the complainant may  
17 file objections to the findings or preliminary  
18 order, or both, and request a hearing on the  
19 record.

20 (D) OBJECTIONS DO NOT CONSTITUTE A  
21 STAY.— The filing of objections under subpara-  
22 graph (C) shall not operate to stay any rein-  
23 statement remedy contained in the preliminary  
24 order.

1           (E) EXPEDITIOUS HEARING.—Any hearing  
2 requested under subparagraph (C) shall be con-  
3 ducted expeditiously.

4           (F) FINALITY OF ORDER.— If a hearing is  
5 not requested under subparagraph (C) with re-  
6 spect to any findings of the Secretary under  
7 subparagraph (A) within the 30-day period de-  
8 scribed in subparagraph (C), the preliminary  
9 order shall be deemed a final order that is not  
10 subject to judicial review.

11       (4) STANDARDS FOR DETERMINATION.—

12           (A) PRIMA FACIE EVIDENCE OF CONTRIBU-  
13 TION.—The Secretary shall dismiss a complaint  
14 filed under paragraph (1) and shall not conduct  
15 an investigation otherwise required under para-  
16 graph (3)(A) unless the individual filing the  
17 complaint makes a prima facie showing that  
18 any behavior described in paragraph (1), (2),  
19 (3), or (4) of subsection (a) was a contributing  
20 factor in the unfavorable personnel action al-  
21 leged in the complaint.

22           (B) PROHIBITION ON INVESTIGATION IN  
23 CASE OF CLEAR AND CONVINCING EVIDENCE OF  
24 INDEPENDENT BASIS.—Notwithstanding a find-  
25 ing by the Secretary that the complainant has

1           made the showing required under subparagraph  
2           (A), no investigation otherwise required under  
3           paragraph (3) shall be conducted if the em-  
4           ployer demonstrates, by clear and convincing  
5           evidence, that the employer would have taken  
6           the same unfavorable personnel action in the  
7           absence of that behavior.

8           (C) CONTRIBUTING FACTOR REQUIRE-  
9           MENT.—The Secretary may determine that a  
10          violation of subsection (a) has occurred only if  
11          the complainant demonstrates that any behavior  
12          described in paragraph (1), (2), (3), or (4) of  
13          subsection (a) was a contributing factor in the  
14          unfavorable personnel action alleged in the com-  
15          plaint.

16          (D) PROHIBITION ON FINAL ORDER IN  
17          CASE OF CLEAR AND CONVINCING EVIDENCE OF  
18          INDEPENDENT BASIS.—Relief may not be or-  
19          dered under paragraph (3) if the employer dem-  
20          onstrates by clear and convincing evidence that  
21          the employer would have taken the same unfa-  
22          vorable personnel action in the absence of that  
23          behavior.

24          (5) FINAL ORDER.—

1           (A) IN GENERAL.—Not later than 120  
2 days after the date of conclusion of any hearing  
3 under paragraph (3), the Secretary shall issue  
4 a final order providing the relief prescribed by  
5 this subsection or denying the complaint.

6           (B) SETTLEMENT AGREEMENT.— At any  
7 time before issuance of a final order, a pro-  
8 ceeding under this subsection may be termi-  
9 nated on the basis of a settlement agreement  
10 entered into by the Secretary, the complainant,  
11 and the person alleged to have committed the  
12 violation.

13           (C) CONTENTS OF ORDER.— If, in re-  
14 sponse to a complaint filed under paragraph  
15 (1), the Secretary determines that a violation of  
16 subsection (a) has occurred, the Secretary shall  
17 order the person who committed such viola-  
18 tion—

19                   (i) to take affirmative action to abate  
20 the violation;

21                   (ii) to reinstate the complainant to  
22 such individual's former position together  
23 with compensation (including back pay)  
24 and restore the terms, conditions, and

1                   privileges associated with such individual's  
2                   employment; and

3                   (iii) to provide compensatory damages  
4                   to the complainant.

5                   (D) COSTS AND ATTORNEYS FEES.— If an  
6                   order is issued under this paragraph, the Sec-  
7                   retary, at the request of the complainant, shall  
8                   assess against the person against whom the  
9                   order is issued a sum equal to the aggregate  
10                  amount of all costs and expenses (including at-  
11                  torneys' and expert witness fees) reasonably in-  
12                  curred, as determined by the Secretary, by the  
13                  complainant for, or in connection with, the  
14                  bringing of the complaint upon which the order  
15                  was issued.

16                  (E) FRIVOLOUS OR BAD FAITH COM-  
17                  PLAINTS.—If the Secretary finds that a com-  
18                  plaint under paragraph (1) is frivolous or has  
19                  been brought in bad faith, the Secretary may  
20                  award to the prevailing employer a reasonable  
21                  attorneys' fee, not exceeding \$1,000, to be paid  
22                  by the complainant.

23                  (6) DE NOVO ACTION ON CLAIM.—

24                  (A) ACTION AT LAW OR EQUITY.—If the  
25                  Secretary has not issued a final decision within



1           210 days after the filing of the complaint, or  
2           within 90 days after receiving a written deter-  
3           mination, the complainant who filed such com-  
4           plaint may bring an action at law or equity for  
5           de novo review in the appropriate district court  
6           of the United States.

7           (B) JURY TRIAL.—At the request of either  
8           party to an action brought under subparagraph  
9           (A), such action shall be tried by the court with  
10          a jury.

11          (C) STANDARDS FOR DETERMINATION.—  
12          The standards for determination established  
13          under paragraph (4) shall apply in any action  
14          under this paragraph.

15          (D) RELIEF.—The court shall have juris-  
16          diction to grant all relief, including injunctive  
17          relief and compensatory damages , that nec-  
18          essary to make the complainant who sought de  
19          novo review whole, including—

20                  (i) reinstatement with the same se-  
21                  niority status that the complainant would  
22                  have had, but for the discharge or dis-  
23                  crimination;

24                  (ii) the amount of back pay, with in-  
25                  terest; and

1 (iii) compensation for any special  
2 damages sustained as a result of the dis-  
3 charge or discrimination, including litiga-  
4 tion costs, expert witness fees, and reason-  
5 able attorney's fees.

6 (E) NOT REVIEWABLE.—The decision of  
7 the court shall be final without further review.

8 (7) JUDICIAL REVIEW OF FINAL ORDER.—

9 (A) IN GENERAL.—Unless a complainant  
10 brings a de novo action under paragraph (6),  
11 any person adversely affected or aggrieved by a  
12 final order issued under paragraph (5) may ob-  
13 tain review of the order in the United States  
14 Court of Appeals for the circuit in which the  
15 violation, with respect to which the order was  
16 issued, allegedly occurred or the circuit in which  
17 the complainant resided on the date of such vio-  
18 lation.

19 (B) STATUTE OF LIMITATION .—Any peti-  
20 tion for review of a final order under subsection  
21 shall be filed not later than 60 days after the  
22 date of the issuance of the final order by the  
23 Secretary.

24 (C) STANDARDS FOR REVIEW.—The stand-  
25 ards for review established under chapter 7 of

1 title 5, United States Code, shall apply in any  
2 review of a final order under this paragraph.

3 (D) EFFECT OF PROCEEDINGS AS STAY.—

4 The commencement of proceedings under this  
5 paragraph shall not operate as a stay of the  
6 final order of the Secretary under review, unless  
7 so ordered by the court.

8 (E) LIMITATION ON EFFECT OF OTHER

9 PROCEEDINGS.—Except as provided in para-  
10 graph (6) and this paragraph, an order of the  
11 Secretary with respect to which review could  
12 have been obtained under subparagraph (A)  
13 shall not be subject to judicial review in any  
14 criminal or other civil proceeding.

15 (8) ENFORCEMENT OF ORDERS BY SEC-  
16 RETARY.—

17 (A) IN GENERAL.—Whenever any person  
18 has failed to comply with an order issued under  
19 paragraph (5), the Secretary may file a civil ac-  
20 tion in the United States district court for the  
21 district in which the violation was found to  
22 occur, or in the United States district court for  
23 the District of Columbia, to enforce such order.

24 (B) RELIEF.— In actions brought under  
25 this paragraph, the district courts shall have ju-

1 jurisdiction to grant all appropriate relief includ-  
2 ing injunctive relief and compensatory damages.

3 (9) ENFORCEMENT OF ORDER BY AGGRIEVED  
4 PARTY .—

5 (A) IN GENERAL.—A person on whose be-  
6 half an order was issued under paragraph (5)  
7 may commence a civil action against the person  
8 to whom such order was issued to require com-  
9 pliance with such order.

10 (B) RELIEF.—The court, in issuing any  
11 final order under this paragraph, may award  
12 costs of litigation (including reasonable attor-  
13 neys' and expert witness fees) to any party  
14 whenever the court determines such award is  
15 appropriate.

16 (d) ACTION IN NATURE OF MANDAMUS.—Any non-  
17 discretionary duty imposed by this section shall be enforce-  
18 able in a mandamus proceeding brought under section  
19 1361 of title 28, United States Code.

20 (e) UNENFORCEABILITY OF CERTAIN AGREE-  
21 MENTS.—

22 (1) NO WAIVER OF RIGHTS AND REMEDIES.—  
23 Notwithstanding any law and except as provided  
24 under paragraph (3), the rights and remedies pro-  
25 vided for in this section may not be waived by any

1 agreement, policy, form, or condition of employment,  
2 including by any predispute arbitration agreement.

3 (2) PREDISPUTE ARBITRATION AGREEMENTS.—

4 Notwithstanding any law and except as provided  
5 under paragraph (3), no predispute arbitration  
6 agreement shall be valid or enforceable and to the  
7 extent the agreement requires arbitration of a dis-  
8 pute arising under this section.

9 (3) EXCEPTION.—Notwithstanding paragraphs  
10 (1) and (2), an arbitration provision in a collective  
11 bargaining agreement shall be enforceable as to dis-  
12 putes arising under subsection (a)(2) unless the Di-  
13 rector determines by regulation that such provision  
14 is inconsistent with the purposes of this Act.

15 **SEC. 158. EFFECTIVE DATE.**

16 This subtitle shall take effect on the designated  
17 transfer date.

18 **Subtitle F—Transfer of Functions**  
19 **and Personnel; Transitional**  
20 **Provisions**

21 **SEC. 161. TRANSFER OF CERTAIN FUNCTIONS.**

22 (a) IN GENERAL.—Except as provided in subsection  
23 (b), consumer financial protection functions are trans-  
24 ferred as follows:

25 (1) BOARD OF GOVERNORS.—

1           (A) TRANSFER OF FUNCTIONS.—All con-  
2           sumer financial protection functions of the  
3           Board of Governors are transferred to the Di-  
4           rector.

5           (B) BOARD OF GOVERNORS' AUTHORITY.—  
6           The Director shall have all powers and duties  
7           that were vested in the Board of Governors, re-  
8           lating to consumer financial protection func-  
9           tions, on the day before the designated transfer  
10          date.

11          (2) COMPTROLLER OF THE CURRENCY.—

12           (A) TRANSFER OF FUNCTIONS.—All con-  
13           sumer financial protection functions of the  
14           Comptroller of the Currency are transferred to  
15           the Director.

16           (B) COMPTROLLER'S AUTHORITY.—The  
17           Director shall have all powers and duties that  
18           were vested in the Comptroller of the Currency,  
19           relating to consumer financial protection func-  
20           tions, on the day before the designated transfer  
21           date.

22          (3) DIRECTOR OF THE OFFICE OF THRIFT SU-  
23          PERVISION.—

24           (A) TRANSFER OF FUNCTIONS.—All con-  
25           sumer financial protection functions of the Di-

1 rector of the Office of Thrift Supervision are  
2 transferred to the Director.

3 (B) DIRECTOR'S AUTHORITY.—The Direc-  
4 tor shall have all powers and duties that were  
5 vested in the Director of the Office of Thrift  
6 Supervision, relating to consumer financial pro-  
7 tection functions, on the day before the des-  
8 ignated transfer date.

9 (4) FEDERAL DEPOSIT INSURANCE CORPORA-  
10 TION.—

11 (A) TRANSFER OF FUNCTIONS.—All con-  
12 sumer financial protection functions of the Fed-  
13 eral Deposit Insurance Corporation are trans-  
14 ferred to the Director.

15 (B) CORPORATION'S AUTHORITY.—The Di-  
16 rector shall have all powers and duties that  
17 were vested in the Federal Deposit Insurance  
18 Corporation, relating to consumer financial pro-  
19 tection functions, on the day before the des-  
20 ignated transfer date.

21 (5) FEDERAL TRADE COMMISSION.—

22 (A) TRANSFER OF FUNCTIONS.—Except as  
23 provided in subparagraph (C), the consumer fi-  
24 nancial protection functions of the Federal  
25 Trade Commission that are contained within

1 the enumerated consumer laws are transferred  
2 to the Agency, except as provided in section  
3 122(e).

4 (B) COMMISSION'S AUTHORITY.—Except  
5 as provided in subparagraph (C), the Director  
6 shall have all powers and duties that were vest-  
7 ed in the Federal Trade Commission, relating  
8 to consumer financial protection functions, on  
9 the day before the designated transfer date.

10 (C) CONTINUATION OF CERTAIN COMMIS-  
11 SION AUTHORITIES.—Notwithstanding subpara-  
12 graphs (A) and (B), the Federal Trade Com-  
13 mission shall continue to enforce the following  
14 provisions of law and prescribe regulations  
15 under such provisions:

16 (i) The Credit Repair Organizations  
17 Act.

18 (ii) Section 5 of the Federal Trade  
19 Commission Act.

20 (iii) The Telemarketing and Consumer  
21 Fraud and Abuse Prevention Act.

22 (6) NATIONAL CREDIT UNION ADMINISTRA-  
23 TION.—

24 (A) TRANSFER OF FUNCTIONS.—All con-  
25 sumer financial protection functions of the Na-



1            tional Credit Union Administration are trans-  
2            ferred to the Director.

3            (B) NATIONAL CREDIT UNION ADMINIS-  
4            TRATION'S AUTHORITY.—The Director shall  
5            have all powers and duties that were vested in  
6            the National Credit Union Administration, re-  
7            lating to consumer financial protection func-  
8            tions, on the day before the designated transfer  
9            date.

10          (7) SECRETARY OF HOUSING AND URBAN DE-  
11          VELOPMENT.—

12            (A) TRANSFER OF FUNCTIONS.—All con-  
13            sumer protection functions of the Secretary of  
14            Housing and Urban Development relating to  
15            the Real Estate Settlement Procedures Act of  
16            1974 and the Secure and Fair Enforcement for  
17            Mortgage Licensing Act of 2008 are transferred  
18            to the Director.

19            (B) SECRETARY OF HUD'S AUTHORITY.—  
20            The Director shall have all powers and duties  
21            that were vested in the Secretary of Housing  
22            and Urban Development relating to the Real  
23            Estate Settlement Procedures Act of 1974 and  
24            the Secure and Fair Enforcement for Mortgage

1           Licensing Act of 2008, on the day before the  
2           designated transfer date

3           (b) TRANSFERS OF FUNCTIONS SUBJECT TO BACK-  
4 STOP ENFORCEMENT AUTHORITY REMAINING WITH  
5 TRANSFEROR AGENCIES.—The transfers of functions in  
6 subsection (a) shall not affect the authority of the agencies  
7 identified in subsection (a) from initiating enforcement  
8 proceedings under the circumstances described in section  
9 122(e)(3).

10          (c) TERMINATION OF AUTHORITY OF TRANSFEROR  
11 AGENCIES TO COLLECT FEES FOR CONSUMER FINAN-  
12 CIAL PROTECTION PURPOSES.—Authorities of the agen-  
13 cies identified in subsection (a) to assess and collect fees  
14 to cover the cost of conducting consumer financial protec-  
15 tion functions shall terminate on the day before the des-  
16 ignated transfer date.

17          (d) CONSUMER FINANCIAL PROTECTION FUNCTIONS  
18 DEFINED.—For purposes of this subtitle, the term “con-  
19 sumer financial protection functions” means research,  
20 rulemaking, issuance of orders or guidance, supervision,  
21 examination, and enforcement activities, powers, and du-  
22 ties relating to the provision of consumer financial prod-  
23 ucts or services, including the authority to assess and col-  
24 lect fees for those purposes, except that such term shall  
25 not include any such function relating to an agency’s re-

1 sponsibilities under the Community Reinvestment Act of  
2 1977.

3 (e) EFFECTIVE DATE.—Subsections (a) and (b) shall  
4 take effect on the designated transfer date.

5 **SEC. 162. DESIGNATED TRANSFER DATE.**

6 (a) IN GENERAL.—Not later than 60 days after the  
7 date of the enactment of this Act, the Secretary—

8 (1) shall, in consultation with the Chairman of  
9 the Board of Governors, the Chairperson of the Fed-  
10 eral Deposit Insurance Corporation, the Chairman  
11 of the Federal Trade Commission, the Chairman of  
12 the National Credit Union Administration Board,  
13 the Comptroller of the Currency, the Director of the  
14 Office of Thrift Supervision, the Secretary of Hous-  
15 ing and Urban Development, and the Director of the  
16 Office of Management and Budget, designate a sin-  
17 gle calendar date for the transfer of functions to the  
18 Director under section 161; and

19 (2) shall publish notice of that designation in  
20 the Federal Register.

21 (b) CHANGING DESIGNATION.—The Secretary—

22 (1) may, in consultation with the Chairman of  
23 the Board of Governors, the Chairperson of the Fed-  
24 eral Deposit Insurance Corporation, the Chairman  
25 of the Federal Trade Commission, the Chairman of

1 the National Credit Union Administration Board,  
2 the Comptroller of the Currency, the Director of the  
3 Office of Thrift Supervision, the Secretary of Hous-  
4 ing and Urban Development, and the Director of the  
5 Office of Management and Budget, change the date  
6 designated under subsection (a); and

7 (2) shall publish notice of any changed designa-  
8 tion in the Federal Register.

9 (c) PERMISSIBLE DATES.—

10 (1) IN GENERAL.—Except as provided in para-  
11 graph (2), any date designated under this section  
12 shall be not earlier than 180 days nor later than 18  
13 months after the date of the enactment of this Act.

14 (2) EXTENSION OF TIME.—The Secretary may  
15 designate a date that is later than 18 months after  
16 the date of the enactment of this Act if the Sec-  
17 retary transmits to appropriate committees of Con-  
18 gress—

19 (A) a written determination that orderly  
20 implementation of this title is not feasible on  
21 the date that is 18 months after the date of the  
22 enactment of this Act;

23 (B) an explanation of why an extension is  
24 necessary for the orderly implementation of this  
25 title; and

1 (C) a description of the steps that will be  
2 taken to effect an orderly and timely implemen-  
3 tation of this title within the extended time pe-  
4 riod.

5 (3) EXTENSION LIMITED.—In no case shall any  
6 date designated under this section be later than 24  
7 months after the date of the enactment of this Act.

8 **SEC. 163. SAVINGS PROVISIONS.**

9 (a) BOARD OF GOVERNORS.—

10 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
11 TIONS NOT AFFECTED.—Section 161(a)(1) shall not  
12 affect the validity of any right, duty, or obligation of  
13 the United States, the Board of Governors (or any  
14 Federal reserve bank), or any other person that—

15 (A) arises under any provision of law relat-  
16 ing to any consumer financial protection func-  
17 tion of the Board of Governors transferred to  
18 the Director by this title; and

19 (B) existed on the day before the des-  
20 igned transfer date.

21 (2) CONTINUATION OF SUITS.—This Act shall  
22 not abate any proceeding commenced by or against  
23 the Board of Governors (or any Federal reserve  
24 bank) before the designated transfer date with re-  
25 spect to any consumer financial protection function

1 of the Board of Governors (or any Federal reserve  
2 bank) transferred to the Director by this title, ex-  
3 cept that the Director shall be substituted for the  
4 Board of Governors (or Federal reserve bank) as a  
5 party to any such proceeding as of the designated  
6 transfer date.

7 (b) FEDERAL DEPOSIT INSURANCE CORPORATION.—

8 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
9 TIONS NOT AFFECTED.—Section 161(a)(4) shall not  
10 affect the validity of any right, duty, or obligation of  
11 the United States, the Federal Deposit Insurance  
12 Corporation, the Board of Directors of that Corpora-  
13 tion, or any other person, that—

14 (A) arises under any provision of law relat-  
15 ing to any consumer financial protection func-  
16 tion of the Federal Deposit Insurance Corpora-  
17 tion transferred to the Director by this title;  
18 and

19 (B) existed on the day before the des-  
20 ignated transfer date.

21 (2) CONTINUATION OF SUITS.—This Act shall  
22 not abate any proceeding commenced by or against  
23 the Federal Deposit Insurance Corporation (or the  
24 Board of Directors of that Corporation) before the  
25 designated transfer date with respect to any con-

1       sumer financial protection function of the Federal  
2       Deposit Insurance Corporation transferred to the  
3       Director by this title, except that the Director shall  
4       be substituted for the Federal Deposit Insurance  
5       Corporation (or Board of Directors) as a party to  
6       any such proceeding as of the designated transfer  
7       date.

8       (c) FEDERAL TRADE COMMISSION.—

9           (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
10          TIONS NOT AFFECTED.—Section 161(a)(5) shall not  
11          affect the validity of any right, duty, or obligation of  
12          the United States, the Federal Trade Commission,  
13          or any other person, that—

14               (A) arises under any provision of law relat-  
15               ing to any consumer financial protection func-  
16               tion of the Federal Trade Commission trans-  
17               ferred to the Director by this title; and

18               (B) existed on the day before the des-  
19               ignated transfer date.

20          (2) CONTINUATION OF SUITS.—This Act shall  
21          not abate any proceeding commenced by or against  
22          the Federal Trade Commission before the designated  
23          transfer date with respect to any consumer financial  
24          protection function of the Federal Trade Commis-  
25          sion transferred to the Director by this title, except

1 that the Director shall be substituted for the Federal  
2 Trade Commission as a party to any such pro-  
3 ceeding as of the designated transfer date.

4 (d) NATIONAL CREDIT UNION ADMINISTRATION.—

5 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
6 TIONS NOT AFFECTED.—Section 161(a)(6) shall not  
7 affect the validity of any right, duty, or obligation of  
8 the United States, the National Credit Union Ad-  
9 ministration, the National Credit Union Administra-  
10 tion Board, or any other person, that—

11 (A) arises under any provision of law relat-  
12 ing to any consumer financial protection func-  
13 tion of the National Credit Union Administra-  
14 tion transferred to the Director by this title;  
15 and

16 (B) existed on the day before the des-  
17 igned transfer date.

18 (2) CONTINUATION OF SUITS.—This Act shall  
19 not abate any proceeding commenced by or against  
20 the National Credit Union Administration (or the  
21 National Credit Union Administration Board) before  
22 the designated transfer date with respect to any con-  
23 sumer financial protection function of the National  
24 Credit Union Administration transferred to the Di-  
25 rector by this title, except that the Director shall be



1 substituted for the National Credit Union Adminis-  
2 tration (or National Credit Union Administration  
3 Board) as a party to any such proceeding as of the  
4 designated transfer date.

5 (e) COMPTROLLER OF THE CURRENCY.—

6 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
7 TIONS NOT AFFECTED.—Section 161(a)(2) shall not  
8 affect the validity of any right, duty, or obligation of  
9 the United States, the Comptroller of the Currency,  
10 the Office of the Comptroller of the Currency, or  
11 any other person, that—

12 (A) arises under any provision of law relat-  
13 ing to any consumer financial protection func-  
14 tion of the Comptroller of the Currency trans-  
15 ferred to the Director by this title; and

16 (B) existed on the day before the des-  
17 igned transfer date.

18 (2) CONTINUATION OF SUITS.—This Act shall  
19 not abate any proceeding commenced by or against  
20 the Comptroller of the Currency (or the Office of the  
21 Comptroller of the Currency) with respect to any  
22 consumer financial protection function of the Comp-  
23 troller of the Currency transferred to the Director  
24 by this title before the designated transfer date, ex-  
25 cept that the Director shall be substituted for the

1 Comptroller of the Currency (or the Office of the  
2 Comptroller of the Currency) as a party to any such  
3 proceeding as of the designated transfer date.

4 (f) DIRECTOR OF THE OFFICE OF THRIFT SUPER-  
5 VISION.—

6 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
7 TIONS NOT AFFECTED.—Section 161(a)(3) shall not  
8 affect the validity of any right, duty, or obligation of  
9 the United States, the Director of the Office of  
10 Thrift Supervision, the Office of Thrift Supervision,  
11 or any other person, that—

12 (A) arises under any provision of law relat-  
13 ing to any consumer financial protection func-  
14 tion of the Director of the Office of Thrift Su-  
15 pervision transferred to the Director by this  
16 title; and

17 (B) that existed on the day before the des-  
18 igned transfer date.

19 (2) CONTINUATION OF SUITS.—This Act shall  
20 not abate any proceeding commenced by or against  
21 the Director of the Office of Thrift Supervision (or  
22 the Office of Thrift Supervision) with respect to any  
23 consumer financial protection function of the Direc-  
24 tor of the Office of Thrift Supervision transferred to  
25 the Director by this title before the designated

1 transfer date, except that the Director shall be sub-  
2 stituted for the Director (or the Office of Thrift Su-  
3 pervision) as a party to any such proceeding as of  
4 the designated transfer date.

5 (g) SECRETARY OF HOUSING AND URBAN DEVELOP-  
6 MENT.—

7 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
8 TIONS NOT AFFECTED.—Section 161(a)(7) shall not  
9 affect the validity of any right, duty, or obligation of  
10 the United States, the Secretary of Housing and  
11 Urban Development, the Department of Housing  
12 and Urban Development, or any other person,  
13 that—

14 (A) arises under any provision of law relat-  
15 ing to any function of the Secretary of Housing  
16 and Urban Development under the Real Estate  
17 Settlement Procedures Act of 1974 and the Se-  
18 cure and Fair Enforcement for Mortgage Li-  
19 censing Act of 2008 transferred to the Director  
20 by this title; and

21 (B) that existed on the day before the des-  
22 ignated transfer date.

23 (2) CONTINUATION OF SUITS.—This Act shall  
24 not abate any proceeding commenced by or against  
25 the Secretary of Housing and Urban Development

1 (or the Department of Housing and Urban Develop-  
2 ment) with respect to any consumer financial protec-  
3 tion function of the Secretary of Housing and Urban  
4 Development transferred to the Director by this title  
5 before the designated transfer date, except that the  
6 Director shall be substituted for the Secretary of  
7 Housing and Urban Development (or such Depart-  
8 ment) as a party to any such proceeding as of the  
9 designated transfer date.

10 (h) CONTINUATION OF EXISTING ORDERS, REGULA-  
11 TIONS, DETERMINATIONS, AGREEMENTS, AND RESOLU-  
12 TIONS.—All orders, resolutions, determinations, agree-  
13 ments, and regulations that have been issued, made, pre-  
14 scribed, or allowed to become effective by the Board of  
15 Governors (or any Federal reserve bank), the Federal De-  
16 posit Insurance Corporation, the Federal Trade Commis-  
17 sion, the National Credit Union Administration, the  
18 Comptroller of the Currency, the Director of the Office  
19 of Thrift Supervision, the Secretary of Housing and  
20 Urban Development, or by a court of competent jurisdic-  
21 tion, in the performance of consumer financial protection  
22 functions that are transferred by this title and that are  
23 in effect on the day before the designated transfer date,  
24 shall continue in effect according to the terms of those  
25 orders, resolutions, determinations, agreements, and regu-

1 lations, and shall be enforceable by or against the Director  
2 until modified, terminated, set aside, or superseded in ac-  
3 cordance with applicable law by the Director, by any court  
4 of competent jurisdiction, or by operation of law.

5 (i) IDENTIFICATION OF REGULATIONS CONTIN-  
6 UED.—Not later than the designated transfer date, the  
7 Director—

8 (1) shall, after consultation with the Chairman  
9 of the Board of Governors, the Chairperson of the  
10 Federal Deposit Insurance Corporation, the Chair-  
11 man of the Federal Trade Commission, the Chair-  
12 man of the National Credit Union Administration  
13 Board, the Comptroller of the Currency, the Direc-  
14 tor of the Office of Thrift Supervision, and the Sec-  
15 retary of Housing and Urban Development identify  
16 the regulations continued under subsection (g) that  
17 will be enforced by the Director; and

18 (2) shall publish a list of such regulations in  
19 the Federal Register.

20 (j) STATUS OF REGULATIONS PROPOSED OR NOT  
21 YET EFFECTIVE.—

22 (1) PROPOSED REGULATIONS.—Any proposed  
23 regulation of the Board of Governors, the Federal  
24 Deposit Insurance Corporation, the Federal Trade  
25 Commission, the National Credit Union Administra-

1       tion, the Comptroller of the Currency, the Director  
2       of the Office of Thrift Supervision, or the Secretary  
3       of Housing and Urban Development which that  
4       agency, in performing consumer financial protection  
5       functions transferred by this title, has proposed be-  
6       fore the designated transfer date but has not pub-  
7       lished as a final regulation before that date, shall be  
8       deemed to be a proposed regulation of the Director.

9           (2) REGULATIONS NOT YET EFFECTIVE.—Any  
10       interim or final regulation of Board of Governors,  
11       the Federal Deposit Insurance Corporation, the Fed-  
12       eral Trade Commission, the National Credit Union  
13       Administration, the Comptroller of the Currency, the  
14       Director of the Office of Thrift Supervision, or the  
15       Secretary of Housing and Urban Development which  
16       that agency, in performing consumer financial pro-  
17       tection functions transferred by this title, has pub-  
18       lished before the designated transfer date but which  
19       has not become effective before that date, shall take  
20       effect as a regulation of the Director according to its  
21       terms.

22   **SEC. 164. TRANSFER OF CERTAIN PERSONNEL.**

23       (a) IN GENERAL.—

24           (1) CERTAIN FEDERAL RESERVE SYSTEM EM-  
25       PLOYEES TRANSFERRED.—

1 (A) IDENTIFYING EMPLOYEES FOR TRANS-  
2 FER.—The Director and the Board of Gov-  
3 ernors shall—

4 (i) jointly determine the number of  
5 employees of the Board necessary to per-  
6 form or support the consumer financial  
7 protection functions of the Board of Gov-  
8 ernors that are transferred to the Director  
9 by this title; and

10 (ii) consistent with the number deter-  
11 mined under clause (i), jointly identify em-  
12 ployees of the Board of Governors for  
13 transfer to the Agency in a manner that  
14 the Director and the Board of Governors,  
15 in their sole discretion, deem equitable.

16 (B) IDENTIFIED EMPLOYEES TRANS-  
17 FERRED.—All employees of the Board of Gov-  
18 ernors identified under subparagraph (A)(ii)  
19 shall be transferred to the Agency for employ-  
20 ment.

21 (C) FEDERAL RESERVE BANK EMPLOY-  
22 EES.—Employees of any Federal reserve bank  
23 who, on the day before the designated transfer  
24 date, are performing consumer financial protec-  
25 tion functions on behalf of the Board of Gov-

1           ernors shall be treated as employees of the  
2           Board of Governors for purposes of subpara-  
3           graphs (A) and (B).

4           (2)   CERTAIN   FDIC   EMPLOYEES   TRANS-  
5   FERRED.—

6           (A) IDENTIFYING EMPLOYEES FOR TRANS-  
7   FER.—The Director and the Board of Directors  
8   of the Federal Deposit Insurance Corporation  
9   shall—

10           (i) jointly determine the number of  
11           employees of that Corporation necessary to  
12           perform or support the consumer financial  
13           protection functions of the Corporation  
14           that are transferred to the Director by this  
15           title; and

16           (ii) consistent with the number deter-  
17           mined under clause (i), jointly identify em-  
18           ployees of the Corporation for transfer to  
19           the Agency in a manner that the Director  
20           and the Board of Directors of the Corpora-  
21           tion, in their discretion, deem equitable.

22           (B) IDENTIFIED EMPLOYEES TRANS-  
23   FERRED.—All employees of the Corporation  
24   identified under subparagraph (A)(ii) shall be  
25   transferred to the Agency for employment.



1           (3) CERTAIN NCUA EMPLOYEES TRANS-  
2 FERRED.—

3           (A) IDENTIFYING EMPLOYEES FOR TRANS-  
4 FER.—The Director and the National Credit  
5 Union Administration Board shall—

6           (i) jointly determine the number of  
7 employees of the National Credit Union  
8 Administration necessary to perform or  
9 support the consumer financial protection  
10 functions of the National Credit Union Ad-  
11 ministration that are transferred to the Di-  
12 rector by this title; and

13           (ii) consistent with the number deter-  
14 mined under clause (i), jointly identify em-  
15 ployees of the National Credit Union Ad-  
16 ministration for transfer to the Agency in  
17 a manner that the Director and the Na-  
18 tional Credit Union Administration Board,  
19 in their discretion, deem equitable.

20           (B) IDENTIFIED EMPLOYEES TRANS-  
21 FERRED.—All employees of the National Credit  
22 Union Administration identified under subpara-  
23 graph (A)(ii) shall be transferred to the Agency  
24 for employment.

1           (4) CERTAIN HUD EMPLOYEES TRANS-  
2 FERRED.—

3           (A) IDENTIFYING EMPLOYEES FOR TRANS-  
4 FER.—The Director and the Secretary of Hous-  
5 ing and Urban Development shall—

6           (i) jointly determine the number of  
7 employees of the Department of Housing  
8 and Urban Development necessary to per-  
9 form or support the consumer financial  
10 protection functions of the Secretary of  
11 Housing and Urban Development that are  
12 transferred to the Director by this title;  
13 and

14           (ii) consistent with the number deter-  
15 mined under clause (i), jointly identify em-  
16 ployees of the Department of Housing and  
17 Urban Development for transfer to the  
18 Agency in a manner that the Director and  
19 the Secretary of Housing and Urban De-  
20 velopment, in their discretion, deem equi-  
21 table.

22           (B) IDENTIFIED EMPLOYEES TRANS-  
23 FERRED.—All employees of the Department of  
24 Housing and Urban Development identified

1 under subparagraph (A)(ii) shall be transferred  
2 to the Agency for employment.

3 (5) APPOINTMENT AUTHORITY FOR EXCEPTED  
4 SERVICE AND SENIOR EXECUTIVE SERVICE TRANS-  
5 FERRED.—

6 (A) IN GENERAL.—In the case of employ-  
7 ees occupying positions in the excepted service  
8 or the Senior Executive Service, any appoint-  
9 ment authority established pursuant to law or  
10 regulations of the Director of the Office of Per-  
11 sonnel Management for filling such positions  
12 shall be transferred, subject to subparagraph  
13 (B).

14 (B) DECLINING TRANSFERS ALLOWED.—  
15 An agency or entity may decline to make a  
16 transfer of authority under subparagraph (A)  
17 (and the employees appointed pursuant to such  
18 subparagraph) to the extent that such authority  
19 relates to positions excepted from the competi-  
20 tive service because of their confidential, policy-  
21 making, policy-determining, or policy-advocating  
22 character, and non-career positions in the Sen-  
23 ior Executive Service (within the meaning of  
24 section 3132(a)(7) of title 5, United States  
25 Code).

1 (b) TIMING OF TRANSFERS AND POSITION ASSIGN-  
2 MENTS.—Each employee to be transferred under this sec-  
3 tion shall—

4 (1) be transferred not later than 90 days after  
5 the designated transfer date; and

6 (2) receive notice of such employee's position  
7 assignment not later than 120 days after the effec-  
8 tive date of the employee's transfer.

9 (c) TRANSFER OF FUNCTION.—

10 (1) IN GENERAL.—Notwithstanding any other  
11 provision of law, the transfer of employees shall be  
12 deemed a transfer of functions for the purpose of  
13 section 3503 of title 5, United States Code.

14 (2) PRIORITY OF THIS TITLE.—If any provi-  
15 sions of this title conflict with any protection pro-  
16 vided to transferred employees under section 3503 of  
17 title 5, United States Code, the provisions of this  
18 title shall control.

19 (d) EQUAL STATUS AND TENURE POSITIONS.—

20 (1) EMPLOYEES TRANSFERRED FROM FDIC,  
21 FTC, HUD, NCUA, OCC, AND OTS.—Each employee  
22 transferred from the Federal Deposit Insurance Cor-  
23 poration, the Federal Trade Commission, the De-  
24 partment of Housing and Urban Development, the  
25 National Credit Union Administration, the Office of

1 the Comptroller of the Currency, or the Office of  
2 Thrift Supervision shall be placed in a position at  
3 the Agency with the same status and tenure as he  
4 or she held on the day before the designated transfer  
5 date.

6 (2) EMPLOYEES TRANSFERRED FROM THE  
7 FEDERAL RESERVE SYSTEM.—

8 (A) COMPARABILITY.—Each employee  
9 transferred from the Board of Governors or  
10 from a Federal reserve bank shall be placed in  
11 a position with the same status and tenure as  
12 that of employees transferring to the Agency  
13 from the Office of the Comptroller of the Cur-  
14 rency who perform similar functions and have  
15 similar periods of service.

16 (B) SERVICE PERIODS CREDITED.—For  
17 purposes of this paragraph, periods of service  
18 with the Board of Governors or a Federal re-  
19 serve bank shall be credited as periods of serv-  
20 ice with a Federal agency.

21 (e) ADDITIONAL CERTIFICATION REQUIREMENTS  
22 LIMITED.—Examiners transferred to the Agency shall not  
23 be subject to any additional certification requirements be-  
24 fore being placed in a comparable examiner's position at  
25 the Agency examining the same types of institutions as

1 the transferred examiners examined before such examiners  
2 were transferred.

3 (f) PERSONNEL ACTIONS LIMITED.—

4 (1) 5-YEAR PROTECTION.—Except as provided  
5 in paragraph (2), each transferred employee holding  
6 a permanent position on the day before the des-  
7 ignated transfer date shall not, during the 5-year pe-  
8 riod beginning on the designated transfer date, be  
9 involuntarily separated, or involuntarily reassigned  
10 outside such transferred employee's local locality pay  
11 area as defined by the Director of the Office of Per-  
12 sonnel Management.

13 (2) EXCEPTIONS.—Paragraph (1) shall not be  
14 construed as limiting the right of the Director to—

15 (A) separate an employee for cause or for  
16 unacceptable performance;

17 (B) terminate an appointment to a position  
18 excepted from the competitive service because of  
19 its confidential policy-making, policy-deter-  
20 mining, or policy-advocating character; or

21 (C) reassign a supervisory employee out-  
22 side such employee's locality pay area as de-  
23 fined by the Director of the Office of Personnel  
24 Management when the Director determines that

1           the reassignment is necessary for the efficient  
2           operation of the Agency.

3           (g) PAY.—

4           (1) 1-YEAR PROTECTION.—Except as provided  
5           in paragraph (2), each transferred employee shall,  
6           during the 1-year period beginning on the des-  
7           ignated transfer date, receive pay at a rate not less  
8           than the basic rate of pay (including any geographic  
9           differential) that the employee received during the 1-  
10          year period immediately before the transfer.

11          (2) EXCEPTIONS.—Paragraph (1) shall not be  
12          construed as limiting the right of the Agency to re-  
13          duce the rate of basic pay of a transferred em-  
14          ployee—

15                  (A) for cause;

16                  (B) for unacceptable performance; or

17                  (C) with the employee's consent.

18          (3) PROTECTION ONLY WHILE EMPLOYED.—  
19          Paragraph (1) applies to a transferred employee  
20          only while that employee remains employed by the  
21          Agency.

22          (4) PAY INCREASES PERMITTED.—Paragraph  
23          (1) shall not be construed as limiting the authority  
24          of the Agency to increase a transferred employee's  
25          pay.

1 (h) REORGANIZATION.—

2 (1) BETWEEN 1ST AND 3RD YEAR.—

3 (A) IN GENERAL.—If the Agency deter-  
4 mines, during the period beginning 1 year after  
5 the designated transfer date and ending 3 years  
6 after the designated transfer date, that a reor-  
7 ganization of the staff of the Agency is re-  
8 quired—

9 (i) that reorganization shall be  
10 deemed a “major reorganization” for pur-  
11 poses of affording affected employees re-  
12 tirement under section 8336(d)(2) or  
13 8414(b)(1)(B) of title 5, United States  
14 Code;

15 (ii) before the reorganization occurs,  
16 all employees in the same locality pay area  
17 as defined by the Director of the Office of  
18 Personnel Management shall be placed in a  
19 uniform position classification system; and

20 (iii) any resulting reduction in force  
21 shall be governed by the provisions of  
22 chapter 35 of title 5, United States Code,  
23 except that the Agency shall—

24 (I) establish competitive areas  
25 (as that term is defined in regulations



1 issued by the Director of the Office of  
2 Personnel Management) to include at  
3 a minimum all employees in the same  
4 locality pay area as defined by the Of-  
5 fice of Personnel Management;

6 (II) establish competitive levels  
7 (as that term is defined in regulations  
8 issued by the Director of the Office of  
9 Personnel Management) without re-  
10 gard to whether the particular em-  
11 ployees have been appointed to posi-  
12 tions in the competitive service or the  
13 excepted service; and

14 (III) afford employees appointed  
15 to positions in the excepted service  
16 (other than to a position excepted  
17 from the competitive service because  
18 of its confidential policy-making, pol-  
19 icy-determining, or policy-advocating  
20 character) the same assignment rights  
21 to positions within the Agency as em-  
22 ployees appointed to positions in the  
23 competitive service.

24 (B) SERVICE CREDIT FOR REDUCTIONS IN  
25 FORCE.—For purposes of this paragraph, peri-

1           ods of service with a Federal home loan bank,  
2           a joint office of the Federal home loan banks,  
3           the Board of Governors, a Federal reserve  
4           bank, the Federal Deposit Insurance Corpora-  
5           tion, or the National Credit Union Administra-  
6           tion shall be credited as periods of service with  
7           a Federal agency.

8           (2) AFTER 3RD YEAR.—

9                   (A) IN GENERAL.—If the Agency deter-  
10                  mines, at any time after the 3-year period be-  
11                  ginning on the designated transfer date, that a  
12                  reorganization of the staff of the Agency is re-  
13                  quired, any resulting reduction in force shall be  
14                  governed by the provisions of chapter 35 of title  
15                  5, United States Code, except that the Agency  
16                  shall establish competitive levels (as that term  
17                  is defined in regulations issued by the Office of  
18                  Personnel Management) without regard to  
19                  types of appointment held by particular employ-  
20                  ees transferred under this section.

21                   (B) SERVICE CREDIT FOR REDUCTIONS IN  
22                  FORCE.—For purposes of this paragraph, peri-  
23                  ods of service with a Federal home loan bank,  
24                  a joint office of the Federal home loan banks,  
25                  the Board of Governors, a Federal reserve

1 bank, the Federal Deposit Insurance Corpora-  
2 tion, or the National Credit Union Administra-  
3 tion shall be credited as periods of service with  
4 a Federal agency.

5 (i) BENEFITS.—

6 (1) RETIREMENT BENEFITS FOR TRANSFERRED  
7 EMPLOYEES.—

8 (A) IN GENERAL.—

9 (i) CONTINUATION OF EXISTING RE-  
10 TIREMENT PLAN.—Except as provided in  
11 subparagraph (B), each transferred em-  
12 ployee shall remain enrolled in such em-  
13 ployee's existing retirement plan as long as  
14 the employee remains employed by the  
15 Agency.

16 (ii) EMPLOYER'S CONTRIBUTION.—  
17 The Director shall pay any employer con-  
18 tributions to the existing retirement plan  
19 of each transferred employee as required  
20 under that plan.

21 (B) OPTION FOR EMPLOYEES TRANS-  
22 FERRED FROM FEDERAL RESERVE SYSTEM TO  
23 BE SUBJECT TO FEDERAL EMPLOYEE RETIRE-  
24 MENT PROGRAM.—

1           (i) ELECTION.—Any transferred em-  
2           ployee who was enrolled in a Federal Re-  
3           serve System retirement plan on the day  
4           before the date of the employee's transfer  
5           to the Agency may, during the period be-  
6           ginning 6 months after the designated  
7           transfer date and ending 1 year after the  
8           designated transfer date, elect to be sub-  
9           ject to the Federal employee retirement  
10          program.

11          (ii) EFFECTIVE DATE OF COV-  
12          ERAGE.—For any employee making an  
13          election under clause (i), coverage by the  
14          Federal employee retirement program shall  
15          begin 1 year after the designated transfer  
16          date.

17          (C) AGENCY PARTICIPATION IN FEDERAL  
18          RESERVE SYSTEM RETIREMENT PLAN.—

19          (i) SEPARATE ACCOUNT IN FEDERAL  
20          RESERVE SYSTEM RETIREMENT PLAN ES-  
21          TABLISHED.—A separate account in the  
22          Federal Reserve System retirement plan  
23          shall be established for Agency employees  
24          who do not make the election under sub-  
25          paragraph (B).

1                   (ii) FUNDS ATTRIBUTABLE TO TRANS-  
2                   FERRED EMPLOYEES REMAINING IN FED-  
3                   ERAL RESERVE SYSTEM RETIREMENT  
4                   PLAN TRANSFERRED.—The proportionate  
5                   share of funds in the Federal Reserve Sys-  
6                   tem retirement plan, including the propor-  
7                   tionate share of any funding surplus in  
8                   that plan, attributable to a transferred em-  
9                   ployee who does not make the election  
10                  under subparagraph (B), shall be trans-  
11                  ferred to the account established under  
12                  clause (i).

13                  (iii) EMPLOYER CONTRIBUTIONS DE-  
14                  POSITED.—The Director shall deposit into  
15                  the account established under clause (i)  
16                  the employer contributions that the Agency  
17                  makes on behalf of employees who do not  
18                  make the election under subparagraph (B).

19                  (iv) ACCOUNT ADMINISTRATION.—The  
20                  Director shall administer the account es-  
21                  tablished under clause (i) as a partici-  
22                  pating employer in the Federal Reserve  
23                  System retirement plan.

24                  (D) DEFINITIONS.—For purposes of this  
25                  paragraph, the following definitions shall apply:

1 (i) EXISTING RETIREMENT PLAN.—

2 The term “existing retirement plan”  
3 means, with respect to any employee trans-  
4 ferred under this section, the particular re-  
5 tirement plan (including the Financial In-  
6 stitutions Retirement Fund) and any asso-  
7 ciated thrift savings plan of the agency or  
8 Federal reserve bank from which the em-  
9 ployee was transferred, which the employee  
10 was enrolled in on the day before the des-  
11 ignated transfer date.

12 (ii) FEDERAL EMPLOYEE RETIRE-  
13 MENT PLAN.—The term “Federal employee  
14 retirement program” means the retirement  
15 program for Federal employees established  
16 by chapters 83 and 84 of title 5, United  
17 States Code.

18 (2) BENEFITS OTHER THAN RETIREMENT BEN-  
19 EFITS FOR TRANSFERRED EMPLOYEES.—

20 (A) DURING 1ST YEAR.—

21 (i) EXISTING PLANS CONTINUE.—

22 Each transferred employee may, for 1 year  
23 after the designated transfer date, retain  
24 membership in any other employee benefit  
25 program of the agency or bank from which

1 the employee transferred, including a den-  
2 tal, vision, long-term care, or life insurance  
3 program, to which the employee belonged  
4 on the day before the designated transfer  
5 date.

6 (ii) EMPLOYER'S CONTRIBUTION.—  
7 The Director shall reimburse the agency or  
8 bank from which an employee was trans-  
9 ferred for any cost incurred by that agency  
10 or bank in continuing to extend coverage  
11 in the benefit program to the employee as  
12 required under that program or negotiated  
13 agreements.

14 (B) DENTAL, VISION, OR LIFE INSURANCE  
15 AFTER 1ST YEAR.—If, after the 1-year period  
16 beginning on the designated transfer date, the  
17 Director decides not to continue participation in  
18 any dental, vision, or life insurance program of  
19 an agency or bank from which employees trans-  
20 ferred, a transferred employee who is a member  
21 of such a program may, before the Director's  
22 decision takes effect, elect to enroll, without re-  
23 gard to any regularly scheduled open season,  
24 in—

1 (i) the enhanced dental benefits estab-  
2 lished by chapter 89A of title 5, United  
3 States Code;

4 (ii) the enhanced vision benefits estab-  
5 lished by chapter 89B of title 5, United  
6 States Code; and

7 (iii) the Federal Employees Group  
8 Life Insurance Program established by  
9 chapter 87 of title 5, United States Code,  
10 without regard to any requirement of in-  
11 surability.

12 (C) LONG-TERM CARE INSURANCE AFTER  
13 1ST YEAR.—If, after the 1-year period begin-  
14 ning on the designated transfer date, the Direc-  
15 tor decides not to continue participation in any  
16 long-term care insurance program of an agency  
17 or bank from which employees transferred, a  
18 transferred employee who is a member of such  
19 a program may, before the Director's decision  
20 takes effect, elect to apply for coverage under  
21 the Federal Long Term Care Insurance Pro-  
22 gram established by chapter 90 of title 5,  
23 United States Code, under the underwriting re-  
24 quirements applicable to a new active workforce



1 member (as defined in Part 875, title 5, Code  
2 of Federal Regulations).

3 (D) EMPLOYEE'S CONTRIBUTION.—An in-  
4 dividual enrolled in the Federal Employees  
5 Health Benefits program shall pay any em-  
6 ployee contribution required by the plan.

7 (E) ADDITIONAL FUNDING.—The Director  
8 shall transfer to the Federal Employees Health  
9 Benefits Fund established under section 8909  
10 of title 5, United States Code, an amount deter-  
11 mined by the Director of the Office of Per-  
12 sonnel Management, after consultation with the  
13 Director and the Director of the Office of Man-  
14 agement and Budget, to be necessary to reim-  
15 burse the Fund for the cost to the Fund of pro-  
16 viding benefits under this subparagraph.

17 (F) CREDIT FOR TIME ENROLLED IN  
18 OTHER PLANS.—For employees transferred  
19 under this section, enrollment in a health bene-  
20 fits plan administered by the Comptroller of the  
21 Currency, the Director of the Office of Thrift  
22 Supervision, the Federal Deposit Insurance  
23 Corporation, the National Credit Union Admin-  
24 istration, the Board of Governors, the Secretary  
25 of Housing and Urban Development, or a Fed-

1           eral reserve bank, immediately before enroll-  
2           ment in a health benefits plan under chapter 89  
3           of title 5, United States Code, shall be consid-  
4           ered as enrollment in a health benefits plan  
5           under that chapter for purposes of section  
6           8905(b)(1)(A) of title 5, United States Code.

7                   (G) SPECIAL PROVISIONS TO ENSURE CON-  
8           TINUATION OF LIFE INSURANCE BENEFITS.—

9                   (i) IN GENERAL.—An annuitant (as  
10           defined in section 8901(3) of title 5,  
11           United States Code) who is enrolled in a  
12           life insurance plan administered by the  
13           Board of Governors of the Federal Reserve  
14           System, the Federal Deposit Insurance  
15           Corporation, the Federal Trade Commis-  
16           sion, the Secretary of Housing and Urban  
17           Development, the National Credit Union  
18           Administration, the Comptroller of the  
19           Currency, or the Director of the Office of  
20           Thrift Supervision on the day before the  
21           designated transfer date shall be eligible  
22           for coverage by a life insurance plan under  
23           sections 8706(b), 8714a, 8714b, and  
24           8714c of title 5, United States Code, or in  
25           a life insurance plan established by the

1 Agency, without regard to any regularly  
2 scheduled open season and requirement of  
3 insurability.

4 (ii) EMPLOYEE'S CONTRIBUTION.—An  
5 individual enrolled in a life insurance plan  
6 under this clause shall pay any employee  
7 contribution required by the plan.

8 (iii) ADDITIONAL FUNDING.—The Di-  
9 rector shall transfer to the Employees' Life  
10 Insurance Fund established under section  
11 8714 of title 5, United States Code, an  
12 amount determined by the Director of the  
13 Office of Personnel Management, after  
14 consultation with the Director and the Di-  
15 rector of the Office of Management and  
16 Budget, to be necessary to reimburse the  
17 Fund for the cost to the Fund of providing  
18 benefits under this subparagraph not oth-  
19 erwise paid for by the employee under  
20 clause (ii).

21 (iv) CREDIT FOR TIME ENROLLED IN  
22 OTHER PLANS.—For employees transferred  
23 under this section, enrollment in a life in-  
24 surance plan administered by the Board of  
25 Governors, the Federal Deposit Insurance

1 Corporation, the Federal Trade Commis-  
2 sion, the Secretary of Housing and Urban  
3 Development, the National Credit Union  
4 Administration, the Comptroller of the  
5 Currency, the Director of the Office of  
6 Thrift Supervision, or a Federal reserve  
7 bank immediately before enrollment in a  
8 life insurance plan under chapter 87 of  
9 title 5, United States Code, shall be con-  
10 sidered as enrollment in a life insurance  
11 plan under that chapter for purposes of  
12 section 8706(b)(1)(A) of title 5, United  
13 States Code.

14 (j) IMPLEMENTATION OF UNIFORM PAY AND CLASSI-  
15 FICATION SYSTEM.—Not later than 2 years after the des-  
16 ignated transfer date, the Director shall implement a uni-  
17 form pay and classification system for all transferred em-  
18 ployees.

19 (k) EQUITABLE TREATMENT.—In administering the  
20 provisions of this section, the Director—

21 (1) shall take no action that would unfairly dis-  
22 advantage transferred employees relative to each  
23 other based on their prior employment by the Board  
24 of Governors, the Federal Deposit Insurance Cor-  
25 poration, the Federal Trade Commission, the Sec-

1       retary of Housing and Urban Development, the Na-  
2       tional Credit Union Administration, the Office of the  
3       Comptroller of the Currency, the Office of Thrift  
4       Supervision, a Federal reserve bank, a Federal home  
5       loan bank, or a joint office of the Federal home loan  
6       banks; and

7           (2) may take such action as is appropriate in  
8       individual cases so that employees transferred under  
9       this section receive equitable treatment, with respect  
10      to those employees' status, tenure, pay, benefits  
11      (other than benefits under programs administered by  
12      the Office of Personnel Management), and accrued  
13      leave or vacation time, for prior periods of service  
14      with any Federal agency, including the Board of  
15      Governors of the Federal Reserve System, the Fed-  
16      eral Deposit Insurance Corporation, the Federal  
17      Trade Commission, the Department of Housing and  
18      Urban Development, the National Credit Union Ad-  
19      ministration, the Office of the Comptroller of the  
20      Currency, the Office of Thrift Supervision, a Federal  
21      reserve bank, a Federal home loan bank, or a joint  
22      office of the Federal home loan banks.

23      (1) IMPLEMENTATION.—In implementing the provi-  
24      sions of this section, the Director shall work with the Di-  
25      rector of the Office of Personnel Management and other

1 entities with expertise in matters related to employment  
2 to ensure a fair and orderly transition for affected employ-  
3 ees.

4 **SEC. 165. INCIDENTAL TRANSFERS.**

5 (a) INCIDENTAL TRANSFERS AUTHORIZED.—The Di-  
6 rector of the Office of Management and Budget, in con-  
7 sultation with the Secretary, shall make such additional  
8 incidental transfers and dispositions of assets and liabil-  
9 ities held, used, arising from, available, or to be made  
10 available, in connection with the functions transferred by  
11 this title, as the Director may determine necessary to ac-  
12 complish the purposes of this title.

13 (b) SUNSET.—The authority provided in this section  
14 shall terminate 5 years after the date of the enactment  
15 of this Act.

16 **SEC. 166. INTERIM AUTHORITY OF THE SECRETARY.**

17 (a) IN GENERAL.—The Secretary is authorized to  
18 perform the functions of the Director under this subtitle  
19 until the appointment of the Director is confirmed by the  
20 Senate in accordance with section 112.

21 (b) INTERIM ADMINISTRATIVE SERVICES BY THE  
22 DEPARTMENT OF THE TREASURY.—The Secretary of the  
23 Treasury may provide administrative services necessary to  
24 support the Agency before the designated transfer date.

1 (c) INTERIM FUNDING FOR THE DEPARTMENT OF  
2 THE TREASURY.—For the purposes of carrying out the  
3 authorities granted in this section, there are appropriated  
4 to the Secretary of the Treasury such sums as are nec-  
5 essary. Notwithstanding any other provision of law, such  
6 amounts shall be subject to apportionment under section  
7 1517 of title 31, United States Code, and restrictions that  
8 generally apply to the use of appropriated funds in title  
9 31, United States Code, and other laws.

10 **Subtitle G—Regulatory**  
11 **Improvements**

12 **SEC. 171. COLLECTION OF DEPOSIT ACCOUNT DATA.**

13 (a) PURPOSE.—The purpose of this section is to pro-  
14 mote awareness and understanding of the access of indi-  
15 viduals and communities to financial services, and to iden-  
16 tify business and community development needs and op-  
17 portunities.

18 (b) IN GENERAL.—

19 (1) RECORDS REQUIRED.—For each branch,  
20 automated teller machine at which deposits are ac-  
21 cepted, and other deposit taking service facility with  
22 respect to any financial institution, the financial in-  
23 stitution shall maintain records of the number and  
24 dollar amounts of deposit accounts of customers.

1           (2) GEO-CODED ADDRESSES OF DEPOSITORS.—

2           The customers' addresses maintained pursuant to  
3           paragraph (1) shall be geo-coded so that data shall  
4           be collected regarding the census tracts of the resi-  
5           dence or business location of the customers.

6           (3) IDENTIFICATION OF DEPOSITOR TYPE.—In

7           maintaining records on any deposit account under  
8           this section, the financial institution shall also  
9           record whether the deposit account is for a residen-  
10          tial or commercial customer.

11          (4) PUBLIC AVAILABILITY.—

12           (A) IN GENERAL.—The following informa-  
13          tion shall be publicly available on an annual  
14          basis—

15                   (i) the address and census tracts of  
16                   each branch, automated teller machine at  
17                   which deposits are accepted, and other de-  
18                   posit taking service facility with respect to  
19                   any financial institution;

20                   (ii) the type of deposit account includ-  
21                   ing whether the account was a checking or  
22                   savings account; and

23                   (iii) data on the number and dollar  
24                   amounts of the accounts, presented by cen-



1           sus tract location of the residential and  
2           commercial customers.

3                   (iv) any other data deemed appro-  
4           priate by the Director.

5           (B) PROTECTION OF IDENTITY.—In the  
6           publicly available data, any personally identifi-  
7           able data element shall be removed so as to pro-  
8           tect the identities of the commercial and resi-  
9           dential customers.

10       (c) AVAILABILITY OF INFORMATION.—

11           (1) SUBMISSION TO AGENCIES.—The data re-  
12       quired to be compiled and maintained under this  
13       section by any financial institution shall be sub-  
14       mitted annually to the Agency, or to a Federal bank-  
15       ing agency, in accordance with regulations pre-  
16       scribed by the Director.

17           (2) AVAILABILITY OF INFORMATION.—Informa-  
18       tion compiled and maintained under this section  
19       shall be retained for not less than 3 years after the  
20       date of preparation and shall be made available to  
21       the public, upon request, in the form required under  
22       regulations prescribed by the Director.

23       (d) AGENCY USE.—The Director—

24           (1) shall assess the distribution of residential  
25       and commercial accounts at such financial institu-

1       tion across income and minority level of census  
2       tracts; and

3           (2) may use the data for any other purpose as  
4       permitted by law.

5       (e) REGULATIONS AND GUIDANCE.—

6           (1) IN GENERAL.—The Director shall prescribe  
7       such regulations and issue guidance as may be nec-  
8       essary to carry out, enforce, and compile data pursu-  
9       ant to this section.

10          (2) DATA COMPILATION REGULATIONS.—The  
11       Director shall prescribe regulations regarding the  
12       provision of data compiled under this section to the  
13       Federal banking agencies to carry out the purposes  
14       of this section and shall issue guidance to financial  
15       institutions regarding measures to facilitate compli-  
16       ance with the this section and the requirements of  
17       regulations prescribed under this section.

18       (f) DEFINITIONS.—For purposes of this section, the  
19       following definitions shall apply:

20           (1) AGENCY.—The term “Agency” means the  
21       Consumer Financial Protection Agency.

22           (2) CREDIT UNION.—The term “credit union”  
23       means a Federal credit union or a State-chartered  
24       credit union (as such terms are defined in section  
25       101 of the Federal Credit Union Act).

1           (3) DEPOSIT ACCOUNT.—The term “deposit ac-  
2           count” includes any checking account, savings ac-  
3           count, credit union share account, and other type of  
4           account as defined by the Director.

5           (4) DIRECTOR.—The term “Director” means  
6           the Director of the Agency.

7           (5) FEDERAL BANKING AGENCY.—The term  
8           “Federal banking agency” means the Board of Gov-  
9           ernors of the Federal Reserve System, the head of  
10          the agency responsible for chartering and regulating  
11          national banks, the Director of the Office of Thrift  
12          Supervision, the Federal Deposit Insurance Corpora-  
13          tion, and the National Credit Union Administration;  
14          and the term “Federal banking agencies” means all  
15          of those agencies.

16          (6) FINANCIAL INSTITUTION.—The term “fi-  
17          nancial institution”—

18                 (A) has the meaning given to the term “in-  
19                 sured depository institution” in section 3(e)(2)  
20                 of the Federal Deposit Insurance Act; and

21                 (B) includes any credit union.

22          (g) EFFECTIVE DATE.—This section shall take effect  
23          on the designated transfer date.

1 **SEC. 172. SMALL BUSINESS DATA COLLECTION.**

2 (a) IN GENERAL.—The Equal Credit Opportunity  
3 Act (15 U.S.C. 1691 et seq.) is amended by inserting after  
4 section 704A the following new section:

5 **“§ 704B. Small business loan data collection**

6 “(a) PURPOSE.—The purpose of this section is to fa-  
7 cilitate enforcement of fair lending laws and enable com-  
8 munities, governmental entities, and creditors to identify  
9 business and community development needs and opportu-  
10 nities of women- and minority-owned small businesses.

11 “(b) IN GENERAL.—Subject to the requirements of  
12 this section, in the case of any application to a financial  
13 institution for credit for a small business, the financial in-  
14 stitution shall—

15 “(1) inquire whether the business is a women-  
16 or minority-owned business, without regard to  
17 whether such application is received in person, by  
18 mail, by telephone, by electronic mail or other form  
19 of electronic transmission, or by any other means  
20 and whether or not such application is in response  
21 to a solicitation by the financial institution; and

22 “(2) maintain a record of the responses to such  
23 inquiry separate from the application and accom-  
24 panying information.

25 “(c) RIGHT TO REFUSE.—Any applicant for credit  
26 may refuse to provide any information requested pursuant

1 to subsection (b) in connection with any application for  
2 credit.

3 “(d) NO ACCESS BY UNDERWRITERS.—

4 “(1) IN GENERAL.—Where feasible, no loan un-  
5 derwriter or other officer or employee of a financial  
6 institution, or any affiliate of a financial institution,  
7 involved in making any determination concerning an  
8 application for credit shall have access to any infor-  
9 mation provided by the applicant pursuant to a re-  
10 quest under subsection (b) in connection with such  
11 application.

12 “(2) EXCEPTION.—If a financial institution de-  
13 termines that loan underwriter or other officer or  
14 employee of a financial institution, or any affiliate of  
15 a financial institution, involved in making any deter-  
16 mination concerning an application for credit should  
17 have access to any information provided by the ap-  
18 plicant pursuant to a request under subsection (b),  
19 the financial institution will provide notice to the ap-  
20 plicant of the access of the underwriter to this infor-  
21 mation, along with notice that the financial institu-  
22 tion may not discriminate on this basis of this infor-  
23 mation.

24 “(e) FORM AND MANNER OF INFORMATION.—

1           “(1) IN GENERAL.—Each financial institution  
2           shall compile and maintain, in accordance with regu-  
3           lations of the Agency, a record of the information  
4           provided by any loan applicant pursuant to a request  
5           under subsection (b).

6           “(2) ITEMIZATION.—Information compiled and  
7           maintained under paragraph (1) shall also be  
8           itemized in order to clearly and conspicuously dis-  
9           close the following:

10           “(A) The number of the application and  
11           the date the application was received.

12           “(B) The type and purpose of the loan or  
13           other credit being applied for.

14           “(C) The amount of the credit or credit  
15           limit applied for and the amount of the credit  
16           transaction or the credit limit approved for such  
17           applicant.

18           “(D) The type of action taken with respect  
19           to such application and the date of such action.

20           “(E) The census tract in which is located  
21           the principal place of business of the small busi-  
22           ness loan applicant.

23           “(F) The gross annual revenue of the busi-  
24           ness in the last fiscal year of the small business

1 loan applicant preceding the date of the appli-  
2 cation.

3 “(G) The race, sex, and ethnicity of the  
4 principal owners of the business.

5 “(H) Any additional data the Agency de-  
6 termines would aid in fulfilling the purposes of  
7 this section.

8 “(3) INCLUSION OF PERSONALLY IDENTIFIABLE  
9 INFORMATION PROHIBITED.—In compiling and  
10 maintaining any record of information under this  
11 section, a financial institution may not include in  
12 such record the name, specific address (other than  
13 the census tract required under paragraph (1)(E)),  
14 telephone number, electronic mail address, and any  
15 other personally identifiable information concerning  
16 any individual who is, or is connected with, the small  
17 business loan applicant.

18 “(4) DISCRETION TO DELETE OR MODIFY PUB-  
19 LICLY AVAILABLE DATA.—The Agency may, in the  
20 discretion of the Agency, delete or modify data col-  
21 lected under this section which is or will be available  
22 to the public if the Agency determines that the dele-  
23 tion or modification of the data would advance a  
24 compelling privacy interest.

25 “(f) AVAILABILITY OF INFORMATION.—

1           “(1) SUBMISSION TO AGENCY.—The data re-  
2           quired to be compiled and maintained under this  
3           section by any financial institution shall be sub-  
4           mitted annually to the Agency.

5           “(2) AVAILABILITY OF INFORMATION.—

6           “(A) IN GENERAL.—Information compiled  
7           and maintained under this section shall be re-  
8           tained for not less than 3 years after the date  
9           of preparation and shall be made available to  
10          the public, upon request, in the form required  
11          under regulations prescribed by the Agency.

12          “(B) ANNUAL DISCLOSURE TO THE PUB-  
13          LIC.—In addition to the availability by request  
14          under subparagraph (A) of data compiled and  
15          maintained under this section, the Agency shall  
16          annually provide such data to the public.

17          “(C) PROCEDURES.—The procedures for  
18          disclosing data compiled and maintained under  
19          this section to the public shall be determined by  
20          the Agency by regulation.

21          “(3) COMPILATION OF AGGREGATE DATA.—

22          “(A) IN GENERAL.—The Agency may, in  
23          the discretion of the Agency, compile for the  
24          Agency’s own use compilations of aggregate  
25          data.



1           “(B) PUBLIC AVAILABILITY OF AGGRE-  
2           GATE DATA.—The Agency may, in the discre-  
3           tion of the Agency, make public compilations of  
4           aggregate data in such manner as the Agency  
5           may determine to be appropriate.

6           “(g) DEFINITIONS.—For purposes of this section, the  
7           following definitions shall apply:

8           “(1) FINANCIAL INSTITUTION.—The term ‘fi-  
9           nancial institution’ means any partnership, com-  
10          pany, corporation, association (incorporated or unin-  
11          corporated), trust, estate, cooperative organization,  
12          or other entity that engages in any financial activity.

13          “(2) MINORITY-OWNED BUSINESS.—The term  
14          ‘minority-owned business’ means a business—

15                 “(A) more than 50 percent of the owner-  
16                 ship or control of which is held by 1 or more  
17                 minority individuals; and

18                 “(B) more than 50 percent of the net prof-  
19                 it or loss of which accrues to 1 or more minor-  
20                 ity individuals.

21          “(3) WOMEN-OWNED BUSINESS.—The term  
22          ‘women-owned business’ means a business—

23                 “(A) more than 50 percent of the owner-  
24                 ship or control of which is held by 1 or more  
25                 women; and

1           “(B) more than 50 percent of the net prof-  
2           it or loss of which accrues to 1 or more women.

3           “(4) MINORITY.—The term ‘minority’ has the  
4           meaning given to such term by section 1204(c)(3) of  
5           the Financial Institutions Reform, Recovery, and  
6           Enforcement Act of 1989.

7           “(5) SMALL BUSINESS LOAN.—The term ‘small  
8           business loan’ shall be defined by the Agency, which  
9           may take into account—

10           “(A) the gross revenues of the borrower;

11           “(B) the total number of employees of the  
12           borrower;

13           “(C) the industry in which the borrower  
14           has its primary operations; and

15           “(D) the size of the loan.

16           “(h) AGENCY ACTION.—

17           “(1) IN GENERAL.—The Agency shall prescribe  
18           such regulations and issue such guidance as may be  
19           necessary to carry out, enforce, and compile data  
20           pursuant to this section.

21           “(2) EXCEPTIONS.—The Agency, by regulation  
22           or order, may adopt exceptions to any requirement  
23           of this section and may, conditionally or uncondi-  
24           tionally, exempt any financial institution or class of  
25           institutions from the requirements of this section as

1 the Agency determines to be necessary or appro-  
2 priate to carry out the purposes and objectives of  
3 this section.

4 “(3) GUIDANCE.—The Agency shall issue guid-  
5 ance designed to facilitate compliance with the re-  
6 quirements of this section, including assisting finan-  
7 cial institutions in working with applicants to deter-  
8 mine whether the applicants are women- or minor-  
9 ity-owned for the purposes of this section.’”.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
11 Section 701(b) of the Equal Credit Opportunity Act (15  
12 U.S.C. 1691(b)) is amended—

13 (1) by striking “or” after the semicolon at the  
14 end of paragraph (3);

15 (2) by striking the period at the end of para-  
16 graph (4) and inserting “; or”; and

17 (3) by inserting after paragraph (4), the fol-  
18 lowing new paragraph:

19 “(5) to make an inquiry under section 704B in  
20 accordance with the requirements of such section.”.

21 (c) CLERICAL AMENDMENT.—The table of sections  
22 for title VII of the Consumer Credit Protection Act is  
23 amended by inserting after the item relating to section  
24 704A the following new item:

“704B. Small business loan data collection.”.

1 (d) EFFECTIVE DATE.—This section shall take effect  
2 on the designated transfer date.

3 **SEC. 173. ANNUAL FINANCIAL AUTOPSY.**

4 (a) STUDY REQUIRED.—Not later than March 31 of  
5 each calendar year, the Director shall—

6 (1) conduct a scientific sampling of foreclosures  
7 and bankruptcies during the previous calendar year  
8 in each State or territory of the United States; and

9 (2) identify any underlying causes of such  
10 bankruptcies or foreclosures, including any specific  
11 financial products or services that have been the  
12 cause of substantial numbers of such bankruptcies  
13 or foreclosures.

14 (b) REPORT.—After the completion of each study re-  
15 quired under subsection (a), the Director shall submit a  
16 report to the Congress containing—

17 (1) any conclusions made by the Director in  
18 carrying out such study;

19 (2) any specific financial products or services  
20 that the Director has identified to have caused a  
21 substantial number of bankruptcies or foreclosures,  
22 as well as which companies or individuals provided  
23 such financial products or services; and

24 (3) any recommendations the Director has for  
25 legislation that would reduce the underlying causes

1 of bankruptcies and foreclosures identified in such  
2 study.

## 3 **Subtitle H—Conforming** 4 **Amendments**

### 5 **SEC. 181. AMENDMENTS TO THE INSPECTOR GENERAL ACT** 6 **OF 1978.**

7 (a) ESTABLISHMENT.—Section 8G(a)(2) of the In-  
8 spector General Act of 1978 (5 U.S.C. App. 3, 8G(a)(2))  
9 is amended by inserting “the Consumer Financial Protec-  
10 tion Agency,” before “the Consumer Product Safety Com-  
11 mission,”.

12 (b) EFFECTIVE DATE.—This section shall take effect  
13 on the date of the enactment of this Act.

### 14 **SEC. 182. AMENDMENTS TO THE PRIVACY ACT OF 1974.**

15 (a) APPLICABILITY.—Section 552a of title 5, United  
16 States Code, is amended by adding at the end the fol-  
17 lowing new subsection:

18 “(w) APPLICABILITY TO CONSUMER FINANCIAL PRO-  
19 TECTION AGENCY.—Except as provided in the Consumer  
20 Financial Protection Agency Act of 2009, this section  
21 shall apply with respect to the Consumer Financial Protec-  
22 tion Agency.”.

23 (b) EFFECTIVE DATE.—This section shall take effect  
24 on the date of the enactment of this Act.

1 **SEC. 183. AMENDMENTS TO THE ALTERNATIVE MORTGAGE**  
2 **TRANSACTION PARITY ACT OF 1982.**

3 (a) SECTION 803(1).—Section 803(1) of the Alter-  
4 native Mortgage Transaction Parity Act of 1982 (12  
5 U.S.C. 3802(1)) is amended by striking paragraphs (B)  
6 and (C).

7 (b) SECTION 804(a).—Section 804(a) of the Alter-  
8 native Mortgage Transaction Parity Act of 1982 (12  
9 U.S.C. 3803(a)) is amended—

10 (1) in paragraphs (1), (2), and (3), by inserting  
11 “on or before the designated transfer date, as deter-  
12 mined in section 1062 of the Consumer Financial  
13 Protection Agency Act of 2009” after “transactions  
14 made” each place such term appears;

15 (2) in paragraph (2), by striking “and” at the  
16 end;

17 (3) in paragraph (3), by striking the period at  
18 the end and inserting “; and”; and

19 (4) by adding at the end the following new  
20 paragraph:

21 “(4) with respect to transactions made after the  
22 designated transfer date, as determined in section  
23 1062 of the Consumer Financial Protection Agency  
24 Act of 2009, only in accordance with regulations  
25 governing alternative mortgage transactions as  
26 issued by the Consumer Financial Protection Agency

1 for federally chartered housing creditors, in accord-  
2 ance with the rulemaking authority granted to the  
3 Consumer Financial Protection Agency with regard  
4 to federally chartered housing creditors under laws  
5 other than this section.”.

6 (c) SECTION 804.—Section 804 of the Alternative  
7 Mortgage Transaction Parity Act of 1982 (12 U.S.C.  
8 3803) is amended—

9 (1) by striking subsection (c) and inserting the  
10 following new subsection:

11 “(c) EFFECT OF STATE LAW.—

12 “(1) IN GENERAL.—An alternative mortgage  
13 transaction may be made by a housing creditor in  
14 accordance with this section, notwithstanding any  
15 State Constitution, law, or regulation that prohibits  
16 an alternative mortgage transaction.

17 “(2) RULE OF CONSTRUCTION.—For purposes  
18 of this subsection, a State Constitution, law, or reg-  
19 ulation that prohibits an alternative mortgage trans-  
20 action does not include any State Constitution, law,  
21 or regulation that regulates mortgage transactions  
22 generally, including any restriction on prepayment  
23 penalties or late charges.”; and

24 (2) by adding at the end the following new sub-  
25 section:

1           “(d) DUTIES OF CONSUMER FINANCIAL PROTECTION  
2 AGENCY.—The Consumer Financial Protection Agency  
3 shall—

4           “(1) review the regulations identified by the  
5 Comptroller of the Currency, the National Credit  
6 Union Administration, and the Director of the Office  
7 of Thrift Supervision (as those regulations exist on  
8 the designated transfer date, as determined in sec-  
9 tion 1062 of the Consumer Financial Protection  
10 Agency Act of 2009) as applicable under paragraphs  
11 (1), (2), and (3) of subsection (a);

12           “(2) determine whether such regulations are  
13 fair and not deceptive and otherwise meet the objec-  
14 tives of section 121 of the Consumer Financial Pro-  
15 tection Agency Act of 2009; and

16           “(3) prescribe regulations under subsection  
17 (a)(4) after the designated transfer date, as deter-  
18 mined under such Act.”.

19           (d) EFFECTIVE DATE AND SCOPE OF APPLICA-  
20 TION.—

21           (1) EFFECTIVE DATE.—This section shall take  
22 effect on the designated transfer date.

23           (2) SCOPE OF APPLICATION.—The amendments  
24 made by subsection (a) shall not affect any trans-  
25 action covered by the Alternative Mortgage Trans-



1 action Parity Act of 1982 which is entered into on  
2 or before the designated transfer date.

3 **SEC. 184. AMENDMENTS TO THE CONSUMER CREDIT PRO-**  
4 **TECTION ACT.**

5 (a) TRUTH IN LENDING ACT.—

6 (1) SECTION 103.—Section 103 of the Truth in  
7 Lending Act (15 U.S.C. 1602) is amended by strik-  
8 ing subsection (b) and inserting the following new  
9 subsection:

10 “(b) AGENCY DEFINITIONS.—

11 “(1) BOARD.—The term ‘Board’ means the  
12 ‘Board of Governors of the Federal Reserve System’.

13 “(2) AGENCY.—The term ‘Agency’ means the  
14 Consumer Financial Protection Agency.”.

15 (2) UNIVERSAL AMENDMENT RELATING TO  
16 BOARD OF GOVERNORS OF THE FEDERAL RESERVE  
17 SYSTEM.—

18 (A) IN GENERAL.—Except as provided in  
19 subparagraph (B), the Truth in Lending Act  
20 (15 U.S.C. 1601 et seq.) is amended by striking  
21 “Board” each place such term appears, includ-  
22 ing in chapters 4 and 5 relating to credit billing  
23 and consumer leases, and inserting “Agency”.

24 (B) EXCEPTIONS.—The amendment de-  
25 scribed in subparagraph (A) shall not apply to

1 sections 108(a) (as amended by paragraph (4))  
2 and 140(d)) or any reference in either such sec-  
3 tion to the term “Board”.

4 (3) SECTION 105.—Section 105(b) of the Truth  
5 in Lending Act (15 U.S.C. 1604(b)) is amended by  
6 striking the first sentence and inserting the fol-  
7 lowing: “The Agency shall publish a single, inte-  
8 grated disclosure for mortgage loan transactions, in-  
9 cluding real estate settlement cost statements, which  
10 include the disclosure requirements of this title, in  
11 conjunction with the disclosure requirements of the  
12 Real Estate Settlement Procedures Act that, taken  
13 together, may apply to transactions subject to both  
14 or either law. The purpose of such model disclosure  
15 shall be to facilitate compliance with the disclosure  
16 requirements of those titles, and to aid the borrower  
17 or lessee in understanding the transaction by uti-  
18 lizing readily understandable language to simplify  
19 the technical nature of the disclosures.”.

20 (4) SECTION 108.—Section 108 of the Truth in  
21 Lending Act (15 U.S.C. 1607) is amended—

22 (A) by striking subsection (a) and insert-  
23 ing the following new subsection:

24 “(a) ENFORCING AGENCIES.—Subject to section 122  
25 of the Consumer Financial Protection Agency Act of 2009,

1 compliance with the requirements imposed under this title  
2 shall be enforced as follows:

3 “(1) Under section 8 of the Federal Deposit In-  
4 surance Act, in the case of—

5 “(A) national banks, and Federal branches  
6 and Federal agencies of foreign banks, by the  
7 head of the agency responsible for chartering  
8 and regulating national banks;

9 “(B) member banks of the Federal Reserve  
10 System (other than national banks), branches  
11 and agencies of foreign banks (other than Fed-  
12 eral branches, Federal agencies, and insured  
13 State branches of foreign banks), commercial  
14 lending companies owned or controlled by for-  
15 eign banks, and organizations operating under  
16 section 25 or 25(a) of the Federal Reserve Act,  
17 by the Board;

18 “(C) depository institution insured by the  
19 Federal Deposit Insurance Corporation (other  
20 than members of the Federal Reserve System,  
21 Federal savings associations, and savings and  
22 loan holding companies) and insured State  
23 branches of foreign banks, by the Board of Di-  
24 rectors of the Federal Deposit Insurance Cor-  
25 poration; and

1           “(D) Federal savings associations and sav-  
2           ings and loan holding companies, by the Direc-  
3           tor of the Office of Thrift Supervision.

4           “(2) Under subtitle E of the Consumer Finan-  
5           cial Protection Agency Act of 2009, by the Agency.

6           “(3) Under the Federal Credit Union Act, by  
7           the head of the agency responsible for chartering  
8           and regulating Federal credit unions.

9           “(4) Under the Federal Aviation Act of 1958,  
10          by the Secretary of Transportation with respect to  
11          any air carrier or foreign air carrier subject to that  
12          Act.

13          “(5) Under the Packers and Stockyards Act,  
14          1921 (except as provided in section 406 of that Act),  
15          by the Secretary of Agriculture with respect to any  
16          activities subject to that Act.

17          “(6) Under the Farm Credit Act of 1971, by  
18          the Farm Credit Administration with respect to any  
19          Federal land bank, Federal land bank association,  
20          Federal intermediate credit bank, or production  
21          credit association.”; and

22                 (B) by striking subsection (c) and insert-  
23                 ing the following new subsection:

24                 “(c) OVERALL ENFORCEMENT AUTHORITY OF THE  
25          FEDERAL TRADE COMMISSION.—Except to the extent

1 that enforcement of the requirements imposed under this  
2 title is specifically committed to some other Government  
3 agency under subsection (a) and subject to section 122  
4 of the Consumer Financial Protection Agency Act of 2009,  
5 the Federal Trade Commission shall enforce such require-  
6 ments. For the purpose of the exercise by the Federal  
7 Trade Commission of its functions and powers under the  
8 Federal Trade Commission Act, a violation of any require-  
9 ment imposed under this title shall be deemed a violation  
10 of a requirement imposed under that Act. All of the func-  
11 tions and powers of the Federal Trade Commission under  
12 the Federal Trade Commission Act are available to the  
13 Commission to enforce compliance by any person with the  
14 requirements under this title, irrespective of whether that  
15 person is engaged in commerce or meets any other juris-  
16 dictional tests in the Federal Trade Commission Act.”.

17 (5) UNIVERSAL AMENDMENT RELATING TO THE  
18 FEDERAL TRADE COMMISSION.—

19 (A) IN GENERAL.—Except as provided in  
20 subparagraph (B), the Truth in Lending Act  
21 (15 U.S.C. 1601 et seq.) is amended by striking  
22 “Federal Trade Commission” each place such  
23 term appears and inserting “Agency”.

24 (B) EXCEPTIONS.—The amendment de-  
25 scribed in subparagraph (A) shall not apply to

1 sections 108(c) (as amended by paragraph (4))  
2 and 129(m) (as amended by paragraph (7)) or  
3 any reference in either such section to the term  
4 “Federal Trade Commission”.

5 (6) SECTION 127.—Subparagraph (C) of section  
6 127(b)(11) of the Truth in Lending Act (15 U.S.C.  
7 1637(b)(11)) is amended to read as follows:

8 “(C) Notwithstanding subparagraphs (A)  
9 and (B), in the case of a creditor with respect  
10 to which compliance with this title is enforced  
11 by the Agency, the following statement, in a  
12 prominent location on the front of the billing  
13 statement, disclosed clearly and conspicuously:  
14 ‘Minimum Payment Warning: Making only the  
15 required minimum payment will increase the in-  
16 terest you pay and the time it takes to repay  
17 your balance. For example, making only the  
18 typical 5 percent minimum monthly payment on  
19 a balance of \$300 at an interest rate of 17 per-  
20 cent would take 24 months to repay the balance  
21 in full. For an estimate of the time it would  
22 take to repay your balance, making only min-  
23 imum monthly payments, call the Consumer Fi-  
24 nancial Protection Agency at this toll-free num-  
25 ber: \_\_\_\_\_ [the blank space to

1           be filled in by the creditor].’ A creditor who is  
2           subject to this subparagraph shall not be sub-  
3           ject to subparagraph (A) or (B).”.

4           (7) SECTION 129.—Section 129(m) of the Truth  
5           in Lending Act (15 U.S.C. 1639(m)) is amended to  
6           read as follows:

7           “(m) CIVIL PENALTIES IN FEDERAL TRADE COM-  
8           MISSION ENFORCEMENT ACTIONS.—For purposes of en-  
9           forcement by the Federal Trade Commission, any violation  
10          of a regulation issued by the Agency pursuant to sub-  
11          section (l)(2) of this section shall be treated as a violation  
12          of a regulation promulgated under section 18 of the Fed-  
13          eral Trade Commission Act (15 U.S.C. 57a) regarding un-  
14          fair or deceptive acts or practices.”.

15          (b) FAIR CREDIT REPORTING ACT.—

16          (1) SECTION 603.—Section 603 of the Fair  
17          Credit Reporting Act (15 U.S.C. 1681a) is amend-  
18          ed—

19                  (A) by redesignating subsections (w) and  
20                  (x) as subsections (x) and (y), respectively; and

21                  (B) by inserting after subsection (v) the  
22          following new subsection:

23          “(w) AGENCY.—The term ‘Agency’ means the Con-  
24          sumer Financial Protection Agency.”.

1           (2) UNIVERSAL AMENDMENTS RELATING TO  
2 THE FEDERAL TRADE COMMISSION.—Other than in  
3 connection with the amendment made by paragraph  
4 (7)(A), the Fair Credit Reporting Act (15 U.S.C.  
5 1681a) is amended—

6           (A) by striking “Federal Trade Commis-  
7 sion” each place such term appears and insert-  
8 ing “Agency”;

9           (B) by striking “Commission” each place  
10 such term appears (other than in connection  
11 with the term amended in subparagraph (A))  
12 and inserting “Agency”; and

13           (C) by striking “Federal banking agencies,  
14 the National Credit Union Administration, and  
15 the Commission shall jointly” each place such  
16 term appears in sections 605(h)(2),  
17 623(a)(8)(A), and 623(e)(1) and inserting  
18 “Agency shall”.

19           (3) SECTION 603.—Section 603(k)(2) of the  
20 Fair Credit Reporting Act (15 U.S.C. 1681a(k)(2))  
21 is amended by striking “Board of Governors of the  
22 Federal Reserve System” and inserting “Agency”.

23           (4) SECTION 604.—Subsection 604(g) of the  
24 Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is  
25 amended—



1 (A) by striking subparagraph (C) of para-  
2 graph (3) and inserting the following new sub-  
3 sections:

4 “(C) as otherwise determined to be nec-  
5 essary and appropriate, by regulation or order  
6 and subject to paragraph (6), by the Agency  
7 (with respect to any covered person subject to  
8 the jurisdiction of such agency under paragraph  
9 (2) of section 621(b)), or the applicable State  
10 insurance authority (with respect to any person  
11 engaged in providing insurance or annuities).”;  
12 and

13 (B) by striking paragraph (5) and insert-  
14 ing the following new paragraph:

15 “(5) REGULATIONS AND EFFECTIVE DATE FOR  
16 PARAGRAPH (2).—

17 “(A) REGULATIONS REQUIRED.—The  
18 Agency may, after notice and opportunity for  
19 comment, prescribe regulations that permit  
20 transactions under paragraph (2) that are de-  
21 termined to be necessary and appropriate to  
22 protect legitimate operational, transactional,  
23 risk, consumer, and other needs (and which  
24 shall include permitting actions necessary for  
25 administrative verification purposes), consistent

1 with the intent of paragraph (2) to restrict the  
2 use of medical information for inappropriate  
3 purposes.”.

4 (5) SECTION 611.—Subsection 611(e)(2) of the  
5 Fair Credit Reporting Act (15 U.S.C.1681i(e)(2)) is  
6 amended to read as follows:

7 “(2) EXCLUSION.—Complaints received or ob-  
8 tained by the Agency pursuant to its investigative  
9 authority under the Consumer Financial Protection  
10 Agency Act of 2009 shall not be subject to para-  
11 graph (1).”.

12 (6) SECTION 615.—Subparagraph 615(h)(6)(A)  
13 of the Fair Credit Reporting Act (15 U.S.C.  
14 1681m(h)(6)(A)) is amended to read as follows:

15 “(A) RULES REQUIRED.—The Agency  
16 shall prescribe rules.”.

17 (7) SECTION 621.—Section 621 of the Fair  
18 Credit Reporting Act (15 U.S.C. 1681s) is amend-  
19 ed—

20 (A) by striking subsection (a) and insert-  
21 ing the following new subsection:

22 “(a) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
23 SION.—

24 “(1) IN GENERAL.—Subject to section 122 of  
25 the Consumer Financial Protection Agency Act of

1 2009, compliance with the requirements imposed  
2 under this title shall be enforced under the Federal  
3 Trade Commission Act by the Federal Trade Com-  
4 mission with respect to consumer reporting agencies  
5 and all other persons subject thereto, except to the  
6 extent that enforcement of the requirements imposed  
7 under this title is specifically committed to some  
8 other government agency under subsection (b) here-  
9 of. For the purpose of the exercise by the Federal  
10 Trade Commission of its functions and powers under  
11 the Federal Trade Commission Act, a violation of  
12 any requirement or prohibition imposed under this  
13 title shall constitute an unfair or deceptive act or  
14 practice in commerce in violation of section 5(a) of  
15 the Federal Trade Commission Act and shall be sub-  
16 ject to enforcement by the Federal Trade Commis-  
17 sion under section 5(b) of such Act with respect to  
18 any consumer reporting agency or person subject to  
19 enforcement by the Federal Trade Commission pur-  
20 suant to this subsection, irrespective of whether that  
21 person is engaged in commerce or meets any other  
22 jurisdictional tests in the Federal Trade Commission  
23 Act. The Federal Trade Commission shall have such  
24 procedural, investigative, and enforcement powers  
25 (subject to section 122 of the Consumer Financial

1 Protection Agency Act of 2009), including the power  
2 to issue procedural rules in enforcing compliance  
3 with the requirements imposed under this title and  
4 to require the filing of reports, the production of  
5 documents, and the appearance of witnesses as  
6 though the applicable terms and conditions of the  
7 Federal Trade Commission Act were part of this  
8 title. Any person violating any of the provisions of  
9 this title shall be subject to the penalties and enti-  
10 tled to the privileges and immunities provided in the  
11 Federal Trade Commission Act as though the appli-  
12 cable terms and provisions thereof were part of this  
13 title.

14 “(2) CIVIL MONEY PENALTIES.—

15 “(A) IN GENERAL.—Subject to section 122  
16 of the Consumer Financial Protection Agency  
17 Act of 2009, in the event of a knowing viola-  
18 tion, which constitutes a pattern or practice of  
19 violations of this title, the Commission may  
20 commence a civil action to recover a civil pen-  
21 alty in a district court of the United States  
22 against any person that violates this title. In  
23 such action, such person shall be liable for a  
24 civil penalty of not more than \$2,500 per viola-  
25 tion.

1           “(B) FACTORS IN DETERMINING  
2 AMOUNT.—In determining the amount of a civil  
3 penalty under subparagraph (A), the court shall  
4 take into account the degree of culpability, any  
5 history of prior such conduct, ability to pay, ef-  
6 fect on ability to continue to do business, and  
7 such other matters as justice may require.

8           “(3) EXCEPTION.—Notwithstanding paragraph  
9 (2), a court may not impose any civil penalty on a  
10 person for a violation of section 623(a)(1) unless the  
11 person has been enjoined from committing the viola-  
12 tion, or ordered not to commit the violation, in an  
13 action or proceeding brought by or on behalf of the  
14 Federal Trade Commission or the Agency, as the  
15 case may be, and has violated the injunction or  
16 order, and the court may not impose any civil pen-  
17 alty for any violation occurring before the date of  
18 the violation of the injunction or order.”;

19           (B) by striking subsection (b) and insert-  
20 ing the following new subsection:

21           “(b) ENFORCEMENT BY OTHER AGENCIES.—Subject  
22 to section 122 of the Consumer Financial Protection  
23 Agency Act of 2009, compliance with the requirements im-  
24 posed under this title with respect to consumer reporting  
25 agencies, persons who use consumer reports from such

1 agencies, persons who furnish information to such agen-  
2 cies, and users of information that are subject to sub-  
3 section (d) of section 615 shall be enforced as follows:

4           “(1) Under section 8 of the Federal Deposit In-  
5 surance Act, in the case of—

6                   “(A) national banks, and Federal branches  
7 and Federal agencies of foreign banks, by the  
8 head of the agency responsible for chartering  
9 and regulating national banks;

10                   “(B) member banks of the Federal Reserve  
11 System (other than national banks), branches  
12 and agencies of foreign banks (other than Fed-  
13 eral branches, Federal agencies, and insured  
14 State branches of foreign banks), commercial  
15 lending companies owned or controlled by for-  
16 eign banks, and organizations operating under  
17 section 25 or 25A of the Federal Reserve Act,  
18 by the Board of Governors of the Federal Re-  
19 serve System;

20                   “(C) banks insured by the Federal Deposit  
21 Insurance Corporation (other than members of  
22 the Federal Reserve System, Federal savings  
23 associations, and savings and loan holding com-  
24 panies) and insured State branches of foreign

1 banks, by the Board of Directors of the Federal  
2 Deposit Insurance Corporation; and

3 “(D) Federal savings associations and sav-  
4 ings and loan holding companies, by the Direc-  
5 tor of the Office of Thrift Supervision.

6 “(2) Under subtitle E of the Consumer Finan-  
7 cial Protection Agency Act of 2009, by the Agency  
8 in the case of a covered person under that Act.

9 “(3) Under the Federal Credit Union Act, by  
10 the National Credit Union Administration Board  
11 with respect to any Federal credit union.

12 “(4) Under subtitle IV of title 49, United  
13 States Code, by the Secretary of Transportation,  
14 with respect to all carriers subject to the jurisdiction  
15 of the Surface Transportation Board.

16 “(5) Under the Federal Aviation Act of 1958,  
17 by the Secretary of Transportation with respect to  
18 any air carrier or foreign air carrier subject to that  
19 Act.

20 “(6) Under the Packers and Stockyards Act,  
21 1921 (except as provided in section 406 of that Act),  
22 by the Secretary of Agriculture with respect to any  
23 activities subject to that Act.

1           “(7) Under the Commodity Exchange Act, with  
2           respect to a person subject to the jurisdiction of the  
3           Commodity Futures Trading Commission.

4           “(8) Under the Federal securities law and any  
5           other laws subject to the jurisdiction of the Securi-  
6           ties and Exchange Commission, with respect to a  
7           person subject to the jurisdiction of the Securities  
8           and Exchange Commission.

9   Any term used in paragraph (1) that is not defined in  
10 this title or otherwise defined in section 3(s) of the Federal  
11 Deposit Insurance Act shall have the meaning given to  
12 such term in section 1(b) of the International Banking Act  
13 of 1978.”;

14           (C) by striking subsection (e) and inserting  
15           the following new subsection:

16           “(e) REGULATORY AUTHORITY.—The Agency shall  
17           prescribe such regulations as necessary to carry out the  
18           purposes of this Act with respect to a covered person de-  
19           scribed in subsection (b)”;

20           (D) in the heading of subsection (g) by  
21           striking “FTC”.

22           (8) SECTION 623.—Section 623 of the Fair  
23           Credit Reporting Act (15 U.S.C. 1681s–2) is  
24           amended—



1 (A) by amending subparagraph (a)(7)(D)  
2 to read as follows:

3 “(D) MODEL DISCLOSURE.—

4 “(i) DUTY OF AGENCY TO PRE-  
5 PARE.—The Agency shall prescribe a brief  
6 model disclosure a financial institution  
7 may use to comply with subparagraph (A),  
8 which shall not exceed 30 words.

9 “(ii) USE OF MODEL NOT RE-  
10 QUIRED.—No provision of this paragraph  
11 shall be construed as requiring a financial  
12 institution to use any such model form pre-  
13 scribed by the Agency.

14 “(iii) COMPLIANCE USING MODEL.—A  
15 financial institution shall be deemed to be  
16 in compliance with subparagraph (A) if the  
17 financial institution uses any such model  
18 form prescribed by the Agency, or the fi-  
19 nancial institution uses any such model  
20 form and rearranges its format.”.

21 (B) by amending subsection (e) to read as  
22 follows:

23 “(e) ACCURACY GUIDELINES AND REGULATIONS RE-  
24 QUIRED.—

1           “(1) GUIDELINES.—The Agency shall, with re-  
2           spect to the entities that are subject to its enforce-  
3           ment authority under section 621—

4                   “(A) establish and maintain guidelines for  
5                   use by each person that furnishes information  
6                   to a consumer reporting agency regarding the  
7                   accuracy and integrity of the information relat-  
8                   ing to consumers that such entities furnish to  
9                   consumer reporting agencies, and update such  
10                  guidelines as often as necessary; and

11                  “(B) prescribe regulations requiring each  
12                  person that furnishes information to a con-  
13                  sumer reporting agency to establish reasonable  
14                  policies and procedures or implementing the  
15                  guidelines established pursuant to subpara-  
16                  graph (A).

17           “(2) CRITERIA.—In developing the guidelines  
18           required by paragraph (1)(A), the Agency shall—

19                   “(A) identify patterns, practices, and spe-  
20                   cific forms of activity that can compromise the  
21                   accuracy and integrity of information furnished  
22                   to consumer reporting agencies;

23                   “(B) review the methods (including techno-  
24                   logical means) used to furnish information re-

1           lating to consumers to consumer reporting  
2           agencies;

3           “(C) determine whether persons that fur-  
4           nish information to consumer reporting agen-  
5           cies maintain and enforce policies to ensure the  
6           accuracy and integrity of information furnished  
7           to consumer reporting agencies; and

8           “(D) examine the policies and processes  
9           that persons that furnish information to con-  
10          sumer reporting agencies employ to conduct re-  
11          investigations and correct inaccurate informa-  
12          tion relating to consumers that has been fur-  
13          nished to consumer reporting agencies.”

14          (c) EQUAL CREDIT OPPORTUNITY ACT.—

15           (1) SECTION 701.—Section 701 of the Equal  
16          Credit Opportunity Act (15 U.S.C. 1691) is amend-  
17          ed by striking “Board” each place such term ap-  
18          pears and inserting “Agency”.

19           (2) SECTION 702.—Section 702(c) of the Equal  
20          Credit Opportunity Act (15 U.S.C. 1691a) is  
21          amended to read as follows:

22          “(c) The term ‘Agency’ means the Consumer Finan-  
23          cial Protection Agency.”.

1           (3) SECTION 703.—Section 703 of the Equal  
2           Credit Opportunity Act (15 U.S.C. 1691b) is  
3           amended—

4                   (A) by striking subsection (b);

5                   (B) by redesignating paragraphs (1), (2),  
6                   (3), (4), and (5) of subsection (a) as sub-  
7                   sections (a), (b), (c), (d), and (e), respectively;

8                   (C) in subsection (c) (as so redesign-  
9                   ated)—

10                   (i) by striking “paragraph (2)” and  
11                   inserting “subsection (b)”; and

12                   (ii) by striking “such paragraph” and  
13                   inserting “such subsection;”

14                   (D) in subsection (d) (as so redesign-  
15                   ated)—

16                   (i) by striking “subsection” and in-  
17                   serting “section”

18                   (ii) by striking “Act” and inserting  
19                   “title”; and

20                   (iii) by striking “this paragraph” and  
21                   inserting “this subsection”; and

22                   (E) by striking “Board” each place such  
23                   term appears in such section and inserting  
24                   “Agency”.

1           (4) SECTION 704.—Section 704 of the Equal  
2           Credit Opportunity Act (15 U.S.C. 1691c) is amend-  
3           ed—

4                   (A) in subsection (a)—

5                           (i) in the matter preceding paragraph  
6                           (1), by striking “Compliance” and insert-  
7                           ing “Subject to section 122 of the Con-  
8                           sumer Financial Protection Agency Act of  
9                           2009, compliance”;

10                           (ii) in paragraph (1)(A), by striking  
11                           “Office of the Comptroller of the Cur-  
12                           rency” and inserting “head of the agency  
13                           responsible for chartering and regulating  
14                           national banks”;

15                           (iii) in paragraph (1)(B), by striking  
16                           “and” after the semicolon;

17                           (iv) in paragraph (1)(C), by inserting  
18                           “and” after the semicolon;

19                           (v) by inserting after subparagraph  
20                           (C) of paragraph (1) the following new  
21                           subparagraph:

22                           “(D) savings associations and savings and  
23                           loan holding companies by the Director of the  
24                           Office of Thrift Supervision;” and

1 (vi) by amending paragraph (2) to  
2 read as follows:

3 “(2) Subtitle E of the Consumer Financial Pro-  
4 tection Agency Act of 2009, by the Agency.”;

5 (B) by striking subsection (c) and insert-  
6 ing the following new subsection:

7 “(c) OVERALL ENFORCEMENT AUTHORITY OF FED-  
8 ERAL TRADE COMMISSION.—Except to the extent that en-  
9 forcement of the requirements imposed under this title is  
10 specifically committed to some other Government agency  
11 under subsection (a) and subject to section 102 of the  
12 Consumer Financial Protection Agency Act of 2009, the  
13 Federal Trade Commission shall enforce such require-  
14 ments. For the purpose of the exercise by the Federal  
15 Trade Commission of its functions and powers under the  
16 Federal Trade Commission Act, a violation of any require-  
17 ment imposed under this title shall be deemed a violation  
18 of a requirement imposed under that Act. All of the func-  
19 tions and powers of the Federal Trade Commission under  
20 the Federal Trade Commission Act are available to the  
21 Commission to enforce compliance by any person with the  
22 requirements imposed under this title, irrespective of  
23 whether that person is engaged in commerce or meets any  
24 other jurisdictional tests in the Federal Trade Commission  
25 Act, including the power to enforce any regulation pre-

1 scribed by the Director under this title in the same man-  
2 ner as if the violation had been a violation of a Federal  
3 Trade Commission trade regulation rule.”; and

4 (C) in subsection (d), by striking “Board”  
5 and inserting “Agency”.

6 (5) SECTION 704a.—Section 704A(a)(1) of the  
7 Equal Credit Opportunity Act (15 U.S.C. 1691c–  
8 1(a)(1)) is amended in by striking “Board” and in-  
9 serting “Agency”.

10 (6) SECTION 705.—Section 705 of the Equal  
11 Credit Opportunity Act (15 U.S.C. 1691d) is  
12 amended—

13 (A) in subsection (f), by striking “Board”  
14 each place such term appears and inserting  
15 “Agency”; and

16 (B) in subsection (g), by striking “Board”  
17 and inserting “Agency”.

18 (7) SECTION 706.—Section 706 of the Equal  
19 Credit Opportunity Act (15 U.S.C. 1691e) is amend-  
20 ed—

21 (A) in subsection (e)—

22 (i) by striking “Board” each place  
23 such term appears and inserting “Agency”;  
24 and

1 (ii) by striking “Federal Reserve Sys-  
2 tem” and inserting “Consumer Financial  
3 Protection Agency”;

4 (B) in subsection (f), by striking “two  
5 years” each place such term appears and insert-  
6 ing “5 years”;

7 (C) in subsection (g)—

8 (i) by striking “The agencies having”,  
9 in the 1st sentence, and inserting “The  
10 Agency and the agencies having”

11 (ii) by striking “Each agency re-  
12 ferred”, in the 2nd sentence, and inserting  
13 “The Agency and each agency referred”;

14 (iii) by striking “Each such agency”,  
15 in the 3rd sentence, and inserting “The  
16 Agency and each such agency”; and

17 (iv) by striking “whenever the agen-  
18 cy” in the 3rd sentence, and inserting  
19 “whenever the Agency or an agency having  
20 responsibility for administrative enforce-  
21 ment under section 704”; and

22 (D) in subsection (k)—

23 (i) by striking “Whenever an agency”  
24 and inserting “Whenever the Agency or an  
25 agency”;



1 (ii) by striking “the agency shall no-  
2 tify” and inserting “the Agency, or an  
3 agency referred to in any such paragraph,  
4 as the case may be, shall notify”.

5 (8) SECTION 707.—Section 707 of the Equal  
6 Credit Opportunity Act (15 U.S.C. 1691f) is amend-  
7 ed by striking “Board” each place such term ap-  
8 pears and inserting “Agency”.

9 (d) FAIR DEBT COLLECTION PRACTICES ACT.—

10 (1) SECTION 803.—Section 803 of the Fair  
11 Debt Collection Practices Act (15 U.S.C. 1692a) is  
12 amended—

13 (A) by redesignating paragraphs (1), (2),  
14 (3), (4), (5), (6), (7), and (8) as paragraphs  
15 (2), (3), (4), (5), (6), (7), (8), and (9), respec-  
16 tively; and

17 (B) by inserting before paragraph (2) (as  
18 so redesignated) the following new paragraph:

19 “(1) The term ‘Agency’ means the Consumer  
20 Financial Protection Agency.”.

21 (2) SECTION 813.—Section 813(e) of the Fair  
22 Debt Collection Practices Act (15 U.S.C. 1692k(e))  
23 is amended by striking “Commission” and inserting  
24 “Agency”.

1           (3) SECTION 814.—Section 814 of the Fair  
2           Debt Collection Practices Act (15 U.S.C. 1692l) is  
3           amended—

4                   (A) by striking subsection (a) and insert-  
5           ing the following new subsection:

6           “(a) FEDERAL TRADE COMMISSION.—Subject to sec-  
7           tion 122 of the Consumer Financial Protection Agency  
8           Act of 2009, compliance with this title shall be enforced  
9           by the Commission, except to the extent that enforcement  
10          of the requirements imposed under this title is specifically  
11          committed to another agency under subsection (b). For  
12          purpose of the exercise by the Commission of its functions  
13          and powers under the Federal Trade Commission Act, a  
14          violation of this title shall be deemed an unfair or decep-  
15          tive act or practice in violation of that Act. All of the func-  
16          tions and powers of the Commission under the Federal  
17          Trade Commission Act are available to the Commission  
18          to enforce compliance by any person with this title, irre-  
19          spective of whether that person is engaged in commerce  
20          or meets any other jurisdictional tests in the Federal  
21          Trade Commission Act, including the power to enforce the  
22          provisions of this title in the same manner as if the viola-  
23          tion had been a violation of a Federal Trade Commission  
24          trade regulation rule.”;

25                   (B) in subsection (b)—

1 (i) in the matter preceding paragraph  
2 (1), by striking “Compliance” and insert-  
3 ing “Subject to section 122 of the Con-  
4 sumer Financial Protection Agency Act of  
5 2009, compliance”.

6 (ii) in paragraph (1)(A), by striking  
7 “Office of the Comptroller of the Cur-  
8 rency;” and inserting “head of the agency  
9 responsible for chartering and regulating  
10 national banks”;

11 (iii) in paragraph (1)(B), by striking  
12 “and” after the semicolon;

13 (iv) in paragraph (1)(C), by inserting  
14 “and” after the semicolon;

15 (v) by inserting after subparagraph  
16 (C) of paragraph (1) the following new  
17 subparagraph:

18 “(D) savings associations and savings and  
19 loan holding companies by the Director of the  
20 Office of Thrift Supervision;”; and

21 (vi) by striking paragraph (2) and in-  
22 serting the following new paragraph:

23 “(2) subtitle E of the Consumer Financial Pro-  
24 tection Agency Act of 2009, by the Agency;”; and

1 (C) by striking subsection (d) and insert-  
2 ing the following new subsection:

3 “(d) REGULATIONS.—The Agency may prescribe reg-  
4 ulations with respect to the collection of debts by any debt  
5 collector.”.

6 (4) SECTION 815.—Section 815 (15 U.S.C.  
7 1692m) is amended by striking “Commission” each  
8 place such term appears and inserting “Agency”.

9 (5) SECTION 817.—Section 817 (15 U.S.C.  
10 1692o) is amended by striking “Commission” each  
11 place such term appears and inserting “Agency”.

12 (e) ELECTRONIC FUND TRANSFER ACT.—

13 (1) SECTION 903.—Section 903 of the Elec-  
14 tronic Fund Transfer Act (15 U.S.C. 1693a) is  
15 amended—

16 (A) by striking paragraph (3) and insert-  
17 ing the following new paragraph:

18 “(3) the term ‘Agency’ means the Consumer Fi-  
19 nancial Protection Agency;”; and

20 (B) in paragraph (6), by striking “Board”  
21 and inserting “Agency”.

22 (2) SECTION 904.—Section 904 of the Elec-  
23 tronic Fund Transfer Act (15 U.S.C. 1693b) is  
24 amended by striking “Board” each place such term  
25 appears and inserting “Agency”.

1           (3) SECTION 905.—Section 905 of the Elec-  
2           tronic Fund Transfer Act (15 U.S.C. 1693e) is  
3           amended by striking “Board” each place such term  
4           appears and inserting “Agency”.

5           (4) SECTION 906.—Section 906(b) of the Elec-  
6           tronic Fund Transfer Act (15 U.S.C. 1693d(b)) is  
7           amended by striking “Board” and inserting “Agen-  
8           cy”.

9           (5) SECTION 907.—Section 907(b) of the Elec-  
10          tronic Fund Transfer Act (15 U.S.C. 1693e(b)) is  
11          amended by striking “Board” and inserting “Agen-  
12          cy”.

13          (6) SECTION 908.—Section 908(f)(7) of the  
14          Electronic Fund Transfer Act (15 U.S.C.  
15          1693f(f)(7)) is amended by striking “Board” and in-  
16          serting “Agency”.

17          (7) SECTION 910.—Section 910(a)(1)(E) of the  
18          Electronic Fund Transfer Act (15 U.S.C.  
19          1693h(a)(1)(E)) is amended by striking “Board”  
20          and inserting “Agency”.

21          (8) SECTION 911.—Section 911(b)(3) of the  
22          Electronic Fund Transfer Act (15 U.S.C.  
23          1693i(b)(3)) is amended by striking “Board” and in-  
24          serting “Agency”.

1           (9) SECTION 915.—Section 915(d) of the Elec-  
2           tronic Fund Transfer Act (15 U.S.C. 1693m(d)) is  
3           amended—

4                   (A) by striking “Board” each place such  
5           term appears and inserting “Agency”; and

6                   (B) by striking “Federal Reserve System”  
7           and inserting “Consumer Financial Protection  
8           Agency”.

9           (10) SECTION 917.—Section 917 of the Elec-  
10          tronic Fund Transfer Act (15 U.S.C. 1693o) is  
11          amended—

12                   (A) in subsection (a)—

13                           (i) by striking “Compliance” and in-  
14                           serting “Subject to section 122 of the Con-  
15                           sumer Financial Protection Agency Act of  
16                           2009, compliance”;

17                           (ii) in paragraph (1)(A), by striking  
18                           “Office of the Comptroller of the Cur-  
19                           rency” and inserting “head of the agency  
20                           responsible for chartering and regulating  
21                           national banks”; and

22                           (iii) by striking paragraph (2) and in-  
23                           serting:

24                           “(2) subtitle E of the Consumer Financial Pro-  
25                           tection Agency Act of 2009, by the Agency;”; and

1 (B) by striking subsection (c) and insert-  
2 ing the following new subsection:

3 “(c) OVERALL ENFORCEMENT AUTHORITY OF THE  
4 FEDERAL TRADE COMMISSION.—Except to the extent  
5 that enforcement of the requirements imposed under this  
6 title is specifically committed to some other Government  
7 agency under subsection (a) and subject to section 122  
8 of the Consumer Financial Protection Agency Act of 2009,  
9 the Federal Trade Commission shall enforce such require-  
10 ments. For the purpose of the exercise by the Federal  
11 Trade Commission of its functions and powers under the  
12 Federal Trade Commission Act, a violation of any require-  
13 ment imposed under this title shall be deemed a violation  
14 of a requirement imposed under that Act. All of the func-  
15 tions and powers of the Federal Trade Commission under  
16 the Federal Trade Commission Act are available to the  
17 Commission to enforce compliance by any person subject  
18 to the jurisdiction of the Commission with the require-  
19 ments imposed under this title, irrespective of whether  
20 that person is engaged in commerce or meets any other  
21 jurisdictional tests in the Federal Trade Commission  
22 Act.”.

23 (11) SECTION 918.—Section 918 of the Elec-  
24 tronic Fund Transfer Act (15 U.S.C. 1693p) is

1 amended by striking “Board” each place such term  
2 appears and inserting “Agency”.

3 (12) SECTION 919.—Section 919 of the Elec-  
4 tronic Fund Transfer Act (15 U.S.C. 1693q) is  
5 amended by striking “Board” each place such term  
6 appears and inserting “Agency”.

7 (13) SECTION 920.—Section 920 of the Elec-  
8 tronic Fund Transfer Act (15 U.S.C. 1693r) is  
9 amended by striking “Board” each place such term  
10 appears and inserting “Agency”.

11 (f) AMENDMENTS TO HOEPA RELATING TO THE  
12 TRUTH IN LENDING ACT.—Section 158 of the Home  
13 Ownership and Equity Protection Act of 1994 (15 U.S.C.  
14 1601 nt.) (relating to hearings on home equity lending)  
15 is amended—

16 (1) in subsection (a), by striking “Board of  
17 Governors of the Federal Reserve System, in con-  
18 sultation with the Consumer Advisory Council of the  
19 Board,” and inserting “Consumer Financial Protec-  
20 tion Agency, in consultation with the Advisory  
21 Board to the Agency”; and

22 (2) in subsection (b), by striking “Board of  
23 Governors of the Federal Reserve System” and in-  
24 serting “Consumer Financial Protection Agency”.



1 (g) AMENDMENT TO THE FAIR AND ACCURATE  
2 CREDIT TRANSACTIONS ACT OF 2003 RELATING TO THE  
3 FAIR CREDIT REPORTING ACT.—Section 214(b)(1) of the  
4 Fair and Accurate Credit Transactions Act of 2003 (15  
5 U.S.C. 1681s–3 nt.) is amended by striking “The Federal  
6 banking agencies, the National Credit Union Administra-  
7 tion, and the Commission, with respect to the entities that  
8 are subject to their respective enforcement authority under  
9 section 621 of the Fair Credit Reporting Act and” and  
10 inserting “The Consumer Financial Protection Agency,  
11 with respect to a person subject to the enforcement au-  
12 thority of the Agency, the Commodity Futures Trading  
13 Commission, and”.

14 **SEC. 185. AMENDMENTS TO THE EXPEDITED FUNDS AVAIL-**  
15 **ABILITY ACT.**

16 (a) SECTION 605.—Section 605(f)(1) of the Expe-  
17 dited Funds Availability Act (12 U.S.C. 4004(f)(1)) is  
18 amended by inserting “, in consultation with the Director  
19 of the Consumer Financial Protection Agency,” after  
20 “Board”.

21 (b) SECTION 609.—Section 609(a) of the Expedited  
22 Funds Availability Act (12 U.S.C. 4008(a)) is amended  
23 by inserting “, in consultation with the Director of the  
24 Consumer Financial Protection Agency,” after “Board”.

1 **SEC. 186. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**  
2 **ANCE ACT.**

3 (a) SECTION 8.—Section 8(t) the Federal Deposit In-  
4 surance Act (12 U.S.C. 1818(t)) is amended by adding  
5 at the end the following new paragraph:

6 “(6) REFERRAL TO CONSUMER FINANCIAL PRO-  
7 TECTION COMMISSION.—Each appropriate Federal  
8 banking agency shall make a referral to the Con-  
9 sumer Financial Protection Agency when the Fed-  
10 eral banking agency has a reasonable belief that a  
11 violation of an enumerated consumer law, as defined  
12 in section 122(e)(2) of the Consumer Financial Pro-  
13 tection Agency Act of 2009, by any insured deposi-  
14 tory institution or institution-affiliated party within  
15 the jurisdiction of that appropriate Federal banking  
16 agency.”.

17 (b) SECTION 43.—Section 43 of the Federal Deposit  
18 Insurance Act (12 U.S.C. 1831t) is amended—

19 (1) in subsection (c), by striking “Federal  
20 Trade Commission” and inserting “Agency”;

21 (2) in subsection (d), by striking “Federal  
22 Trade Commission” and inserting “Agency”;

23 (3) in subsection (e)—

24 (A) in paragraph (1), by striking “Federal  
25 Trade Commission” and inserting “Agency”;

26 and

1 (B) by adding at the end the following new  
2 paragraph:

3 “(5) AGENCY.—The term ‘Agency’ means the  
4 Consumer Financial Protection Agency.”.

5 (e) SECTION 43(f).—Section 43(f) of the Federal De-  
6 posit Insurance Act (12 U.S.C. 1831t(f)) is amended—

7 (1) by striking paragraph (1) and inserting the  
8 following new paragraph:

9 “(1) LIMITED ENFORCEMENT AUTHORITY.—  
10 Compliance with the requirements of subsections (b),  
11 (c) and (e), and any regulation prescribed or order  
12 issued under such subsection, shall be enforced  
13 under the Consumer Financial Protection Agency  
14 Act of 2009 by the Agency with respect to any per-  
15 son (and without regard to the provision of a con-  
16 sumer financial product or service).”; and

17 (2) in paragraph (2), by striking subparagraph  
18 (C) and inserting the following new subparagraph:

19 “(C) LIMITATION ON STATE ACTION  
20 WHILE FEDERAL ACTION PENDING.—If the  
21 Agency has instituted an enforcement action for  
22 a violation of this section, no appropriate State  
23 supervisory may, during the pendency of such  
24 action, bring an action under this section  
25 against any defendant named in the complaint

1 of the Agency for any violation of this section  
2 that is alleged in that complaint.”.

3 **SEC. 187. AMENDMENTS TO THE GRAMM-LEACH-BLILEY**  
4 **ACT.**

5 (a) SECTION 504.—Section 504(a)(1) of the Gramm-  
6 Leach-Bliley Act (15 U.S.C. 6804(a)(1)) is amended—

7 (1) by striking “The Federal banking agencies,  
8 the National Credit Union Administration, the Sec-  
9 retary of the Treasury,” and inserting “The Con-  
10 sumer Financial Protection Agency and”; and

11 (2) by striking “, and the Federal Trade Com-  
12 mission”.

13 (b) SECTION 505.—

14 (1) Section 505(a) of the Gramm-Leach-Bliley  
15 Act (15 U.S.C. 6805(a)) is amended—

16 (A) in the matter preceding paragraph (1),  
17 by striking “This subtitle and the regulations  
18 prescribed thereunder shall be enforced by” and  
19 inserting “Subject to section 122 of the Con-  
20 sumer Financial Protection Agency Act of  
21 2009, this subtitle and the regulations pre-  
22 scribed under this title shall be enforced by the  
23 Consumer Financial Protection Agency,”; and

24 (B) by inserting after paragraph (7) the  
25 following new paragraph:

1           “(8) Under the Consumer Financial Protection  
2 Agency Act of 2009, by the Consumer Financial  
3 Protection Agency in the case of financial institu-  
4 tions and other covered persons and service pro-  
5 viders subject to the jurisdiction of the Agency  
6 under that Act, but not with respect to the stand-  
7 ards under section 501.”.

8           (2) Section 505(b)(1) of the Gramm-Leach-Bliley  
9 Act (15 U.S.C. 6805(b)(1)) is amended by in-  
10 sserting “, other than the Consumer Financial Pro-  
11 tection Agency,” after “described in subsection (a)”.

12 **SEC. 188. AMENDMENTS TO THE HOME MORTGAGE DISCLO-**  
13 **SURE ACT OF 1975.**

14           (a) SECTION 303.—Section 303 of the Home Mort-  
15 gage Disclosure Act of 1975 (12 U.S.C. 2802) is amend-  
16 ed—

17           (1) by redesignating paragraphs (1), (2), (3),  
18 (4), (5), and (6) as paragraphs (2), (3), (4), (5),  
19 (6), and (7), respectively; and

20           (2) by inserting before paragraph (2) (as so re-  
21 designated) the following new paragraph:

22           “(1) The term ‘Agency’ means the Consumer  
23 Financial Protection Agency.”.

24           (b) UNIVERSAL AMENDMENT RELATING TO AGEN-  
25 CY.—Except as provided in subsections (c), (d), (e), and

1 (f), the Home Mortgage Disclosure Act of 1975 (12  
2 U.S.C. 2801–11) is amended by striking “Board” each  
3 place such term appears and inserting “Agency”.

4 (c) SECTION 304.—Section 304 of the Home Mort-  
5 gage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is  
6 amended—

7 (1) in subsection (b)—

8 (A) by striking “and” after the semicolon  
9 at the end of paragraph (3);

10 (B) by striking “and gender” in paragraph  
11 (4), and inserting “age, and gender”;

12 (C) by striking the period at the end of  
13 paragraph (4) and inserting a semicolon; and

14 (D) by inserting after paragraph (4) the  
15 following new paragraphs:

16 “(5) the number and dollar amount of mort-  
17 gage loans grouped according to the following meas-  
18 urements:

19 “(A) the total points and fees payable at  
20 origination in connection with the mortgage as  
21 determined by the Agency, taking into account  
22 15 U.S.C. 1602(aa)(4);

23 “(B) the difference between the annual  
24 percentage rate associated with the loan and a  
25 benchmark rate or rates for all loans;

1           “(C) the term in months of any prepay-  
2           ment penalty or other fee or charge payable on  
3           repayment of some portion of principal or the  
4           entire principal in advance of scheduled pay-  
5           ments; and

6           “(D) such other information as the Agency  
7           may require; and

8           “(6) the number and dollar amount of mort-  
9           gage loans and completed applications grouped ac-  
10          cording to the following measurements:

11           “(A) the value of the real property pledged  
12           or proposed to be pledged as collateral;

13           “(B) the actual or proposed term in  
14           months of any introductory period after which  
15           the rate of interest may change;

16           “(C) the presence of contractual terms or  
17           proposed contractual terms that would allow the  
18           mortgagor or applicant to make payments other  
19           than fully-amortizing payments during any por-  
20           tion of the loan term;

21           “(D) the actual or proposed term in  
22           months of the mortgage loan;

23           “(E) the channel through which applica-  
24           tion was made, including retail, broker, and  
25           other relevant categories;

1           “(F) as the Agency may determine to be  
2 appropriate, a unique identifier that identifies  
3 the loan originator as set forth in Section 1503  
4 of the Secure and Fair Enforcement for Mort-  
5 gage Licensing Act of 2008;

6           “(G) as the Agency may determine to be  
7 appropriate, a universal loan identifier;

8           “(H) as the Agency may determine to be  
9 appropriate, the parcel number that cor-  
10 responds to the real property pledged or pro-  
11 posed to be pledged as collateral;

12           “(I) the credit score of mortgage appli-  
13 cants and mortgagors in such form as the  
14 Agency may prescribe, except that the Agency  
15 shall modify or require modification of credit  
16 score data that is or will be available to the  
17 public to protect the compelling privacy interest  
18 of the mortgage applicant or mortgagors; and

19           “(J) such other information as the Agency  
20 may require.”;

21           (2) by striking subsection (h) and inserting the  
22 following new subsection:

23           “(h) SUBMISSION TO AGENCIES.—

24           “(1) IN GENERAL.—The data required to be  
25 disclosed under subsection (b) shall be submitted to



1 the Agency or to the appropriate agency for any in-  
2 stitution reporting under this title, in accordance  
3 with regulations prescribed by the Agency. Institu-  
4 tions will not be required to report new data re-  
5 quired under section 188(c) before the first January  
6 1 that occurs after the end of the 9-month period  
7 beginning on the date that regulations prescribed by  
8 the Agency are prescribed in final form.

9 “(2) REGULATIONS.— Notwithstanding the re-  
10 quirement of section 304(a)(2)(A) for disclosure by  
11 census tract, the Agency, in cooperation with other  
12 appropriate regulators, including—

13 “(A) the head of the agency responsible for  
14 chartering and regulating national banks for  
15 national banks and Federal branches, Federal  
16 agencies of foreign banks, and savings associa-  
17 tions;

18 “(B) the Federal Deposit Insurance Cor-  
19 poration for depository institutions insured by  
20 the Federal Deposit Insurance Corporation  
21 (other than members of the Federal Reserve  
22 System, Federal savings associations, and sav-  
23 ings and loan holding companies) and insured  
24 State branches of foreign banks;

1           “(C) the Director of the Office of Thrift  
2           Supervision for Federal savings associations  
3           and savings and loan holding companies;

4           “(D) the National Credit Union Adminis-  
5           tration Board for credit unions; and

6           “(E) the Secretary of Housing and Urban  
7           Development for other lending institutions not  
8           regulated by an agency referred to in subpara-  
9           graphs (A), (B), (C), or (D),  
10          shall develop regulations prescribing the format for  
11          such disclosures, the method for submission of the  
12          data to the appropriate regulatory agency, and the  
13          procedures for disclosing the information to the pub-  
14          lic.

15          “(3) REQUIRED DISCLOSURES.—The regula-  
16          tions prescribed under paragraph (2) shall require  
17          the collection of data required to be disclosed under  
18          subsection (b) with respect to loans sold by each in-  
19          stitution reporting under this title, and, in addition,  
20          shall require disclosure of the class of the purchaser  
21          of such loans.

22          “(4) ADDITIONAL DATA OR EXPLANATIONS.—  
23          Any reporting institution may submit in writing to  
24          the Agency or to the appropriate agency such addi-  
25          tional data or explanations as it deems relevant to

1 the decision to originate or purchase mortgage  
2 loans.”;

3 (3) in subsection (i), by striking “subsection  
4 (b)(4)” and inserting “paragraphs (4), (5), and (6)  
5 of subsections (b)”;

6 (4) in subsection (j)—

7 (A) by striking “(as” where such term ap-  
8 pears in paragraph (1) and inserting “(con-  
9 taining loan-level and application-level informa-  
10 tion relating to disclosures required under sub-  
11 sections (a) and (b) and as otherwise”;

12 (B) by striking “in the format in which  
13 such information is maintained by the institu-  
14 tion” where such term appears in paragraph  
15 (2)(A), and inserting “in such formats as the  
16 Agency may require”; and

17 (C) by striking paragraph (3) and insert-  
18 ing the following new paragraph:

19 “(3) CHANGE OF FORM NOT REQUIRED.—A de-  
20 pository institution meets the disclosure requirement  
21 of paragraph (1) if the institution provides the infor-  
22 mation required under such paragraph in such for-  
23 mats as the Agency may require.”; and

24 (5) by striking paragraph (2) of subsection (m)  
25 and inserting the following new paragraph:

1           “(2) FORM OF INFORMATION.—In complying  
2 with paragraph (1), a depository institution shall  
3 provide the person requesting the information with  
4 a copy of the information requested in such formats  
5 as the Agency may require.”.

6           (d) SECTION 305.—Section 305 of the Home Mort-  
7 gage Disclosure Act of 1975 (12 U.S.C. 2804) is amend-  
8 ed—

9           (1) by striking subsection (b) and inserting the  
10 following new subsection:

11           “(b) POWERS OF CERTAIN OTHER AGENCIES.—Com-  
12 pliance with the requirements imposed under this title  
13 shall be enforced under—

14           “(1) section 8 of the Federal Deposit Insurance  
15 Act, in the case of—

16           “(A) national banks, and Federal branches  
17 and Federal agencies of foreign banks, by the  
18 head of the agency responsible for chartering  
19 and regulating national banks;

20           “(B) member banks of the Federal Reserve  
21 System (other than national banks), branches  
22 and agencies of foreign banks (other than Fed-  
23 eral branches, Federal agencies, and insured  
24 State branches of foreign banks), commercial  
25 lending companies owned or controlled by for-

1           eign banks, and organizations operating under  
2           section 25 or 25(a) of the Federal Reserve Act,  
3           by the Board;

4           “(C) depository institutions insured by the  
5           Federal Deposit Insurance Corporation (other  
6           than members of the Federal Reserve System,  
7           Federal savings associations, and savings and  
8           loan holding companies) and insured State  
9           branches of foreign banks, by the Board of Di-  
10          rectors of the Federal Deposit Insurance Cor-  
11          poration; and

12          “(D) Federal savings associations, and  
13          savings and loan holding companies, by the Di-  
14          rector of the Office of Thrift Supervision;

15          “(2) subtitle E of the Consumer Financial Pro-  
16          tection Agency Act of 2009, by the Agency;

17          “(3) the Federal Credit Union Act, by the Ad-  
18          ministrator of the National Credit Union Adminis-  
19          tration with respect to any credit union; and

20          “(4) other lending institutions, by the Secretary  
21          of Housing and Urban Development. The terms  
22          used in paragraph (1) that are not defined in this  
23          title or otherwise defined in section 3(s) of the Fed-  
24          eral Deposit Insurance Act (12 U.S.C. 1813(s))  
25          shall have the meaning given to them in section 1(b)

1 of the International Banking Act of 1978 (12 U.S.C.  
2 3101).

3 The terms used in paragraph (1) that are not defined in  
4 this title or otherwise defined in section 3(s) of the Federal  
5 Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the  
6 meaning given to them in section 1(b) of the International  
7 Banking Act of 1978”; and

8 (2) by inserting at the end of section 305 the  
9 following new subsection:

10 “(d) OVERALL ENFORCEMENT AUTHORITY OF THE  
11 CONSUMER FINANCIAL PROTECTION AGENCY.—Subject  
12 to section 122 of the Consumer Financial Protection  
13 Agency Act of 2009, enforcement of the requirements im-  
14 posed under this title is committed to each of the agencies  
15 under subsection (b). The Agency may exercise its authori-  
16 ties under the Consumer Financial Protection Agency Act  
17 of 2009 to exercise principal authority to examine and en-  
18 force compliance by any person with the requirements  
19 under this title.”.

20 (e) SECTION 306.—Subsection 306(b) of the Home  
21 Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)) is  
22 amended to read as follows:

23 “(b) The Agency may, by regulation, exempt from the  
24 requirements of this title any State chartered depository  
25 institution within any State or subdivision of any state if

1 the Agency determines that, under the law of such State  
2 or subdivision, that institution is subject to requirements  
3 substantially similar to those imposed under this title, and  
4 that such law contains adequate provisions for enforce-  
5 ment. Notwithstanding any other provision of this sub-  
6 section, compliance with the requirements imposed under  
7 this subsection shall be enforced by the head of the agency  
8 responsible for chartering and regulating national banks  
9 under section 8 of the Federal Deposit Insurance Act in  
10 the case of national banks and savings association the de-  
11 posits of which are insured by the Federal Deposit Insur-  
12 ance Corporation.”.

13 (f) SECTION 307.—Section 307 of the Home Mort-  
14 gage Disclosure Act of 1975 (12 U.S.C. 2806) is amended  
15 to read as follows:

16 **“SEC. 307. RESEARCH AND IMPROVED METHODS.**

17 “(a) ENHANCED COMPLIANCE IN ECONOMICAL MAN-  
18 NER.—

19 “(1) IN GENERAL.—The Director of the Con-  
20 sumer Financial Protection Agency, with the assist-  
21 ance of the Secretary, the Director of the Bureau of  
22 the Census, the Board of Governors of the Federal  
23 Reserve System, the Federal Deposit Insurance Cor-  
24 poration, and such other persons as the Consumer  
25 Financial Protection Agency deems appropriate,

1 shall develop or assist in the improvement of, meth-  
2 ods of matching addresses and census tracts to fa-  
3 cilitate compliance by depository institutions in as  
4 economical a manner as possible with the require-  
5 ments of this title.

6 “(2) AUTHORIZATION OF APPROPRIATION.—  
7 There is authorized to be appropriated such sums as  
8 may be necessary to carry out this subsection.

9 “(3) AUTHORITY OF AGENCY.—The Director of  
10 the Consumer Financial Protection Agency is au-  
11 thorized to utilize, contract with, act through, or  
12 compensate any person or agency in order to carry  
13 out this subsection.

14 “(b) RECOMMENDATIONS TO THE CONGRESS.—The  
15 Director of the Consumer Financial Protection Agency  
16 shall recommend to the Committee on Financial Services  
17 of the House of Representatives and the Committee on  
18 Banking, Housing, and Urban Affairs of the Senate such  
19 additional legislation as the Director of the Consumer Fi-  
20 nancial Protection Agency deems appropriate to carry out  
21 the purpose of this title.”.

22 **SEC. 189. AMENDMENTS TO DIVISION D OF THE OMNIBUS**  
23 **APPROPRIATIONS ACT, 2009.**

24 (a) Section 626(a) of title VI of division D of the  
25 Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 nt.)



1 (as amended by the Credit Card Accountability Responsi-  
2 bility and Disclosure Act of 2009) is amended—

3 (1) by striking by paragraph (1) and inserting  
4 the following new paragraph:

5 “(1) The Director of the Consumer Financial  
6 Protection Agency shall have authority to prescribe  
7 regulations with respect to mortgage loans in ac-  
8 cordance with section 553 of title 5, United States  
9 Code. Such rulemaking shall relate to unfair or de-  
10 ceptive acts or practices regarding mortgage loans,  
11 which may include unfair or deceptive acts or prac-  
12 tices involving loan modification and foreclosure res-  
13 cue services. Any violation of a regulation prescribed  
14 under this subsection shall be treated as a violation  
15 of a regulation prohibiting unfair, deceptive, or abu-  
16 sive acts or practices under the Consumer Financial  
17 Protection Agency Act of 2009.”;

18 (2) by striking paragraph (2);

19 (3) by striking paragraph (3); and

20 (4) by striking paragraph (4) and inserting the  
21 following new paragraph:

22 “(2) The Director of the Consumer Financial  
23 Protection Agency shall enforce the regulations  
24 issued under paragraph (1) in the same manner, by  
25 the same means, and with the same jurisdiction,

1 powers, and duties as though all applicable terms  
2 and provisions of the Consumer Financial Protection  
3 Agency Act of 2009 were incorporated into and  
4 made part of this section.”.

5 (b) Section 626(b) of title VI of division D of the  
6 Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 nt.)  
7 is amended—

8 (1) by striking “Federal Trade Commission”  
9 and inserting “Consumer Financial Protection Agen-  
10 cy”;

11 (2) by striking “the Commission” and inserting  
12 “the Consumer Financial Protection Agency”; and

13 (3) by striking “primary Federal regulatory”  
14 and inserting “Consumer Financial Protection Agen-  
15 cy”.

16 **SEC. 190. AMENDMENTS TO THE HOMEOWNERS PROTEC-**  
17 **TION ACT OF 1998.**

18 Section 10 of the Homeowners Protection Act of  
19 1998 (12 U.S.C. 4909) is amended—

20 (1) in that portion of subsection (a) that pre-  
21 ceedes paragraph (1), subsection (a), by striking  
22 “Compliance” and inserting “Subject to section 122  
23 of the Consumer Financial Protection Agency Act of  
24 2009, compliance”;

1           (2) in subsection (a)(2), by striking “and after  
2           the semicolon at the end;”

3           (3) in subsection (a)(3), by striking the period  
4           at the end and inserting “; and”;

5           (4) by inserting after subsection (a)(3), the fol-  
6           lowing new paragraph:

7           “(4) subtitle E of the Consumer Financial Pro-  
8           tection Agency Act of 2009, by the Consumer Fi-  
9           nancial Protection Agency.”; and.

10          (5) in subsection (b)(2), by inserting “, subject  
11          to section 122 of the Consumer Financial Protection  
12          Agency Act of 2009” before the period at the end.

13 **SEC. 191. AMENDMENTS TO THE REAL ESTATE SETTLE-**  
14 **MENT PROCEDURES ACT OF 1974.**

15          (a) SECTION 3.—Section 3 of the Real Estate Settle-  
16          ment Procedures Act of 1974 (12 U.S.C. 2602) is amend-  
17          ed by adding at the end the following new paragraph—

18                 “(9) the term ‘Agency’ means the Consumer Fi-  
19                 nancial Protection Agency.”.

20          (b) SECTION 4.—Section 4 of the Real Estate Settle-  
21          ment Procedures Act of 1974 (12 U.S.C. 2603) is amend-  
22          ed—

23                 (1) in subsection (a), by striking the first sen-  
24                 tence and inserting the following: “The Agency shall  
25                 publish a single, integrated disclosure for mortgage

1 loan transactions, including real estate settlement  
2 cost statements, which include the disclosure re-  
3 quirements of this title, in conjunction with the dis-  
4 closure requirements of the Truth in Lending Act  
5 (15 U.S.C. 1601 note et seq.) that, taken together,  
6 may apply to transactions subject to both or either  
7 law. The purpose of such model disclosure shall be  
8 to facilitate compliance with the disclosure require-  
9 ments of those titles, and to aid the borrower or les-  
10 see in understanding the transaction by utilizing  
11 readily understandable language to simplify the tech-  
12 nical nature of the disclosures.”;

13 (2) by striking “Secretary” each place such  
14 term appears and inserting “Agency”; and

15 (3) by striking “form” each place such term ap-  
16 pears and inserting “forms”.

17 (c) SECTION 5.—Section 5 of the Real Estate Settle-  
18 ment Procedures Act of 1974 (12 U.S.C. 2604) is amend-  
19 ed—

20 (1) by striking “Secretary” each place such  
21 term appears, and inserting “Agency”; and

22 (2) by striking the first sentence of subsection  
23 (a), and inserting “The Agency shall prepare and  
24 distribute booklets jointly complying with the re-  
25 quirements of the Truth in Lending Act (15 U.S.C.

1       1601 note et seq.) and the provisions of this title,  
2       in order to help persons borrowing money to finance  
3       the purchase of residential real estate better to un-  
4       derstand the nature and costs of real estate settle-  
5       ment services.”.

6       (d) SECTION 6.—Section 6(j)(3) of the Real Estate  
7       Settlement Procedures Act of 1974 (12 U.S.C. 2605(j)(3))  
8       is amended—

9               (1) by striking “Secretary” and inserting “Di-  
10       rector of the Agency”; and

11              (2) by striking “by regulations that shall take  
12       effect not later than April 20, 1991,” and inserting  
13       “by regulation,”.

14       (e) SECTION 7.—Section 7 of the Real Estate Settle-  
15       ment Procedures Act of 1974 (12 U.S.C. 2606) is amend-  
16       ed by striking “Secretary” and inserting “the Director of  
17       the Agency”.

18       (f) SECTION 8.—Section 8 of the Real Estate Settle-  
19       ment Procedures Act of 1974 (12 U.S.C. 2607) is amend-  
20       ed—

21              (1) in subsection (c)(5), by striking “prescribed  
22       by the Secretary” and inserting “prescribed by the  
23       Director of the Agency”; and

24              (2) in subsection (d)(4)—

1 (A) by striking “The Secretary,” and in-  
2 serting “The Agency, the Secretary,”; and

3 (B) by adding at the end the following new  
4 sentence: “However, to the extent that a Fed-  
5 eral law authorizes the Agency and other Fed-  
6 eral and State agencies to enforce or administer  
7 the law, the Agency shall have primary author-  
8 ity to enforce or administer that Federal law in  
9 accordance with section 122 of the Consumer  
10 Financial Protection Agency Act of 2009.”.

11 (g) SECTION 10.—Section 10(d) of the Real Estate  
12 Settlement Procedures Act of 1974 (12 U.S.C. 2609(d))  
13 is amended by striking “Secretary” and inserting “Agen-  
14 cy”.

15 (h) SECTION 16.—Section 16 of the Real Estate Set-  
16 tlement Procedures Act of 1974 (12 U.S.C. 2614) is  
17 amended by inserting “the Agency,” before “the Sec-  
18 retary”.

19 (i) SECTION 18.—Section 18 of the Real Estate Set-  
20 tlement Procedures Act of 1974 (12 U.S.C. 2616) is  
21 amended by striking “Secretary each place such term ap-  
22 pears” and inserting “Agency”.

23 (j) SECTION 19.—Section 19 of the Real Estate Set-  
24 tlement Procedures Act of 1974 (12 U.S.C. 2617) is

1 amended by striking “Secretary” each place where such  
2 term appears and inserting “Agency”.

3 **SEC. 192. AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-**  
4 **VACY ACT OF 1978.**

5 (a) AMENDMENTS TO SECTION 1101.—Section 1101  
6 of the Right to Financial Privacy Act of 1978 (12 U.S.C.  
7 3401) is amended—

8 (1) by striking paragraph (1) and inserting the  
9 following new paragraph:

10 “(1) ‘financial institution’ means any bank, sav-  
11 ings association, card issuer as defined in section  
12 103(n) of the Truth in Lending Act, credit union, or  
13 consumer finance institution located in any State or  
14 territory of the United States, the District of Colum-  
15 bia, Puerto Rico, Guam, American Samoa, or the  
16 Virgin Islands;” and

17 (2) in paragraph (7)—

18 (A) by redesignating subparagraphs (F),  
19 (G), (H), and (I) as subparagraphs (G), (H),  
20 (I), and (J), respectively; and

21 (B) by inserting after subparagraph (E)  
22 the following new subparagraph:

23 “(F) the Consumer Financial Protection  
24 Agency;”.

1 (b) AMENDMENTS TO SECTION 1112.—Section  
2 1112(e) of the Right to Financial Privacy Act (12 U.S.C.  
3 3412) is amended by striking “and the Commodity Fu-  
4 tures Trading Commission is permitted” and inserting  
5 “the Commodity Futures Trading Commission, and the  
6 Consumer Financial Protection Agency is permitted”.

7 (c) AMENDMENTS TO SECTION 1113.—Section 1113  
8 of the Right to Financial Privacy Act (12 U.S.C. 3413)  
9 is amended by adding at the end the following new sub-  
10 section—

11 “(r) DISCLOSURE TO THE CONSUMER FINANCIAL  
12 PROTECTION AGENCY.—Nothing in this chapter shall  
13 apply to the examination by or disclosure to the Consumer  
14 Financial Protection Agency of financial records or infor-  
15 mation in the exercise of its authority with respect to a  
16 financial institution.”.

17 **SEC. 193. AMENDMENTS TO THE SECURE AND FAIR EN-**  
18 **FORCEMENT FOR MORTGAGE LICENSING ACT**  
19 **OF 2008.**

20 (a) SECTION 1503.—Section 1503 of the Secure and  
21 Fair Enforcement for Mortgage Licensing Act of 2008 (12  
22 U.S.C. 5102) is amended—

23 (1) by striking paragraph (9);

24 (2) by redesignating existing paragraph (1) as  
25 paragraph (2), redesignating existing paragraph (2)



1 as paragraph (1), and moving paragraph (2) (as so  
2 redesignated) and inserting such paragraph after  
3 paragraph (1) (as so redesignated);

4 (3) by redesignating paragraphs (1), (2), (3),  
5 (4), (5), (6), (7), (8), (10), (11), and (12), as so re-  
6 designated by paragraph (2), as paragraphs (2), (4),  
7 (5), (6), (7), (8), (9), (10), (11), (12), and (13), re-  
8 spectively;

9 (4) by inserting before paragraph (2), as so re-  
10 designated by paragraph (3), the following new  
11 paragraphs:

12 “(1) AGENCY.—The term ‘Agency’ means the  
13 Consumer Financial Protection Agency.”; and

14 (5) by inserting after paragraph (2), as so re-  
15 designated by paragraph (3), the following new  
16 paragraph:

17 “(3) DIRECTOR.—The term ‘Director’ means  
18 the Director of the Agency.”.

19 (b) UNIVERSAL AMENDMENTS RELATING TO AGEN-  
20 CY.—The Secure and Fair Enforcement for Mortgage Li-  
21 censing Act of 2008 (12 U.S.C. 5101 et seq.) is amend-  
22 ed—

23 (1) by striking “a Federal banking agency”  
24 each place such term appears (other than in para-  
25 graph (9)(A)(ii)(II) (as so redesignated by sub-

1 section (a), relating to the definition of registered  
2 loan originator) or paragraph (12)(B)(ii)(II) (as so  
3 redesignated by subsection (a), relating to the defini-  
4 tion of State-licensed loan originators) of section  
5 1503 of such Act or inconnection with a reference  
6 that is specifically amended by another provision of  
7 this section) and inserting “the Agency”;

8 (2) by striking “Federal banking agencies”  
9 each place such term appears (other than in sub-  
10 section (a)(4) (as so redesignated by subsection (a),  
11 relating to the definition of Federal banking agen-  
12 cies) or inconnection with a reference that is specifi-  
13 cally amended by another provision of this section)  
14 and inserting “Agency”; and

15 (3) by striking “Secretary” each place such  
16 term appears (other than in connection with a ref-  
17 erence that is specifically amended by another provi-  
18 sion of this section) and inserting “Director”.

19 (c) SECTION 1507.—Section 1507 of the Secure and  
20 Fair Enforcement for Mortgage Licensing Act of 2008 (12  
21 U.S.C. 5106) is amended—

22 (1) in subsection (a)—

23 (A) by striking paragraph (1) and insert-  
24 ing the following new paragraph:

1           “(1) IN GENERAL.—The Agency shall develop  
2           and maintain a system for registering employees of  
3           any depository institution, employees of a subsidiary  
4           that is owned and controlled by a depository institu-  
5           tion and regulated by a Federal banking agency, or  
6           employees of an institution regulated by the Farm  
7           Credit Administration, as registered loan originators  
8           with the Nationwide Mortgage Licensing System and  
9           Registry. The system shall be implemented before  
10          July 30, 2010.”; and

11                        (B) by striking “appropriate Federal bank-  
12                        ing agency and the Farm Credit Administra-  
13                        tion” where such term appears in paragraph  
14                        (2) and inserting “Agency”; and

15                        (2) in subsection (b), by striking “Federal  
16                        banking agencies, through the Financial Institutions  
17                        Examination Council, and the Farm Credit Adminis-  
18                        tration”, and inserting “Agency”.

19          (d) SECTION 1508.—

20                        (1) IN GENERAL.—Section 1508 of the Secure  
21                        and Fair Enforcement for Mortgage Licensing Act  
22                        of 2008 (12 U.S.C. 5107) is amended by adding at  
23                        the end the following new subsection—

24                        “(f) REGULATIONS.—

1           “(1) IN GENERAL.—The Agency may prescribe  
2 regulations setting minimum net worth or surety  
3 bond requirements for residential mortgage loan  
4 originators and minimum requirements for recovery  
5 funds paid into by loan originators.

6           “(2) FACTORS TAKEN INTO ACCOUNT.—Such  
7 regulations shall take into account the need to pro-  
8 vide originators adequate incentives to originate af-  
9 fordable and sustainable mortgage loans as well as  
10 the need to ensure a competitive origination market  
11 that maximizes consumers’ access to affordable and  
12 sustainable mortgage loans.”.

13           (2) CLERICAL AMENDMENT.—The heading for  
14 section 1508 of the Secure and Fair Enforcement  
15 for Mortgage Licensing Act of 2008 is amended by  
16 striking “**SECRETARY OF HOUSING AND URBAN**  
17 **DEVELOPMENT**” and inserting “**CONSUMER FI-**  
18 **NANCIAL PROTECTION AGENCY**”.

19           (e) SECTION 1510.—Section 1510 of the Secure and  
20 Fair Enforcement for Mortgage Licensing Act of 2008 (12  
21 U.S.C. 5109) is amended to read as follows:

22 **“SEC. 1510. FEES.**

23           “The Agency and the Nationwide Mortgage Licensing  
24 System and Registry may charge reasonable fees to cover  
25 the costs of maintaining and providing access to informa-

1 tion from the Nationwide Mortgage Licensing System and  
2 Registry, to the extent that such fees are not charged to  
3 consumers for access to such system and registry.”.

4 (f) SECTION 1513.—Section 1513 of the Secure and  
5 Fair Enforcement for Mortgage Licensing Act of 2008 (12  
6 U.S.C. 5112) is amended to read as follows:

7 **“SEC. 1513. LIABILITY PROVISIONS.**

8 “The Agency, any State official or agency, or any or-  
9 ganization serving as the administrator of the Nationwide  
10 Mortgage Licensing System and Registry or a system es-  
11 tablished by the Director under section 1509, or any offi-  
12 cer or employee of any such entity, shall not be subject  
13 to any civil action or proceeding for monetary damages  
14 by reason of the good faith action or omission of any offi-  
15 cer or employee of any such entity, while acting within  
16 the scope of office or employment, relating to the collec-  
17 tion, furnishing, or dissemination of information con-  
18 cerning persons who are loan originators or are applying  
19 for licensing or registration as loan originators.”.

20 (g) SECTION 1514.—The heading for section 1514  
21 of the Secure and Fair Enforcement for Mortgage Licens-  
22 ing Act of 2008 (12 U.S.C. 5113) is amended by striking  
23 **“UNDER HUD BACKUP LICENSING SYSTEM”** and in-  
24 serting **“BY THE AGENCY”**.

1 **SEC. 194. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.**

2 (a) SECTION 263.—Section 263 of the Truth in Sav-  
3 ings Act (12 U.S.C. 4302) is amended in subsection (b)  
4 by striking “Board” each place such term appears and  
5 inserting “Agency”.

6 (b) SECTION 265.—Section 265 of the Truth in Sav-  
7 ings Act (12 U.S.C. 4304) is amended by striking  
8 “Board” each place such term appears and inserting  
9 “Agency”.

10 (c) SECTION 266.—Section 266(e) of the Truth in  
11 Savings Act is amended (12 U.S.C. 4305) by striking  
12 “Board” and inserting “Agency”.

13 (d) SECTION 269.—Section 269 of the Truth in Sav-  
14 ings Act (12 U.S.C. 4308) is amended by striking  
15 “Board” each place such term appears and inserting  
16 “Agency”.

17 (e) SECTION 270.—Section 270 of the Truth in Sav-  
18 ings Act (12 U.S.C. 4309) is amended—

19 (1) in subsection (a)—

20 (A) by striking “Compliance” and insert-  
21 ing “Subject to section 122 of the Consumer  
22 Financial Protection Agency Act of 2009, com-  
23 pliance”;

24 (B) by striking subparagraph (A) of para-  
25 graph (1) and inserting the following new sub-  
26 paragraph:

1           “(A) by the head of the agency responsible  
2           for chartering and regulating national banks for  
3           national banks, and Federal branches and Fed-  
4           eral agencies of foreign banks;”;

5           (C) by adding at the end, the following  
6           new paragraph:

7           “(3) subtitle E of the Consumer Financial Pro-  
8           tection Agency Act of 2009, by the Agency.”;

9           (2) in subsection (c), by striking “Board” and  
10          inserting “Agency”.

11          (f) SECTION 272.—Section 272 of the Truth in Sav-  
12          ings Act (12 U.S.C. 4311) is amended—

13           (1) in subsection (a), by striking “Board” and  
14          inserting “Agency”; and

15           (2) in subsection (b), by striking “regulation  
16          prescribed by the Board” each place such term ap-  
17          pears and inserting “regulation prescribed by the  
18          Agency”.

19          (g) SECTION 273.—Section 273 of the Truth in Sav-  
20          ings Act (12 U.S.C. 4312) is amended in the last sentence  
21          by striking “Board” and inserting “Agency”.

22          (h) SECTION 274.—Section 274 of the Truth in Sav-  
23          ings Act (12 U.S.C. 4313) is amended—

24           (1) in paragraph (2) by striking “Board” and  
25          inserting “Agency”; and

1           (2) by striking paragraph (4) and inserting the  
2 following new paragraph:

3           “(4) AGENCY.—The term ‘Agency’ means the  
4 Consumer Financial Protection Agency.”.

5 **SEC. 195. AMENDMENTS TO THE TELEMARKETING AND**  
6 **CONSUMER FRAUD AND ABUSE PREVENTION**  
7 **ACT.**

8           (a) SECTION 3.—Section 3 of the Telemarketing and  
9 Consumer Fraud and Abuse Prevention Act (15 U.S.C.  
10 6102) is amended—

11           (1) in subsection (b), by inserting after the 2nd  
12 sentence “In prescribing a regulation under this Act  
13 that relates to the provision of a consumer financial  
14 product or service that is subject to the Consumer  
15 Financial Protection Agency Act, including any enu-  
16 merated consumer law thereunder, the Commission  
17 shall consult with the Consumer Financial Protec-  
18 tion Agency regarding the consistency of a proposed  
19 regulation with standards, purposes, or objectives  
20 administered by the Consumer Financial Protection  
21 Agency.”; and

22           (2) in subsection (c), by adding at the end  
23 “Any violation of any regulation prescribed under  
24 subsection (a) committed by a person subject to the  
25 Consumer Financial Protection Agency Act shall be



1 treated as a violation of a regulation under section  
2 131of the Consumer Financial Protection Agency  
3 Act regarding unfair, deceptive, or abusive acts or  
4 practices.”.

5 (b) AMENDMENTS TO SECTION 4.—Section 4(d) of  
6 the Telemarketing and Consumer Fraud and Abuse Pre-  
7 vention Act (15 U.S.C. 6103(d)) is amended by inserting  
8 after “Commission” each place such term appears “or the  
9 Consumer Financial Protection Agency”.

10 (c) AMENDMENTS TO SECTION 5.—Section 5(e) of  
11 the Telemarketing and Consumer Fraud and Abuse Pre-  
12 vention Act (15 U.S.C. 6104(e)) is amended by inserting  
13 after “Commission” each place such term appears “or the  
14 Consumer Financial Protection Agency”.

15 (d) AMENDMENT TO SECTION 6.—Section 6 of the  
16 Telemarketing and Consumer Fraud and abuse Preven-  
17 tion Act (15 U.S.C. 6105) is amended by adding at the  
18 end the following new subsection:

19 “(d) ENFORCEMENT BY CONSUMER FINANCIAL PRO-  
20 TECTION AGENCY.—Except as otherwise provided in sec-  
21 tion 3(d), 3(e), 4, and 5, this Act shall be enforced by  
22 the Consumer Financial Protection Agency under subtitle  
23 E of the Consumer Financial Protection Agency Act.”.

1 **SEC. 196. MEMBERSHIP IN FINANCIAL LITERACY AND EDU-**  
2 **CATION COMMISSION.**

3 Section 513(c)(1) of the Financial Literacy and Edu-  
4 cation Improvement Act (20 U.S.C. 9702(c)(1)) is amend-  
5 ed—

6 (1) in subparagraph (B), by striking “and” at  
7 the end;

8 (2) by redesignating subparagraph (C) as sub-  
9 paragraph (D); and

10 (3) by inserting after subparagraph (B) the fol-  
11 lowing new subparagraph:

12 “(C) the Director of the Consumer Finan-  
13 cial Protection Agency; and”.

14 **SEC. 197. EFFECTIVE DATE.**

15 The amendments made by sections 183 through 195  
16 shall take effect on the designated transfer date.

17 **TITLE II—IMPROVEMENTS TO**  
18 **THE FEDERAL TRADE COM-**  
19 **MISSION ACT**

20 **SEC. 201. AMENDMENTS TO THE FEDERAL TRADE COMMIS-**  
21 **SION ACT.**

22 (a) Section 5(m)(1)(A) of the Federal Trade Com-  
23 mission Act (15 U.S.C. 45(m)(1)(A)) is amended—

24 (1) by inserting “this Act or” after “violates”  
25 the first place such term appears;

1           (2) by inserting a comma after “Act” and after  
2           “section”); and

3           (3) by inserting “a violation of this Act or is”  
4           before “prohibited”.

5           (b) Section 5 of the Federal Trade Commission Act  
6 (15 U.S.C. 45) is amended by adding at the end thereof  
7 the following new subsection:

8           “(o) UNLAWFUL ASSISTANCE.—It is unlawful for any  
9 person, knowingly or recklessly, to provide substantial as-  
10 sistance to another in violating any provision of this Act  
11 or of any other Act enforceable by the Commission that  
12 relates to unfair or deceptive acts or practices. Any such  
13 violation shall constitute an unfair or deceptive act or  
14 practice described in section 5(a)(1) of this Act.”.

15           (c) Section 18 of the Federal Trade Commission Act  
16 (15 U.S.C. 57a) is amended—

17           (1) by amending subsection (b) to read as fol-  
18           lows:

19           “(b) PROCEDURE APPLICABLE.—When prescribing a  
20 rule under subsection (a)(1)(B) of this section, the Com-  
21 mission shall proceed in accordance with section 553 of  
22 Title 5 (without regard to any reference in such section  
23 to sections 556 and 557 of such title).”;

1           (2) by striking subsections (c), (d)(1), (d)(2),  
2           (f), (i), and (j), and redesignating subsections (e),  
3           (g) and (h) as (d), (e) and (f);

4           (3) by redesignating paragraph (d)(3) as sub-  
5           section (c); and

6           (4) in subsection (e)—

7           (A) in paragraph (1)(B), by striking “the  
8           transcript required by subsection (c)(5) of this  
9           section,”;

10          (B) in paragraph (2), by striking every-  
11          thing following “error”;

12          (C) in paragraph (5), by striking subpara-  
13          graph (C).