

[DISCUSSION DRAFT]

SEPTEMBER 25, 2009

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. 101. 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
13 in section 2(a) of the Bank Holding Company Act
14 of 1956.

15 (4) **BOARD.**—Except when used in connection
16 with the term “Board of Governors”, the term

1 “Board” means the Consumer Financial Protection
2 Oversight Board.

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

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

9 (7) CONSUMER FINANCIAL PRODUCT OR SERV-
10 ICE.—The term “consumer financial product or
11 service” means any financial product or service to be
12 used by a consumer primarily for personal, family,
13 or household purposes.

14 (8) COVERED PERSON.—The term “covered
15 person” means—

16 (A) any person who engages directly or in-
17 directly in a financial activity, in connection
18 with the provision of a consumer financial prod-
19 uct or service; or

20 (B) any person who, in connection with the
21 provision of a consumer financial product or
22 service, provides a material service to a person
23 described in subparagraph (A).

24 (9) CREDIT.—The term “credit” means the
25 right granted by a person to a consumer to defer

1 payment of a debt, incur debt and defer its payment,
2 or purchase property or services and defer payment
3 for such purchase.

4 (10) CREDIT UNION.—The term “credit union”
5 means a Federal credit union or a State credit union
6 as defined in section 101 of the Federal Credit
7 Union Act.

8 (11) DEPOSIT.—The term “deposit”—

9 (A) has the same meaning as in section
10 3(l) of the Federal Deposit Insurance Act; and

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

14 (12) DEPOSIT-TAKING ACTIVITY.—The term
15 “deposit-taking activity” means—

16 (A) the acceptance of deposits, the mainte-
17 nance of deposit accounts, or the provision of
18 services related to the acceptance of deposits;

19 (B) the acceptance of money, the provision
20 of other services related to the acceptance of
21 money, or the maintenance of members’ share
22 accounts by a credit union; or

23 (C) the receipt of money or its equivalent,
24 as the Director may determine by regulation or
25 order, received or held by the covered person

1 (or an agent for the person) for the purpose of
2 facilitating a payment or transferring funds or
3 value of funds by a consumer to a third party.

4 For the purposes of this title, the Director may de-
5 termine that the term “deposit-taking activity” in-
6 cludes the receipt of money or its equivalent in con-
7 nection with the sale or issuance of any payment in-
8 strument or stored value product or service.

9 (13) DESIGNATED TRANSFER DATE.—The term
10 “designated transfer date” has the meaning pro-
11 vided in section 162.

12 (14) DIRECTOR.—The term “Director” means
13 the Director of the Agency.

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

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

19 (B) The Electronic Funds Transfer Act
20 (15 U.S.C. 1693 et seq.)

21 (C) The Equal Credit Opportunity Act (15
22 U.S.C. 1691 et seq.).

23 (D) The Fair Credit Reporting Act (15
24 U.S.C. 1681 et seq.), except with respect to sec-

1 tions 615(e) and 628 of such Act and subject
2 to section 124(i) of this Act.

3 (E) The Fair Debt Collection Practices Act
4 (15 U.S.C. 1692 et seq.).

5 (F) Subsections (c), (d), (e), and (f) of sec-
6 tion 43 of the Federal Deposit Insurance Act
7 (12 U.S.C. 1831t).

8 (G) Sections 502, 503, 504, 505, 506,
9 507, 508, and 509 of the Gramm-Leach-Bliley
10 Act (15 U.S.C. 6802 et seq.).

11 (H) The Homeowners Protection Act of
12 1998.

13 (I) The Home Mortgage Disclosure Act
14 (12 U.S.C. 2801 et seq.).

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

17 (K) The Secure and Fair Enforcement for
18 Mortgage Licensing Act (12 U.S.C. 5101 et
19 seq.).

20 (L) The Truth in Lending Act (15 U.S.C.
21 1601 et seq.).

22 (M) The Truth in Savings Act (12 U.S.C.
23 4301 et seq.).

24 (16) FEDERAL BANKING AGENCY.—The term
25 “Federal banking agency” means the Board of Gov-

1 ernors, the Comptroller of the Currency, the Direc-
2 tor of the Office of Thrift Supervision, the Federal
3 Deposit Insurance Corporation, or the National
4 Credit Union Administration and the term “Federal
5 banking agencies” means all of such agencies.

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

9 (18) FINANCIAL ACTIVITY.—The term “finan-
10 cial activity” means any of the following activities:

11 (A) Deposit-taking activities.

12 (B) Extending credit and servicing loans,
13 including—

14 (i) acquiring, purchasing, selling,
15 brokering, or servicing loans or other ex-
16 tensions of credit;

17 (ii) engaging in any other activity
18 usual in connection with extensions of
19 credit or servicing loans, including per-
20 forming appraisals of real estate and per-
21 sonal property and selling or servicing
22 credit insurance or mortgage insurance.

23 (C) Check cashing and check-guaranty
24 services, including—

1 (i) authorizing a subscribing merchant
2 to accept personal checks tendered by the
3 merchant's customers in payment for
4 goods and services; and

5 (ii) purchasing from a subscribing
6 merchant validly authorized checks that
7 are subsequently dishonored.

8 (D) Collection of debt related to any con-
9 sumer financial product or service.

10 (E) Providing real estate settlement serv-
11 ices, including providing title insurance.

12 (F) Leasing personal or real property or
13 acting as agent, broker, or adviser in leasing
14 such property if—

15 (i) the lease is on a non-operating
16 basis;

17 (ii) the initial term of the lease is at
18 least 90 days; and

19 (iii) in the case of leases involving real
20 property, at the inception of the initial
21 lease, the transaction is intended to result
22 in ownership of the leased property to be
23 transferred to the lessee, subject to stand-
24 ards prescribed by the Director.

1 (G) Acting as an investment adviser to any
2 person (not subject to regulation by or reg-
3 istered with the Commodity Futures Trading
4 Commission or the Securities and Exchange
5 Commission).

6 (H) Acting as financial adviser to any per-
7 son, including—

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

10 (ii) providing educational courses, and
11 instructional materials to consumers on in-
12 dividual financial management matters;

13 (iii) providing credit counseling to any
14 person; or

15 (iv) providing services to assist a con-
16 sumer with debt management or debt set-
17 tlement, with modifying the terms of any
18 extension of credit, or with avoiding fore-
19 closure.

20 (I) Financial data processing by any tech-
21 nological means, including providing data proc-
22 essing, access to or use of databases or facili-
23 ties, or advice regarding processing or
24 archiving, if the data to be processed, fur-
25 nished, stored, or archived are financial, bank-

1 ing, or economic, except that it shall not be
2 considered a “financial activity” if with respect
3 to financial data processing the person—

4 (i) unknowingly or incidentally trans-
5 mits, processes, or stores financial data in
6 a manner that such data is undifferen-
7 tiated from other types of data that the
8 person transmits, processes, or stores;

9 (ii) does not provide to any consumer
10 a consumer financial product or service in
11 connection with or relating to in any man-
12 ner financial data processing; and

13 (iii) does not provide a material serv-
14 ice to any covered person in connection
15 with the provision of a consumer financial
16 product or service.

17 (J) Money transmitting.

18 (K) Issuance of stored value.

19 (L) Acting as a money services business.

20 (M) Acting as a custodian of money or any
21 financial instrument.

22 (N) Any other activity that the Director
23 defines, by regulation, as a financial activity
24 after finding that—

1 (i) the activity has, or there is a sub-
2 stantial likelihood that the activity will
3 have, a material adverse impact on the
4 creditworthiness or financial well being of
5 consumers;

6 (ii) the activity is incidental or com-
7 plementary to any other financial activity
8 regulated by the Agency; or

9 (iii) the activity is entered into or con-
10 ducted as a subterfuge or with a purpose
11 to evade any requirement under this title,
12 the enumerated consumer laws, and the
13 authorities transferred under subtitles F
14 and H.

15 (19) FINANCIAL PRODUCT OR SERVICE.—The
16 term “financial product or service” means any prod-
17 uct or service that, directly or indirectly, results
18 from or is related to engaging in 1 or more financial
19 activities, except that the Director shall not define
20 engaging in the business of insurance as a financial
21 activity (other than with respect to credit insurance,
22 mortgage insurance, or title insurance, as described
23 in this section).

24 (20) 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 (21) INSURED DEPOSITORY INSTITUTION.—The
4 term “insured depository institution” has the same
5 meaning as in section 3 of the Federal Deposit In-
6 surance Act.

7 (22) MONEY SERVICES BUSINESS.—The term
8 “money services business” means a person that—

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

18 (B) issues payment instruments or stored
19 value.

20 (23) MATERIAL SERVICE.—The term “material
21 service” means any activity or service provided to a
22 covered person described in subparagraph (A) of
23 paragraph (8) under an agreement with such cov-
24 ered person that—

1 (A) involves direct interaction with a con-
2 sumer, whether in person or via telecommuni-
3 cation device or other similar technology (except
4 that the processing of transactions or trans-
5 mission of data shall not be considered direct
6 interaction for purposes of this subparagraph,
7 other than as may be determined under sub-
8 paragraph (B)); or

9 (B) is determined by the Director to assist
10 or facilitate the provision of a consumer finan-
11 cial product or service that goes beyond a sup-
12 port service of a type provided to businesses
13 generally or a similar ministerial service.

14 (24) MONEY TRANSMITTING.—The term
15 “money transmitting” means the receipt by a cov-
16 ered person of currency, monetary value, or payment
17 instruments for the purpose of transmitting the
18 same to any third-party by any means, including
19 transmission by wire, facsimile, electronic transfer,
20 courier, the Internet, or through bill payment serv-
21 ices.

22 (25) PAYMENT INSTRUMENT.—The term “pay-
23 ment instrument” means a check, draft, warrant,
24 money order, traveler’s check, electronic instrument,

1 or other instrument, payment of money, or monetary
2 value (other than currency).

3 (26) PERSON.—The term “person” means an
4 individual, partnership, company, corporation, asso-
5 ciation (incorporated or unincorporated), trust, es-
6 tate, cooperative organization, or other entity.

7 (27) PERSON REGULATED BY THE COMMODITY
8 FUTURES TRADING COMMISSION.—The term “person
9 regulated by the Commodity Futures Trading Com-
10 mission” means any futures commission merchant,
11 commodity trading adviser, commodity pool oper-
12 ator, or introducing broker that is subject to the ju-
13 risdiction of the Commodity Futures Trading Com-
14 mission under the Commodity Exchange Act, but
15 only to the extent that the person acts in such ca-
16 pacity.

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

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

1 (B) an investment adviser that is reg-
2 istered under the Investment Advisers Act of
3 1940;

4 (C) an investment company that is re-
5 quired to be registered under the Investment
6 Company Act of 1940;

7 (D) a national securities exchange that is
8 required to be registered under the Securities
9 Exchange Act of 1934;

10 (E) a transfer agent that is required to be
11 registered under the Securities Exchange Act of
12 1934; or

13 (F) a clearing corporation that is required
14 to be registered under the Securities Exchange
15 Act of 1934,

16 and any employee, agent, or contractor acting on be-
17 half of, registered with, or providing services to, any
18 such person, but only to the extent that the person,
19 or the employee agent, or contractor of such person,
20 acts in a registered capacity.

21 (29) PROVISION OF A CONSUMER FINANCIAL
22 PRODUCT OR SERVICE.—The terms “provision of a
23 consumer financial product or service” and “pro-
24 viding a consumer financial product or service”
25 mean the advertisement, marketing, solicitation,

1 sale, disclosure, delivery, or account maintenance or
2 servicing of a consumer financial product or service.

3 (30) RELATED PERSON.—

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

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

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

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

23 (I) violation of any law or regula-
24 tion; or

25 (II) breach of fiduciary duty.

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

8 (31) SECRETARY.—The term “Secretary”
9 means the Secretary of the Treasury.

10 (32) STATE.—The term “State” means any
11 State, territory, or possession of the United States,
12 the District of Columbia, Commonwealth of Puerto
13 Rico, Commonwealth of the Northern Mariana Is-
14 lands, Guam, American Samoa, or the United States
15 Virgin Islands.

16 (33) STORED VALUE.—The term “stored
17 value”—

18 (A) means funds or monetary value rep-
19 resented in any electronic format, whether or
20 not specially encrypted, and stored or capable
21 of storage on electronic media in such a way as
22 to be retrievable and transferred electronically;
23 and

24 (B) includes a prepaid debit card or prod-
25 uct (other than a card or product used solely

1 for telephone services) or any other similar
2 product,
3 regardless of whether the amount of the funds or
4 monetary value may be increased or reloaded.

5 **Subtitle A—Establishment of the**
6 **Agency**

7 **SEC. 111. ESTABLISHMENT OF THE CONSUMER FINANCIAL**
8 **PROTECTION AGENCY.**

9 (a) AGENCY ESTABLISHED.—There is established the
10 Consumer Financial Protection Agency as an independent
11 agency to regulate the provision of consumer financial
12 products or services under this title, the enumerated con-
13 sumer laws, and the authorities transferred under sub-
14 titles F and H.

15 (b) PRINCIPAL OFFICE.—The principal office of the
16 Agency shall be located in the city of Washington, District
17 of Columbia, at 1 or more sites.

18 **SEC. 112. DIRECTOR.**

19 (a) ESTABLISHMENT OF POSITION.—

20 (1) IN GENERAL.—There is hereby established
21 the position of the Director of the Agency who shall
22 be the head of the Agency.

23 (2) AUTHORITY TO PRESCRIBE REGULA-
24 TIONS.—The Director may prescribe such regula-
25 tions and issue such orders in accordance with this

1 Act as the Director may determine to be necessary
2 for carrying out this Act and all other laws within
3 the Director's jurisdiction.

4 (b) APPOINTMENT; TERM.—

5 (1) APPOINTMENT.—The Director shall be ap-
6 pointed by the President, by and with the advice and
7 consent of the Senate, from among individuals who
8 are citizens of the United States.

9 (2) TERM.—The Director shall be appointed for
10 a term of 5 years.

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

13 (4) VACANCY.—

14 (A) IN GENERAL.—A vacancy in the posi-
15 tion of Director which occurs before the expira-
16 tion of the term for which a Director was ap-
17 pointed shall be filled in the manner established
18 in paragraph (1) and the Director appointed to
19 fill such vacancy shall be appointed only for the
20 remainder of such term.

21 (B) ACTING DIRECTOR.—

22 (i) IN GENERAL.—In the event of a
23 vacancy in the position of Director or dur-
24 ing the absence or disability of the Direc-
25 tor, an Acting Director shall be appointed

1 in the manner provided in section 3345, of
2 title 5, United States Code.

3 (ii) **AUTHORITY OF ACTING DIREC-**
4 **TOR.**—Any individual serving as Acting Di-
5 rector under this subparagraph shall be
6 vested with all authority, duties, and privi-
7 leges of the Director.

8 (5) **SERVICE AFTER END OF TERM.**—An indi-
9 vidual may serve as Director after the expiration of
10 the term for which appointed until a successor Di-
11 rector has been appointed and qualified.

12 (c) **PROHIBITION ON FINANCIAL INTERESTS.**—The
13 Director shall not have a direct or indirect financial inter-
14 est in any covered person.

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

19 **SEC. 113. CONSUMER FINANCIAL PROTECTION OVERSIGHT**
20 **BOARD.**

21 (a) **ESTABLISHED.**—There is hereby established the
22 Consumer Financial Protection Oversight Board as an in-
23 strumentality of the United States.

24 (b) **DUTIES AND POWERS.**—

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

3 (A) the consistency of a proposed regula-
4 tion of the Director with prudential, market, or
5 systemic objectives administered by the agencies
6 that comprise the Board;

7 (B) the overall strategies and policies in
8 carrying out the duties of the Director under
9 this title; and

10 (C) actions the Director can take to en-
11 hance and ensure that all consumers are subject
12 to robust financial protection.

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

17 (c) COMPOSITION.—The Board shall be comprised of
18 7 members as follows:

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

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

22 (3) The Chairperson of the Federal Deposit In-
23 surance Corporation.

24 (4) The Chairman of the National Credit Union
25 Administration.

1 (5) The Chairman of the Federal Trade Com-
2 mission.

3 (6) The Secretary of Housing and Urban Devel-
4 opment.

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

8 (d) MEETINGS.—

9 (1) IN GENERAL.—The Board shall meet upon
10 notice by the Director, but in no event shall the
11 Board meet less frequently than once every 3
12 months.

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

16 (e) PROHIBITION ON ADDITIONAL COMPENSATION.—
17 Members of the Board may not receive additional pay, al-
18 lowances, or benefits by reason of their service on the
19 Board.

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

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

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

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

2 (3) direct the establishment of and maintain di-
3 visions or other offices within the Agency in order to
4 fulfill the responsibilities of this title, the enumer-
5 ated consumer laws, and the authorities transferred
6 under subtitles F and H, and to satisfy the require-
7 ments of other applicable law;

8 (4) coordinate and oversee the operation of all
9 administrative, enforcement, and research activities
10 of the Agency;

11 (5) adopt and use a seal;

12 (6) determine the character of and the necessity
13 for the Agency's obligations and expenditures, and
14 the manner in which they shall be incurred, allowed,
15 and paid;

16 (7) delegate authority, at the Director's discre-
17 tion, to any officer or employee of the Agency to
18 take action under any provision of this title or under
19 other applicable law;

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

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

3 **SEC. 115. ADMINISTRATION.**

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

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

9 (2) A general counsel, who shall be charged
10 with overseeing the legal affairs of the Agency and
11 performing such other activities as the Director di-
12 rects.

13 (3) An inspector general, who shall have the au-
14 thority and functions of an inspector general of a
15 designated Federal entity under the Inspector Gen-
16 eral Act of 1978 (5 U.S.C. App. 3).

17 (b) PERSONNEL.—

18 (1) APPOINTMENT.—

19 (A) IN GENERAL.—The Director may fix
20 the number of, and appoint and direct, all em-
21 ployees of the Agency.

22 (B) EXPEDITED HIRING.—During the 2-
23 year period beginning on the date of the enact-
24 ment of this Act, the Director may appoint,
25 without regard to the provisions of sections

1 3309 through 3318, of title 5, United States
2 Code, candidates directly to positions for which
3 public notice has been given.

4 (2) COMPENSATION.—

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

10 (B) BENEFITS.—The Director may provide
11 additional benefits to Agency employees if the
12 same type of benefits are then being provided
13 by the Board of Governors or, if not then being
14 provided, could be provided by the Board of
15 Governors under applicable provisions of law or
16 regulations.

17 (C) MINIMUM STANDARD.—The Director
18 shall at all times provide compensation and ben-
19 efits to classes of employees that, at a min-
20 imum, are equivalent to the compensation and
21 benefits provided by the Board of Governors for
22 the corresponding class of employees in any fis-
23 cal year.

24 (c) SPECIFIC FUNCTIONAL UNITS.—

1 (1) RESEARCH.—The Director shall establish a
2 unit whose functions shall include researching, ana-
3 lyzing, and reporting on—

4 (A) current and prospective developments
5 in markets for consumer financial products or
6 services, including market areas of alternative
7 consumer financial products or services with
8 high growth rates and areas of risk to con-
9 sumers;

10 (B) consumer awareness, understanding,
11 and use of disclosures and communications re-
12 garding consumer financial products or services,
13 including language accessible materials for non-
14 English speakers;

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

18 (D) consumer behavior with respect to con-
19 sumer financial products or services; and

20 (E) traditionally underserved consumer ex-
21 periences regarding consumer financial products
22 or services.

23 (2) COMMUNITY AFFAIRS.—The Director shall
24 establish a unit whose functions shall include pro-
25 viding information, guidance, and technical assist-

1 ance regarding the provision of consumer financial
2 products or services to traditionally underserved con-
3 sumers and communities.

4 (3) CONSUMER COMPLAINTS.—

5 (A) IN GENERAL.—The Director shall es-
6 tablish a unit whose functions shall include es-
7 tablishing a central database for collecting and
8 tracking information on consumer complaints
9 about consumer financial products or services
10 and resolution of complaints.

11 (B) COORDINATION.—In performing the
12 functions described in paragraph (A), the Di-
13 rector shall coordinate with the Federal banking
14 agencies, other Federal agencies, and other reg-
15 ulatory agencies or enforcement authorities.

16 (C) DATA SHARING REQUIRED.—To the
17 extent permitted by law and the regulations
18 prescribed by the Director regarding the con-
19 fidential treatment of information, the Director
20 shall share data relating to consumer com-
21 plaints with Federal banking agencies, other
22 Federal agencies, and State regulators.

23 (d) OFFICE OF FAIR LENDING AND EQUAL OPPOR-
24 TUNITY.—

1 (1) ESTABLISHMENT.—Before the end of the
2 180-day period beginning on the date of the enact-
3 ment of this Act, the Director shall establish within
4 the Agency the Office of Fair Lending and Equal
5 Opportunity.

6 (2) FUNCTIONS.— The Office of Fair Lending
7 and Equal Opportunity shall have such powers and
8 duties as the Director may delegate the Office which
9 shall include the following functions:

10 (A) Providing oversight and enforcement of
11 Federal laws intended to ensure the fair, equi-
12 table, and nondiscriminatory access to credit for
13 both individuals and communities that are en-
14 forced by the Agency, including the Equal
15 Credit Opportunity Act and the Home Mort-
16 gage Disclosure Act.

17 (B) Coordinating fair lending enforcement
18 efforts of the Agency with other Federal agen-
19 cies and State regulators, as appropriate, to
20 promote consistent, efficient and effective en-
21 forcement of Federal fair lending laws.

22 (C) Working with private industry, fair
23 lending, civil rights, consumer and community
24 advocates on the promotion of fair lending com-
25 pliance and education.

1 (D) Providing annual reports to the Con-
2 gress on the Agency's efforts to fulfill its fair
3 lending mandate.

4 (3) ADMINISTRATION OF OFFICE.—There is
5 hereby established the position of Assistant Director
6 of the Agency for Fair Lending and Equal Oppor-
7 tunity who—

8 (A) shall be appointed by the Director;

9 (B) shall carry out such duties as the Di-
10 rector may delegate to such Assistant Director;
11 and

12 (C) shall serve as the Director of the Of-
13 fice of Fair Lending and Equal Opportunity

14 **SEC. 116. CONSUMER ADVISORY BOARD.**

15 (a) ESTABLISHMENT REQUIRED.—The Director shall
16 establish a Consumer Advisory Board to advise and con-
17 sult with the Director in the exercise of the functions of
18 the Director and the Agency under this title, the enumer-
19 ated consumer laws, and to provide information on emerg-
20 ing practices in the consumer financial products or serv-
21 ices industry.

22 (b) MEMBERSHIP.—In appointing the members of
23 the Consumer Advisory Board, the Director shall seek—

24 (1) to assemble experts in financial services,
25 community development, fair lending and civil

1 rights, and consumer financial products or services;
2 and

3 (2) to represent the interests of covered persons
4 and consumers.

5 (c) MEETINGS.—The Consumer Advisory Board shall
6 meet from time to time at the call of the Director, but,
7 at a minimum, shall meet at least twice in each year.

8 (d) COMPENSATION AND TRAVEL EXPENSES.—Mem-
9 bers of the Consumer Advisory Board who are not full-
10 time employees of the United States shall—

11 (1) be entitled to receive compensation at a rate
12 fixed by the Director while attending meetings of the
13 Consumer Advisory Board, including travel time;
14 and

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

18 **SEC. 117. COORDINATION.**

19 (a) COORDINATION WITH OTHER FEDERAL AGEN-
20 CIES AND STATE REGULATORS.—The Director shall co-
21 ordinate with the Securities and Exchange Commission,
22 the Commodity Futures Trading Commission, and other
23 Federal agencies and State regulators, as appropriate, to
24 promote consistent regulatory treatment of, and enforce-

1 ment related to, consumer and investment products, serv-
2 ices, and laws.

3 (b) COORDINATION OF CONSUMER EDUCATION INI-
4 TIATIVES.—

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

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

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

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

2 (a) **REPORTS REQUIRED.**—The Director shall pre-
3 pare and submit to the President and the appropriate
4 committees of the Congress a report at the beginning of
5 each regular session of the Congress, beginning with the
6 session following the designated transfer date.

7 (b) **CONTENTS.**—The reports required by subsection
8 (a) shall include—

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

15 (2) an analysis of complaints about consumer
16 financial products or services that the Agency has
17 received and collected in its central database on
18 complaints during the preceding year;

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

24 (4) the actions taken regarding regulations, or-
25 ders, and supervisory actions with respect to covered
26 persons which are not credit unions or depository in-

1 stitutions, including descriptions of the types of such
2 covered persons, financial activities, and consumer
3 financial products or services affected by such regu-
4 lations, orders, and supervisory actions;

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

10 (6) an analysis of the Agency's efforts to fulfill
11 the fair lending mission of the Agency through the
12 Office of Fair Lending and Equal Opportunity.

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

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

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

1 under the enumerated consumer laws, and trans-
2 ferred under subtitles F and H.

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

7 (b) FEES AND ASSESSMENTS.—

8 (1) ASSESSMENT REQUIRED.—

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

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

25 (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);

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

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

23 (3) ASSESSMENTS ON DEPOSITORY INSTITU-
24 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) BASIS FOR FEE AMOUNTS.—Fees
17 assessed by the Director under this sub-
18 paragraph may be established at levels nec-
19 essary to meet the Agency’s expenses for
20 carrying out the duties and responsibilities
21 of the Director and the Agency under this
22 title with regard to depository institution
23 covered persons.

24 (C) COORDINATION DURING IMPLEMENTA-
25 TION PERIOD.—The Director and the agencies

1 responsible for chartering and or supervising
2 depository institution covered persons shall co-
3 ordinate on the levels of fees assessed on depos-
4 itory institution covered persons under this
5 paragraph, so that levels of assessments under
6 this subparagraph combined with levels of as-
7 sessments by agencies responsible for chartering
8 and or supervising depository institution cov-
9 ered persons shall be no more than the assess-
10 ments such depository institution covered per-
11 son was required to pay for the 12-month pe-
12 riod ending on December 31, 2009.

13 (D) MARGINAL ASSESSMENT RATE.—

14 (i) IN GENERAL.—In setting assess-
15 ment rates for depository institution cov-
16 ered persons, the Director shall not impose
17 assessments that result in higher marginal
18 assessment rates for depository institution
19 covered persons with assets of less than
20 \$25,000,000,000 than the marginal rates
21 for depository institutions covered persons
22 with assets that exceed that amount.

23 (ii) RULE OF CONSTRUCTION.—
24 Clause (i) shall not be construed as lim-
25 iting or impairing the authority of the Di-

1 rector to set assessments that would result
2 in higher marginal assessment rates on the
3 larger depository institution covered per-
4 sons.

5 (E) LIMITATIONS ON ASSESSMENTS.—

6 (i) ASSESSMENTS FOR ADMINISTRA-
7 TIVE COSTS.—Notwithstanding any provi-
8 sion in this title, no depository institution
9 covered person shall be charged an assess-
10 ment to be used for the supervision, exam-
11 ination, enforcement or regulation by the
12 Agency of nondepository covered persons.

13 (ii) AMOUNTS PAID FOR CONSUMER
14 COMPLIANCE SUPERVISION.—Notwith-
15 standing any provision in this title, no de-
16 pository institution covered person shall
17 pay more for consumer compliance super-
18 vision than it paid before the date of en-
19 actment of this Act.

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

22 (A) NONDEPOSITORY COVERED PERSON
23 DEFINED.—For purposes of this section, the
24 term “nondepository covered person”—

1 (i) means a covered person that is not
2 a credit union or insured depository insti-
3 tution; and

4 (ii) includes any bank holding com-
5 pany.

6 (B) ASSESSMENTS.—

7 (i) FEES REQUIRED.—The Director
8 shall assess fees for fees for registration,
9 examination, and supervision of nondeposi-
10 tory covered persons.

11 (ii) BASIS FOR FEE AMOUNTS.— Fees
12 assessed by the Director under this sub-
13 paragraph may be established at levels nec-
14 essary to meet the Agency's expenses for
15 carrying out the duties and responsibilities
16 of the Director and the Agency, including
17 supervising such covered persons, taking
18 into account such other sums available to
19 the Agency.

20 (iii) REGISTRATION FEE MINIMUMS.—
21 Registration fees imposed on a nondeposi-
22 tory covered person under this paragraph
23 shall, at a minimum, be imposed on such
24 covered person at the time the person reg-
25 isters (or periodically renews any such reg-

1 istration) with the Agency, in accordance
2 with regulations prescribed by the Direc-
3 tor.

4 (C) NONDEPOSITORY COVERED PERSON
5 ASSESSMENT NOT LESS THAN FOR DEPOSITORY
6 COVERED PERSONS.—Assessment rates levied
7 by the Director under this section on a non-
8 depository institution covered persons shall be
9 no less than assessments levied by the Agency
10 under this section on a depository institution
11 covered person with similar characteristics.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) IN GENERAL.—For the purposes of carrying
14 out the authorities granted in this title, under the
15 enumerated consumer laws, and the laws and au-
16 thorities transferred under subtitles F and H, there
17 are authorized to be appropriated to the Director
18 such sums as may be necessary for any fiscal year.

19 (2) APPORTIONMENT.—Notwithstanding any
20 other provision of law, such amounts shall be subject
21 to apportionment under section 1517 of title 31,
22 United States Code, and restrictions that generally
23 apply to the use of appropriated funds in title 31,
24 United States Code, and other laws.

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

5 (d) CONSUMER FINANCIAL PROTECTION AGENCY
6 DEPOSITORY INSTITUTION FUND.—

7 (1) ESTABLISHMENT.—

8 (A) IN GENERAL.—There is established in
9 the Treasury a separate fund to be known as
10 the “Consumer Financial Protection Agency
11 Depository Institution Fund” (hereafter in this
12 section referred to as the “CFPA Depository
13 Fund”).

14 (B) AMOUNTS IN FUND NOT AVAILABLE
15 FOR CERTAIN PURPOSES.—Other than pursuant
16 to subsection (f), amounts on deposit in the
17 CFPA Depository Fund shall not be used in the
18 supervision and examination of nondepository
19 institution covered persons.

20 (2) ALL TRANSFERRED FUNDS DEPOSITED.—
21 All amounts transferred to the Agency under sub-
22 section (a) shall be deposited into the CFPA Deposi-
23 tory Fund.

24 (3) ALL APPLICABLE SUPERVISORY FEES AND
25 ASSESSMENTS DEPOSITED.—The Director shall de-

1 posit all amounts received from assessments under
2 subsection (b)(3) in the CFPA Depository Fund.

3 (e) CONSUMER FINANCIAL PROTECTION AGENCY
4 NONDEPOSITORY INSTITUTION FUND.—

5 (1) ESTABLISHMENT.—

6 (A) IN GENERAL.—There is established in
7 the Treasury a separate fund called the Con-
8 sumer Financial Protection Agency Nondeposi-
9 tory Institution Fund (hereafter in this section
10 referred to as the “CFPA Nondepository
11 Fund”).

12 (B) AMOUNTS IN FUND NOT AVAILABLE
13 FOR CERTAIN PURPOSES.—Other than pursuant
14 to subsection (f), amounts on deposit in the
15 CFPA Nondepository Fund shall not be used
16 for the supervision and examination of deposi-
17 tory institution covered persons.

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

22 (f) GENERAL PROVISIONS RELATING TO FUNDS.—

23 (1) MAINTENANCE OF FUNDS.—

24 (A) AGENCY FUNDS MAINTAINED BY
25 TREASURY.—The Consumer Financial Protec-

1 tion Agency Depository Institution Fund estab-
2 lished under subsection (d) and the Consumer
3 Financial Protection Agency Nondepository In-
4 stitution Fund established under subsection (e)
5 shall each be—

6 (i) maintained and administered by
7 the Secretary; and

8 (ii) maintained separately and not
9 commingled.

10 (B) AGENCY'S AUTHORITY.—Any provision
11 of this Act forbidding the commingling or use
12 of the CFPA Depository Fund and the CFPA
13 Nondepository Fund shall not be construed as
14 limiting or impairing the authority of the Agen-
15 cy to use the same facilities and resources in
16 the course of conducting supervisory and regu-
17 latory functions with respect to depository insti-
18 tutions and nondepository institutions, or to in-
19 tegrate such functions.

20 (C) ACCOUNTING REQUIREMENTS.—

21 (i) ACCOUNTING FOR USE OF FACILI-
22 TIES AND RESOURCES.—The Agency shall
23 keep a full and complete accounting of all
24 costs and expenses associated with the use
25 of any facility or resource used in the

1 course of any function specified in sub-
2 paragraph (B) and shall allocate, in the
3 manner provided in subparagraph (D), any
4 such costs and expenses incurred by the
5 Agency—

6 (I) with respect to depository in-
7 stitution covered persons, to the
8 CFPA Depository Fund; and

9 (II) with respect to nondepository
10 covered persons, to the CFPA Non-
11 depository fund.

12 (D) ALLOCATION OF ADMINISTRATIVE EX-
13 PENSES.—Any personnel, administrative, or
14 other overhead expense of the Agency shall be
15 allocated—

16 (i) fully to the CFPA Depository
17 Fund if the expense was incurred directly
18 as a result of the Agency's responsibilities
19 solely with respect to depository institution
20 covered persons;

21 (ii) fully to the CFPA Nondepository
22 Fund, if the expense was incurred directly
23 as a result of the Agency's responsibilities
24 solely with respect to nondepository cov-
25 ered persons;

1 (iii) between the CFPA Depository
2 Fund and the CFPA Nondepository Fund,
3 in amounts reflecting the relative degree to
4 which the expense was incurred as a result
5 of the activities of depository institution
6 covered persons, and nondepository covered
7 persons; and

8 (iv) if the Director is unable to make
9 a complete allocation under clause (i), (ii),
10 or (iii), between the CFPA Depository
11 Fund and the CFPA Nondepository Fund,
12 in amounts reflecting the relative propor-
13 tion that, as of the end of the preceding
14 year—

15 (I) the aggregate assets of all de-
16 pository institution covered persons
17 bears to the aggregate assets of all
18 covered persons; and

19 (II) the aggregate assets of all
20 nondepository covered persons bears
21 to the aggregate assets of all covered
22 persons.

23 (E) AGENCY FUND.—The “Agency fund”
24 means the Consumer Financial Protection
25 Agency Depository Institution Fund established

1 under subsection (d), and, the Consumer Fi-
2 nancial Protection Agency Nondepository Insti-
3 tution Fund established under subsection (e) ,
4 and the Consumer Financial Protection Agency
5 Civil Penalty Fund established under subsection
6 (g)

7 (2) INVESTMENT.—

8 (A) AMOUNTS IN FUNDS MAY BE IN-
9 VESTED.—The Director may request the Sec-
10 retary to invest the portion of any Agency fund
11 that, in the Director's judgment, is not required
12 to meet the current needs of such fund.

13 (B) ELIGIBLE INVESTMENTS.—Invest-
14 ments pursuant to subparagraph (A) shall be
15 made by the Secretary in obligations of the
16 United States or obligations that are guaran-
17 teed as to principal and interest by the United
18 States, with maturities suitable to the needs of
19 the Agency fund involved, as determined by the
20 Director.

21 (C) INTEREST AND PROCEEDS CRED-
22 ITED.—The interest on, and the proceeds from
23 the sale or redemption of, any obligations held
24 in the respective Agency Fund shall be credited

1 to and form a part of the respective Agency
2 Fund.

3 (3) USE OF FUNDS.—Funds obtained by, trans-
4 ferred to, or credited to any Agency fund shall be
5 immediately available to the Agency, and remain
6 available until expended, to pay the expenses of the
7 Agency in carrying out the duties and responsibil-
8 ities of the Director and the Agency, including the
9 payment of compensation of the Director and offi-
10 cers and employees of the Agency.

11 (2) FEES, ASSESSMENTS AND OTHER FUNDS
12 NOT GOVERNMENT FUNDS.—Funds obtained by or
13 transferred to any Agency fund shall not be con-
14 strued to be Government funds or appropriated
15 monies.

16 (3) AMOUNTS NOT SUBJECT TO APPORTION-
17 MENT.—Notwithstanding any other provision of law,
18 amounts in any Agency fund shall not be subject to
19 apportionment for purposes of chapter 15 of title 31,
20 United States Code, or under any other authority.

21 (g) PENALTIES AND FINES.—

22 (1) ESTABLISHMENT OF VICTIMS RELIEF
23 FUND.—There is established in the Treasury of the
24 United States a fund to be known as the “Consumer
25 Financial Protection Agency Civil Penalty Fund”

1 (hereafter in this section referred to as the “Civil
2 Penalty Fund”).

3 (2) DEPOSITS.— If the Agency obtains a civil
4 penalty against any person in any judicial or admin-
5 istrative action under this title, any law or authority
6 transferred under subtitles F and H, or any enumer-
7 ated consumer law, the Agency shall deposit into the
8 Civil Penalty Fund the amount of the penalty col-
9 lected.

10 (3) PAYMENT TO VICTIMS.—Amounts in the
11 Civil Penalty Fund shall be available to the Director,
12 without fiscal year limitation, for payments to the
13 victims of activities for which civil penalties have
14 been imposed under this title, the law and authori-
15 ties transferred under subtitles F and H, or any
16 enumerated consumer law.

17 (h) EXCLUSION FOR SERVICE PROVIDERS.—No pro-
18 vision of this section shall apply to a covered person de-
19 scribed in subparagraph (B) of section 101(8) (except to
20 the extent that such person also acts in a capacity de-
21 scribed in subparagraph (A) of such section).

22 **SEC. 120. AMENDMENTS RELATING TO OTHER ADMINIS-**
23 **TRATIVE PROVISIONS.**

24 (a) ACT OF OCTOBER 28, 1974.—Section 111 of
25 Public Law 93—495 (12 U.S.C. 250) is amended by in-

1 serting “the Consumer Financial Protection Agency,”
2 after “Federal Deposit Insurance Corporation,”.

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

7 **SEC. 120A. EFFECTIVE DATE.**

8 This subtitle shall take effect on the date of the en-
9 actment of this Act.

10 **Subtitle B—General Powers of the**
11 **Director and Agency**

12 **SEC. 121. MANDATE AND OBJECTIVES.**

13 (a) MANDATE.—The Director shall seek to promote
14 transparency, simplicity, fairness, accountability, and
15 equal access in the market for consumer financial products
16 or services.

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

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

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

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

6 (4) traditionally underserved consumers and
7 communities have equal access to responsible finan-
8 cial services.

9 **SEC. 122. AUTHORITIES.**

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

16 (b) RULEMAKING, ORDERS, AND GUIDANCE.—

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

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

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

11 (B) consult with the Federal banking agen-
12 cies, State bank supervisors, or other Federal
13 agencies, as appropriate, regarding the consist-
14 ency of a proposed regulation with prudential,
15 civil rights, market, or systemic objectives ad-
16 ministered by such agencies or supervisors.

17 (3) EXEMPTIONS.—

18 (A) IN GENERAL.—The Director, by regu-
19 lation or order, may conditionally or uncondi-
20 tionally exempt any covered person or any con-
21 sumer financial product or service or any class
22 of covered persons or consumer financial prod-
23 ucts or services, from any provision of this title,
24 any enumerated consumer law, or from any regu-
25 lation under any such provision or law, as the

1 Director deems necessary or appropriate to
2 carry out the purposes and objectives of this
3 title taking into consideration the factors in
4 subparagraph (B).

5 (B) FACTORS.—In issuing an exemption
6 by regulation or order as permitted in subpara-
7 graph (A), the Director shall as appropriate
8 take into consideration the following:

9 (i) The total assets of the covered per-
10 son.

11 (ii) The volume of transactions involv-
12 ing consumer financial products or services
13 in which the covered person engages.

14 (iii) The extent to which the covered
15 person engages in 1 or more financial ac-
16 tivities.

17 (iv) Existing laws or regulations which
18 are applicable to the consumer financial
19 product or service and the extent to which
20 such laws or regulations provide consumers
21 with adequate protections.

22 (C) RULE OF CONSTRUCTION.—No provi-
23 sion of this section shall be construed as alter-
24 ing, amending, or affecting any authority under
25 sections 304(a), 304(i), 305(a), and 306(b) of

1 the Home Mortgage Disclosure Act of 1975 and
2 sections 703(a)(1), 703(a)(2), 703(a)(3),
3 705(f), and 705(g) of the Equal Credit Oppor-
4 tunity Act for determining whether a covered
5 person should be provided an exemption.

6 (c) EXAMINATIONS AND REPORTS.—

7 (1) IN GENERAL.—The Director may on a peri-
8 odic basis examine, or require reports from, a cov-
9 ered person for purposes of ensuring compliance
10 with the requirements of this title, the enumerated
11 consumer laws, and any regulations prescribed by
12 the Director under this title or pursuant to the au-
13 thorities transferred under subtitles F and H, and
14 enforcing compliance with such requirements.

15 (2) EXAMINATION PROGRAM.—The Director
16 shall exercise any authority of the Director under
17 paragraph (1) in a manner designed to ensure that
18 such authorities are exercised with respect to cov-
19 ered persons, without regard to charter or corporate
20 form, based on the Director's assessment of the
21 risks posed to consumers in the relevant product
22 markets and geographic markets, and taking into
23 consideration, as applicable, the following factors:

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

1 (B) The volume of transactions involving
2 consumer financial products or services in
3 which the covered persons engage.

4 (C) The risks to consumers created by the
5 provision of such consumer financial products
6 or services.

7 (D) In the case of State-chartered institu-
8 tions, the extent to which such institutions are
9 subject to oversight by State authorities for
10 consumer protection.

11 (3) COORDINATION.—The Director shall coordi-
12 nate the Agency’s supervisory activities with the su-
13 pervisory activities of conducted by the Federal
14 banking agencies and the State bank supervisors, in-
15 cluding establishing their respective schedules for ex-
16 amining covered persons and requirements regarding
17 reports to be submitted by covered persons.

18 (4) CONTENT OF REPORTS.—The reports au-
19 thorized in paragraph (1) may include such informa-
20 tion as necessary to keep the Agency informed as
21 to—

22 (A) the compliance systems or procedures
23 of the covered person or any affiliate thereof,
24 with applicable provisions of this title or any

1 other law that the Agency has jurisdiction to
2 enforce; and

3 (B) matters related to the provision of con-
4 sumer financial products or services including
5 the servicing or maintenance of accounts or ex-
6 tensions of credit.

7 (5) USE OF EXISTING REPORTS.—In general,
8 the Agency shall, to the fullest extent possible, use—

9 (A) reports that a covered person, or any
10 affiliate thereof, has provided or been required
11 to provide to a Federal or State agency; and

12 (B) information that has been reported
13 publicly.

14 (6) ACCESS BY THE AGENCY TO REPORTS OF
15 OTHER REGULATORS.—

16 (A) EXAMINATION AND FINANCIAL CONDI-
17 TION REPORTS.—Upon providing reasonable as-
18 surances of confidentiality, the Agency shall
19 have access to any report of examination or fi-
20 nancial condition made by a Federal banking
21 agency or other Federal agency having super-
22 vision of a covered person, and to all revisions
23 made to any such report.

24 (B) PROVISION OF OTHER REPORTS TO
25 AGENCY.—In addition to the reports described

1 in paragraph (a), a Federal banking agency
2 may, in its discretion, furnish to the Agency
3 any other report or other confidential super-
4 visory information concerning any insured de-
5 pository institution, any credit union, or other
6 entity examined by such agency under authority
7 of any Federal law.

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

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

18 (B) PROVISION OF OTHER REPORTS TO
19 OTHER REGULATORS.—In addition to the re-
20 ports described in paragraph (A), the Agency
21 may, in the discretion of the Agency, furnish to
22 a Federal banking agency any other report or
23 other confidential supervisory information con-
24 cerning any insured depository institution, any

1 credit union, or other entity examined by the
2 Agency under authority of any Federal law.

3 (8) PRESERVATION OF AUTHORITY.—No provi-
4 sion in paragraph (3) shall be construed as pre-
5 venting the Agency from conducting an examination
6 authorized by this title or under the authorities
7 transferred under subtitles F and H or pursuant to
8 any enumerated consumer law.

9 (d) EXCLUSIVE RULEMAKING AND EXAMINATION
10 AUTHORITY.—Notwithstanding any other provision of
11 Federal law other than subsection (f), to the extent that
12 a Federal law authorizes the Director and another Federal
13 agency to prescribe regulations, issue guidance, conduct
14 examinations, or require reports under that law for pur-
15 poses of assuring compliance with this title, any enumer-
16 ated consumer law, the laws for which authorities were
17 transferred under subtitles F and H, and any regulations
18 prescribed under this title or pursuant to any such author-
19 ity, the Director shall have the exclusive authority to pre-
20 scribe regulations, issue guidance, conduct examinations,
21 require reports, or issue exemptions with regard to any
22 person subject to that law and with respect to any activity
23 regulated under any enumerated consumer law.

24 (e) PRIMARY ENFORCEMENT AUTHORITY.—

1 (1) THE AGENCY TO HAVE PRIMARY ENFORCE-
2 MENT AUTHORITY.—To the extent that a Federal
3 law authorizes the Agency and another Federal
4 agency to enforce that law, the Agency shall have
5 primary authority to enforce that Federal law with
6 respect to any person in accordance with this sub-
7 section.

8 (2) REFERRAL.—Any Federal agency author-
9 ized to enforce a Federal law described in paragraph
10 (1) may recommend in writing to the Director that
11 the Agency initiate an enforcement proceeding as
12 the Agency is authorized by that Federal law or by
13 this title. The recommendation shall be accompanied
14 by a written explanation of the concerns giving rise
15 to the recommendation.

16 (3) BACKSTOP ENFORCEMENT AUTHORITY OF
17 OTHER FEDERAL AGENCY.—If the Agency does not,
18 before the end of the 120-day period beginning on
19 the date on which the Agency receives a rec-
20 ommendation under paragraph (2), initiate an en-
21 forcement proceeding, the other agency may initiate
22 an enforcement proceeding as permitted by that
23 Federal law.

24 (f) PRESERVATION OF OTHER AUTHORITY.—

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

4 (2) SECRETARY OF THE TREASURY.— No pro-
5 vision of this title shall be construed as affecting any
6 authority of the Secretary of the Treasury, including
7 with respect to prescribing regulations, initiating en-
8 forcement proceedings, or taking other actions with
9 respect to a person providing tax planning or tax
10 preparation services.

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

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

1 **SEC. 123. SIMULTANEOUS AND COORDINATED SUPER-**
2 **VISORY ACTION.**

3 (a) EXAMINATIONS.—A Federal banking agency and
4 the Agency shall, with respect to each insured depository
5 institution, credit union, or other covered person super-
6 vised by the Federal banking agency and the Agency, re-
7 spectively—

8 (1) coordinate the scheduling of examinations of
9 the insured depository institution, and credit union,
10 or other covered person;

11 (2) conduct simultaneous examinations of each
12 insured depository institution, credit union or other
13 covered person, unless such institution requests ex-
14 aminations to be conducted separately;

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

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

25 (b) COORDINATION WITH STATE BANK SUPER-
26 VISORS.—The Agency shall pursue arrangements and

1 agreements with State bank supervisors to coordinate ex-
2 aminations consistent with subsection (a).

3 (c) RESOLUTION OF CONFLICT IN SUPERVISION.—

4 (1) REQUEST OF DEPOSITORY INSTITUTION.—

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

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

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

24 (d) APPEALS TO GOVERNING PANEL.—

1 (1) IN GENERAL.—If the agencies receiving a
2 request from an insured depository institution, credit
3 union, or covered person under subsection (c)(1) do
4 not issue a joint statement under subsection (c)(2),
5 or if either agency takes or attempts to take any su-
6 pervisory action relating to the request for the joint
7 statement without the consent of the other agency,
8 the insured depository institution, credit union, or
9 other covered person may institute an appeal to a
10 governing panel under this subsection.

11 (2) TIMETABLE.—Any appeal under paragraph
12 (1) with regard to a failure of agencies to issue a
13 joint statement shall be filed before the end of the
14 30-day period beginning at the end of the 30-day pe-
15 riod during which such joint statement was due
16 under subsection (c)(2).

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

20 (1) 2 individuals—

21 (A) 1 of whom is a representative from the
22 Agency;

23 (B) 1 of whom is a representative of the
24 Federal banking agency which received the re-
25 quest to which the appeal relates; and

- 1 (C) neither of whom—
- 2 (i) have participated in the material
- 3 supervisory determinations under appeal;
- 4 and
- 5 (ii) report directly or indirectly to the
- 6 individual who made the supervisory deter-
- 7 minations under appeal; and
- 8 (2) 1 individual who is a representative from—
- 9 (A) the Federal banking agency that heads
- 10 the Financial Institution Examination Council;
- 11 or
- 12 (B) if the Financial Institutions Examina-
- 13 tion Council is headed by a Federal banking
- 14 agency that is a party to the appeal, the Fed-
- 15 eral banking agency that is next scheduled to
- 16 head the Financial Institutions Examination
- 17 Council.
- 18 (f) CONDUCT OF APPEAL.—
- 19 (1) CONTENT OF FILING APPEAL.—The insured
- 20 depository institution, credit union, or other covered
- 21 person which institutes an appeal under subsection
- 22 (d)(1) shall include in the filing of such appeal all
- 23 the facts and legal arguments pertaining to the mat-
- 24 ter appealed.

1 (2) APPEARANCE.—The insured depository in-
2 stitution, credit union, or other covered person which
3 institutes an appeal under this section may appear
4 before the governing panel in person or by telephone,
5 through counsel, employees or representatives of or
6 for such institution, credit union, or other covered
7 person.

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

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

22 (5) PUBLIC INFORMATION.—A redacted copy of
23 any determination by a governing panel convened
24 under this section shall be made public upon the
25 issuance of such determination.

1 (g) PROHIBITION AGAINST RETALIATION.—The Di-
2 rector and the Federal banking agencies shall prescribe
3 regulations to provide safeguards from retaliation against
4 any insured depository institution, credit union, or other
5 covered person which institutes an appeal under this sec-
6 tion, as well as against any officer or and employee of any
7 such institution, credit union, or other person.

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

11 (1) includes any action relating to any super-
12 vision or examinations; and

13 (2) does not include—

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

22 (B) any regulation or guidance, or order of
23 general applicability.

1 **SEC. 124. LIMITATIONS ON AUTHORITY OF AGENCY AND DI-**
2 **RECTOR.**

3 (a) EXCLUSION FOR MERCHANTS, RETAILERS, AND
4 SELLERS OF NONFINANCIAL SERVICES.—

5 (1) IN GENERAL.—Notwithstanding any provi-
6 sion of this title, the Director and the Agency may
7 not exercise any rulemaking, supervisory, enforce-
8 ment or other authority, including authority to order
9 assessments, under this title regarding credit or any
10 other financial activity issued directly by a mer-
11 chant, retailer, or seller of nonfinancial services to a
12 consumer exclusively for the purpose of enabling
13 that consumer to purchase goods or services directly
14 from the merchant, retailer, or seller of nonfinancial
15 services, in a case in which the good or service being
16 provided is not itself a consumer financial product or
17 service, except that the Director may exercise any
18 rulemaking authority regarding such credit or other
19 financial activity as may be authorized by the enu-
20 merated consumer laws or any law or authority
21 transferred under subtitle F or H.

22 (2) 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
26 credit or any other financial activity issued directly

1 by a merchant or retailer to a consumer exclusively
2 for the purpose of enabling that consumer to pur-
3 chase goods or services directly from the merchant
4 or retailer.

5 (b) EXCLUSION FOR PERSONS REGULATED BY THE
6 SECURITIES AND EXCHANGE COMMISSION.—

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

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 QUALIFIED RETIREMENT OR
2 ELIGIBLE DEFERRED COMPENSATION PLANS AND AR-
3 RANGEMENTS.—

4 (1) IN GENERAL.—No provision of this title
5 shall be construed as altering, amending, or affect-
6 ing the authority of the Secretary of the Treasury,
7 the Secretary of Labor, or the Commissioner of In-
8 ternal Revenue to adopt regulations, initiate enforce-
9 ment proceedings, or take any actions with respect
10 to—

11 (A) any retirement or eligible deferred
12 compensation plan or arrangement qualified
13 under or meeting the requirements of section
14 401(a), 403(a), 403(b), 457(b), 408 or 408A of
15 the Internal Revenue Code; or

16 (B) any educational savings arrangement
17 under section 529 of such Code.

18 (2) LIMITATION ON AGENCY AUTHORITY.—

19 (A) IN GENERAL.—The Director and the
20 Agency may not exercise any power to enforce
21 this title with respect to services provided di-
22 rectly (or indirectly if the services relate to the
23 operation of such plan or arrangement) to—

24 (i) any retirement or eligible deferred
25 compensation plan or arrangement quali-

1 fied under or meeting the requirements of
2 section 401(a), 403(a), 403(b), 457(b),
3 408, or 408A of the Internal Revenue
4 Code; or

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

7 (B) SERVICES DEFINED.—For purposes
8 subparagraph (A), the term “services” shall in-
9 clude, for example, services for custody and in-
10 vestment of assets, administration, compliance,
11 and participant assistance.

12 (e) EXCLUSION FOR ACCOUNTANTS, TAX PRE-
13 PARERS, AND ATTORNEYS.—

14 (1) IN GENERAL.—Except as permitted in para-
15 graph (2), the Director and the Agency may not ex-
16 ercise any rulemaking, supervisory, enforcement or
17 other authority, including authority to order assess-
18 ments, over—

19 (A) any person that is a certified public ac-
20 countant, permitted to practice as a certified
21 public accounting firm, or certified or licensed
22 for such purpose by a State, when such person
23 or entity is providing customary and usual ac-
24 counting activities to consumers;

1 (B) any person that performs income tax
2 preparation activities for consumers; or

3 (C) any person that is an attorney licensed
4 by a State, to the extent that the attorney is
5 engaged in the practice of law under the laws
6 of each State in which the attorney is licensed.

7 (2) DESCRIPTION OF ACTIVITIES.—Paragraph
8 (1) shall not apply to any person described in sub-
9 paragraph (A), (B), or (C) of such paragraph to the
10 extent such person is engaged in any financial activ-
11 ity described in any subparagraph of section 101(18)
12 or is otherwise subject to any of the enumerated
13 consumer laws or the authorities transferred under
14 subtitle F or H.

15 (f) EXCLUSION FOR REALTORS.—

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

1 (A) acts as a real estate agent or broker
2 for a buyer, seller, lessor, or lessee of real prop-
3 erty;

4 (B) brings together parties interested in
5 the sale, purchase, lease, rental, or exchange of
6 real property;

7 (C) negotiates, on behalf of any party, any
8 portion of a contract relating to the sale, pur-
9 chase, lease, rental, or exchange of real prop-
10 erty (other than in connection with providing fi-
11 nancing with respect to any such transaction);

12 (D) engages in any activity for which a
13 person engaged in the activity is required to be
14 registered or licensed as a real estate agent or
15 real estate broker under any applicable law; or

16 (E) offers to engage in any activity, or act
17 in any capacity, described in subparagraph (A),
18 (B), (C), or (D).

19 (2) DESCRIPTION OF ACTIVITIES.—Paragraph
20 (1) shall not apply to any person described in such
21 paragraph to the extent such person is engaged in
22 any financial activity described in any subparagraph
23 of section 101(18) or is otherwise subject to any of
24 the enumerated consumer laws or the authorities
25 transferred under subtitle F or H.

1 (g) EXCLUSION FOR AUTO DEALERS.—

2 (1) IN GENERAL.—Except as permitted in para-
3 graph (2), the Director and the Agency may not ex-
4 ercise any rulemaking, supervisory, enforcement or
5 other authority, including authority to order assess-
6 ments, over a person to the extent that such per-
7 son—

8 (A) acts as an agent or broker for a buyer
9 or seller of any automobile;

10 (B) facilitates the purchase or lease by a
11 consumer of any automobile either by negoti-
12 ating the purchase price or terms of the sale
13 contract (other than in connection with pro-
14 viding financing or arranging for financing or a
15 lease with respect to such transaction); or

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

18 (2) DESCRIPTION OF ACTIVITIES.—Paragraph
19 (1) shall not apply to any person described in such
20 paragraph to the extent such person is engaged in
21 any financial activity described in any subparagraph
22 of section 101(18) or is otherwise subject to any of
23 the enumerated consumer laws or the authorities
24 transferred under subtitle F or H.

1 (h) 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 (i) EXCLUSION FOR CONSUMER REPORTING AGEN-
8 CIES.—

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 any consumer reporting
13 agency (as defined in section 603(f) of the Fair
14 Credit Reporting Act).

15 (2) EXCLUSION NOT APPLICABLE TO FINANCIAL
16 ACTIVITIES.—Paragraph (1) shall not apply to any
17 consumer reporting agency to the extent such con-
18 sumer reporting agency is engaged in any financial
19 activity described in any subparagraph of section
20 101(18) other than assembling or evaluating con-
21 sumer credit information or other information on
22 consumers for the purpose of furnishing consumer
23 reports to third parties and the furnishing of such
24 reports in accordance with section 604 of the Fair
25 Credit Reporting Act.

1 **SEC. 125. COLLECTION OF INFORMATION; CONFIDEN-**
2 **TIALITY REGULATIONS.**

3 (a) COLLECTION OF INFORMATION.—

4 (1) IN GENERAL.—In conducting research on
5 the provision of consumer financial products or serv-
6 ices, the Director shall have the power to gather in-
7 formation from time to time regarding the organiza-
8 tion, business conduct, and practices of covered per-
9 sons.

10 (2) SPECIFIC AUTHORITY.—In order to gather
11 such information, the Director shall have the
12 power—

13 (A) to gather and compile information;

14 (B) to require persons to file with the
15 Agency, in such form and within such reason-
16 able period of time as the Director may pre-
17 scribe, by regulation or order, annual or special
18 reports, or answers in writing to specific ques-
19 tions, furnishing information the Director may
20 require; and

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

25 (b) CONFIDENTIALITY REGULATIONS.—The Director
26 shall prescribe regulations regarding the confidential

1 treatment of information obtained from persons in connec-
2 tion with the exercise of any authority of the Agency or
3 Director under this title and the enumerated consumer
4 laws and the authorities transferred under subtitles F and
5 H.

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

15 **SEC. 126. MONITORING; ASSESSMENTS OF SIGNIFICANT**
16 **REGULATIONS; REPORTS.**

17 (a) **MONITORING.**—

18 (1) **IN GENERAL.**—The Agency shall monitor
19 for risks to consumers in the provision of consumer
20 financial products or services, including develop-
21 ments in markets for such products or services.

22 (2) **MEANS OF MONITORING.**—Such monitoring
23 may be conducted by examinations of covered per-
24 sons, analysis of reports obtained from covered per-
25 sons, assessment of consumer complaints, surveys

1 and interviews of covered persons and consumers,
2 and review of available databases.

3 (3) CONSIDERATIONS.—In allocating the re-
4 sources of the Agency to perform the monitoring re-
5 quired by this section, the Director may consider,
6 among other factors—

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

10 (B) consumers' understanding of the risks
11 of a type of consumer financial product or serv-
12 ice;

13 (C) the state of the law that applies to the
14 provision of a consumer financial product or
15 service, including the extent to which the law is
16 likely to adequately protect consumers;

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

19 (E) extent, if any, to which the risks of a
20 consumer financial product or service may dis-
21 proportionately affect traditionally underserved
22 consumers, if any; or

23 (F) types, number, and other pertinent
24 characteristics of covered persons that provide
25 the product or service.

1 (4) REPORTS.—The Agency shall publish at
2 least 1 report of significant findings of the moni-
3 toring required by paragraph (1) in each calendar
4 year, beginning in the calendar year that is 1 year
5 after the designated transfer date.

6 (b) ASSESSMENT OF SIGNIFICANT REGULATIONS.—

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

16 (2) BASIS FOR ASSESSMENT.—The assessment
17 shall reflect available evidence and any data that the
18 Agency reasonably may collect.

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

1 than 5 years after the effective date of the regula-
2 tion or order.

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

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

15 **SEC. 127. AUTHORITY TO RESTRICT MANDATORY**
16 **PREDISPUTE ARBITRATION.**

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

1 (b) EFFECTIVE DATE.—Notwithstanding any other
2 provision of law, any regulation prescribed by the Director
3 under subsection (a) shall apply, consistent with the terms
4 of the regulation, to any agreement between a consumer
5 and a covered person entered into after the end of the
6 180-day period beginning on the effective date of the regu-
7 lation, as established by the Director.

8 **SEC. 128. REGISTRATION AND SUPERVISION OF NON-**
9 **DEPOSITORY COVERED PERSONS.**

10 (a) RISK-BASED PROGRAMS.—

11 (1) IN GENERAL.—The Agency shall develop
12 risk-based programs to supervise covered persons
13 that are not credit unions, depository institutions, or
14 persons excluded under section 124 by prescribing
15 registration requirements, reporting requirements,
16 and examination standards and procedures.

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

20 (A) relevant registration and reporting in-
21 formation about such covered persons, as deter-
22 mined by the Agency; and

23 (B) the Agency's assessment of risks posed
24 to consumers in the relevant geographic mar-

1 kets and markets for consumer financial prod-
2 ucts and services.

3 (b) REGISTRATION.—

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

8 (2) CONSULTATION WITH STATE AGENCIES.—

9 In developing and implementing registration require-
10 ments under this subsection, the Agency shall con-
11 sult with State agencies regarding requirements or
12 systems for registration (including coordinated or
13 combined systems), where appropriate.

14 (3) EXCEPTION FOR RELATED PERSONS.—The
15 Agency shall not impose requirements regarding the
16 registration of a related person.

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

1 (5) EXCLUSION FOR SERVICE PROVIDERS.—No
2 provision of this subsection shall apply to a covered
3 person described in subparagraph (B) of section
4 101(8) (except to the extent that such person also
5 acts in a capacity described in subparagraph (A) of
6 such section).

7 (c) REPORTING REQUIREMENTS.—

8 (1) IN GENERAL.—The Agency may require re-
9 ports from covered persons that are not credit
10 unions or depository institutions for the purposes of
11 facilitating supervision of such covered persons.

12 (2) CONSISTENCY OF REPORTING REQUIRE-
13 MENTS AND RISK-BASED STANDARDS.—The Agency
14 shall impose reporting requirements under this sub-
15 section that are consistent with the risk-based stand-
16 ards developed and implemented under this section
17 and the registration information pertaining to the
18 relevant types or classes of covered persons.

19 (3) CONTENTS OF REPORTS.—Reporting re-
20 quirements imposed under this paragraph may in-
21 clude information regarding—

22 (A) the nature of the covered person's
23 business;

1 (B) the covered person's name, legal form,
2 ownership and management structure, and re-
3 lated persons;

4 (C) the covered person's locations of oper-
5 ation;

6 (D) the covered person's types and number
7 of consumer financial products and services
8 provided by the covered person;

9 (E) compliance with any requirement im-
10 posed or enforced by the Agency, including any
11 requirement relating to registration, licensing,
12 fees, or assessments; and

13 (F) the financial condition of such covered
14 person, including a related person, for the pur-
15 pose of assessing the ability of such person to
16 perform its obligation to consumers.

17 (4) EXCEPTION FOR RELATED PERSONS.—

18 Other than reports permitted under paragraph
19 (3)(F) or in connection with a supervisory action or
20 examination or pursuant to the powers granted in
21 subtitle E, the Agency shall not impose requirements
22 regarding reports of any related person.

23 (d) EXAMINATIONS.—

24 (1) EXAMINATIONS REQUIRED.—The Agency
25 shall conduct examinations of covered persons that

1 are not credit unions or depository institutions as
2 part of the programs implemented under paragraphs
3 (2) and (3) of section 122(c).

4 (2) EXAMINATION STANDARDS AND PROCE-
5 DURES.—The Director shall establish risk-based
6 standards and procedures for conducting examina-
7 tions of covered persons required to be examined
8 under paragraph (1), including the frequency and
9 scope of such examinations, except that the Agency
10 shall conduct examinations of such covered persons
11 that are determined to pose the highest risk to con-
12 sumers based on factors determined by the Director,
13 such as the operations, sales practices, or consumer
14 financial products or services provided by such cov-
15 ered persons.

16 (e) AUTHORITY TO COLLECT INFORMATION REGARD-
17 ING FEES OR ASSESSMENTS.—To the extent permitted by
18 Federal law, the Agency may obtain from the Secretary
19 of the Treasury information relating to a covered person
20 which is not a bank holding company, credit union, or de-
21 pository institution, including information regarding com-
22 pliance with a reporting or registration requirement under
23 the subchapter II of chapter 53 of title 31, United States
24 Code, for the purposes of, and only to the extent necessary
25 in, investigating, determining, or enforcing compliance

1 with a requirement relating to any fee or assessment im-
2 posed by the Agency under this title.

3 **SEC. 129. EFFECTIVE DATE.**

4 This subtitle shall take effect on the designated
5 transfer date.

6 **Subtitle C—Specific Authorities**

7 **SEC. 131. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE**
8 **ACTS OR PRACTICES.**

9 (a) IN GENERAL.—The Agency may take any action
10 authorized under subtitle E to prevent a person from com-
11 mitting or engaging in an unfair, deceptive, or abusive act
12 or practice under Federal law in connection with any
13 transaction with a consumer for a consumer financial
14 product or service, or the offering of a consumer financial
15 product or service.

16 (b) REGULATIONS.—

17 (1) IN GENERAL.—The Director may prescribe
18 regulations identifying as unlawful unfair, deceptive,
19 or abusive acts or practices in connection with any
20 transaction with a consumer for a consumer finan-
21 cial product or service or the offering of a consumer
22 financial product or service.

23 (2) INCLUDES PREVENTION MEASURES.—Regu-
24 lations prescribed under this section may include re-

1 requirements for the purpose of preventing such acts
2 or practices.

3 (c) UNFAIRNESS.—

4 (1) IN GENERAL.—The Director and the Agen-
5 cy shall have no authority under this section to de-
6 clare an act or practice in connection with a trans-
7 action with a consumer for a consumer financial
8 product or service, or the offering of a consumer fi-
9 nancial product or service, to be unlawful on the
10 grounds that such act or practice is unfair unless
11 the Agency has a reasonable basis to conclude that
12 the act or practice causes or is likely to cause sub-
13 stantial injury to consumers which is not reasonably
14 avoidable by consumers and such substantial injury
15 is not outweighed by countervailing benefits to con-
16 sumers or to competition.

17 (2) ESTABLISHED PUBLIC POLICY AS FAC-
18 TOR.—In determining whether an act or practice is
19 unfair, the Agency may consider established public
20 policies as evidence to be considered with all other
21 evidence.

22 (d) CONSULTATION.—In prescribing a regulation
23 under this section, the Director shall consult with the Fed-
24 eral banking agencies, State bank supervisors, or other
25 Federal agencies, as appropriate, concerning the consist-

1 ency of the proposed regulation with prudential, market,
2 or systemic objectives administered by such agencies.

3 **SEC. 132. DISCLOSURES.**

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

8 (b) COORDINATION WITH OTHER LAWS.—In pre-
9 scribing regulations under subsection (a), the Director
10 shall take into account disclosure requirements under
11 other laws in order to enhance consumer compliance and
12 reduce regulatory burden.

13 (c) COMPLIANCE.—

14 (1) MODEL DISCLOSURES.—The Agency may
15 provide model disclosures to facilitate compliance
16 with the requirements of regulations prescribed
17 under this section.

18 (2) PER SE COMPLIANCE.—Compliance by a
19 covered person with the model disclosures issued by
20 the Agency under this subsection shall per se con-
21 stitute compliance with the disclosure requirements
22 of this section.

23 (3) ADDITIONAL GUIDANCE.—The Agency may
24 issue exemptions, no action letters, and other guid-

1 ance to promote compliance with disclosures require-
2 ments of regulations prescribed under this section.

3 (d) **COMBINED MORTGAGE LOAN DISCLOSURE.**—

4 Within 1 year after the designated transfer date, the Di-
5 rector shall propose for public comment regulations and
6 model disclosures that combine the disclosures required
7 under the Truth in Lending Act and the Real Estate Set-
8 tlement Procedures Act into a single, integrated disclosure
9 for mortgage loan transactions covered by those laws, un-
10 less the Director determines that any proposal issued by
11 the Board of Governors and the Department of Housing
12 and Urban Development carries out the same purpose.

13 **SEC. 133. SALES PRACTICES.**

14 The Director may prescribe regulations and issue or-
15 ders and guidance regarding the manner, settings, and cir-
16 cumstances for the provision of any consumer financial
17 products or services to ensure that the risks, costs, and
18 benefits of the products or services, both initially and over
19 the term of the products or services, are fully and accu-
20 rately represented to consumers.

21 **SEC. 134. PILOT DISCLOSURES.**

22 (a) **PILOT DISCLOSURES.**—The Agency shall estab-
23 lish standards and procedures for approval of pilot disclo-
24 sures to be provided or made available by a covered person
25 to consumers in connection with the provision of a con-

1 sumer financial product or service, or the offering of a
2 consumer financial product or service.

3 (b) STANDARDS.—The procedures shall provide that
4 a pilot disclosure must be limited in time and scope and
5 reasonably designed to contribute materially to the under-
6 standing of consumer awareness and understanding of,
7 and responses to, disclosures or communications about the
8 risks, costs, and benefits of consumer financial products
9 or services.

10 (c) TRANSPARENCY.—The procedures shall provide
11 for public disclosure of pilots, but the Agency may limit
12 disclosure to the extent necessary to encourage covered
13 persons to conduct effective pilots.

14 (d) EXCLUSION FOR SERVICE PROVIDERS.—No pro-
15 vision of this section shall apply to a covered person de-
16 scribed in subparagraph (B) of section 101(8) (except to
17 the extent that such person also acts in a capacity de-
18 scribed in subparagraph (A) of such section).

19 **SEC. 135. ADOPTING OPERATIONAL STANDARDS TO DETER**
20 **UNFAIR, DECEPTIVE, OR ABUSIVE PRAC-**
21 **TICES.**

22 (a) AUTHORITY TO PRESCRIBE STANDARDS.—The
23 States are encouraged to prescribe standards applicable
24 to covered persons who are not insured depository institu-
25 tions or credit unions to deter and detect unfair, deceptive,

1 abusive, fraudulent, or illegal transactions in the provision
2 of consumer financial products or services, including
3 standards for—

4 (1) background checks for principals, officers,
5 directors, or key personnel of the covered person;

6 (2) registration, licensing, or certification;

7 (3) bond or other appropriate financial require-
8 ments to provide reasonable assurance of the ability
9 of the covered person to perform its obligations to
10 consumers;

11 (4) creating and maintaining records of trans-
12 actions or accounts; or

13 (5) procedures and operations of the covered
14 person relating to the provision of, or maintenance
15 of accounts for, consumer financial products or serv-
16 ices.

17 (b) AGENCY AUTHORITY TO PRESCRIBE STAND-
18 ARDS.—

19 (1) IN GENERAL.—The Director may prescribe
20 regulations establishing minimum standards under
21 this section for any class of covered persons other
22 than covered persons which are subject to the juris-
23 diction of a Federal banking agency or a State bank
24 supervisor.

1 (2) REGISTRATION AND LICENSING STAND-
2 ARDS.—In addition to prescribing standards for the
3 purposes described in subsection (a), the Director
4 may prescribe registration or licensing standards for
5 the purposes of imposing fees or assessments in ac-
6 cordance with this title.

7 (3) ENFORCEMENT OF STANDARDS.— The Di-
8 rector may enforce under subtitle E compliance with
9 standards adopted by the Director or a State pursu-
10 ant to this section for covered persons operating in
11 that State.

12 (c) CONSULTATION.—In prescribing minimum stand-
13 ards under this section, the Director shall consult with the
14 State authorities, the Federal banking agencies, or other
15 Federal agencies, as appropriate, concerning the consist-
16 ency of the proposed regulation with prudential, market,
17 or systemic objectives administered by such State authori-
18 ties or such agencies.

19 (d) EXCLUSION FOR SERVICE PROVIDERS.—No pro-
20 vision of this section shall apply to a covered person de-
21 scribed in subparagraph (B) of section 101(8) (except to
22 the extent that such person also acts in a capacity de-
23 scribed in subparagraph (A) of such section).

24 **SEC. 136. DUTIES.**

25 (a) IN GENERAL.—

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

10 (2) CONSIDERATIONS FOR DUTIES.—In pre-
11 scribing such regulations, the Director shall consider
12 whether—

13 (A) the covered person, employee, agent, or
14 independent contractor represents implicitly or
15 explicitly that the person, employee, agent, or
16 contractor is acting in the interest of the con-
17 sumer with respect to any aspect of the trans-
18 action;

19 (B) the covered person, employee, agent,
20 or independent contractor provides the con-
21 sumer with advice with respect to any aspect of
22 the transaction;

23 (C) the consumer's reliance on or use of
24 any advice from the covered person, employee,

1 agent, or independent contractor would be rea-
2 sonable and justifiable under the circumstances;

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

5 (E) any other factors as the Director con-
6 siderers appropriate.

7 (3) DUTIES RELATING TO COMPENSATION
8 PRACTICES.—

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

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

20 (b) ADMINISTRATIVE PROCEEDINGS.—

21 (1) IN GENERAL.—Any regulation prescribed by
22 the Director under this section shall be enforceable
23 only by the Agency through an adjudication pro-
24 ceeding under subtitle E or by a State regulator

1 through an appropriate administrative proceeding as
2 permitted under State law.

3 (2) EXCLUSIVITY OF REMEDY.—No action may
4 be commenced in any court to enforce any require-
5 ment of a regulation prescribed under this section,
6 and no court may exercise supplemental jurisdiction
7 over a claim asserted under a regulation prescribed
8 under this section based on allegations or evidence
9 of conduct that otherwise may be subject to such
10 regulation.

11 (3) RULE OF CONSTRUCTION.—The Agency,
12 the Attorney General, and any State attorney gen-
13 eral or State regulator shall not be precluded from
14 enforcing any other Federal or State law against a
15 person with respect to conduct that may be subject
16 to a regulation prescribed by the Director under this
17 section.

18 (c) EXCLUSIONS.—This section shall not be con-
19 strued as authorizing the Director to prescribe regulations
20 applicable to—

21 (1) an attorney licensed to practice law and in
22 compliance with the applicable rules and standards
23 of professional conduct, but only to the extent that
24 the consumer financial product or service provided is

1 within the attorney-client relationship with the con-
2 sumer; or

3 (2) any trustee, custodian, or other person that
4 holds a fiduciary duty in connection with a trust, in-
5 cluding a fiduciary duty to a grantor or beneficiary
6 of a trust, that is subject to and in compliance with
7 the applicable law relating to such trust.

8 (d) **EXCLUSION FOR SERVICE PROVIDERS.**—In addi-
9 tion to the exclusions contained in subsection (c), no provi-
10 sion of this section shall apply to a covered person de-
11 scribed in subparagraph (B) of section 101(8) (except to
12 the extent that such person also acts in a capacity de-
13 scribed in subparagraph (A) of such section).

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

15 (a) **IN GENERAL.**—Subject to regulations prescribed
16 by the Director, a covered person shall make available to
17 a consumer, in an electronic form usable by the consumer,
18 information in the control or possession of the covered per-
19 son concerning the consumer financial product or service
20 that the consumer obtained from such covered person in-
21 cluding information relating to any transaction, series of
22 transactions, or to the account including costs, charges
23 and usage data.

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

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

4 (2) any information collected by the covered
5 person for the purpose of preventing fraud or money
6 laundering, or detecting, or making any report re-
7 garding other unlawful or potentially unlawful con-
8 duct;

9 (3) any information required to be kept con-
10 fidential by any other law; or

11 (4) any information that the covered person
12 cannot retrieve in the ordinary course of its business
13 with respect to that information.

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

18 (d) STANDARDIZED FORMATS FOR DATA.—The Di-
19 rector, by regulation, shall prescribe standards applicable
20 to covered persons to promote the development and use
21 of standardized formats for information, including
22 through the use of machine readable files, to be made
23 available to consumers under this section.

24 (e) CONSULTATION.—The Director shall, when pre-
25 scribing any regulation under this section, consult with the

1 Federal banking agencies, State bank supervisors, and the
2 Federal Trade Commission to ensure that the regula-
3 tions—

4 (1) impose substantively similar requirements
5 on covered persons;

6 (2) take into account conditions under which
7 covered persons do business both in the United
8 States and in other countries; and

9 (3) do not require or promote the use of any
10 particular technology in order to develop systems for
11 compliance.

12 **SEC. 138. PROHIBITED ACTS.**

13 It shall be unlawful for any person—

14 (1) to advertise, market, offer, sell, enforce, or
15 attempt to enforce, any term, agreement, change in
16 terms, fee, or charge in connection with a consumer
17 financial product or service that is not in conformity
18 with this title or applicable regulation prescribed or
19 order issued by the Director or to engage in any un-
20 fair, deceptive, or abusive act or practice;

21 (2) to fail or refuse to pay any fee or assess-
22 ment imposed by the Agency under this title, to fail
23 or refuse to permit access to or copying of records,
24 to fail or refuse to establish or maintain records, or
25 to fail or refuse to make reports or provide informa-

1 tion to the Agency, as required by this title, an enu-
2 merated consumer law, or pursuant to the authori-
3 ties transferred by subtitles F and H, or any regula-
4 tion prescribed or order issued by the Director this
5 title or pursuant to any such authority; or

6 (3) to knowingly or recklessly provide substan-
7 tial assistance to another person in violation of the
8 provisions of section 131, or any regulation pre-
9 scribed or order issued under such section, and any
10 such person shall be deemed to be in violation of
11 that section to the same extent as the person to
12 whom such assistance is provided.

13 **SEC. 139. EFFECTIVE DATE.**

14 This subtitle shall take effect on the designated
15 transfer date.

16 **Subtitle D—Preservation of State**
17 **Law**

18 **SEC. 141. RELATION TO STATE LAW.**

19 (a) IN GENERAL.—

20 (1) RULE OF CONSTRUCTION.—This title shall
21 not be construed as annulling, altering, or affecting,
22 or exempting any person subject to the provisions of
23 this title from complying with, the laws, regulations,
24 orders, or interpretations, in effect in any State, ex-
25 cept to the extent that such statute, regulation,

1 order, or interpretation is inconsistent with the pro-
2 visions of this title and then only to the extent of the
3 inconsistency.

4 (2) GREATER PROTECTION UNDER STATE
5 LAW.—For the purposes of this subsection, a stat-
6 ute, regulation, order, or interpretation in effect in
7 any State is not inconsistent with the provisions of
8 this title if the protection such statute, regulation,
9 order, or interpretation affords consumers is greater
10 than the protection provided under this title. A de-
11 termination regarding whether a statute, regulation,
12 order, or interpretation in effect in any State is in-
13 consistent with the provisions of this title may be
14 made by the Agency on its own motion or in re-
15 sponse to a nonfrivolous petition initiated by any in-
16 terested person.

17 (b) RELATION TO OTHER PROVISIONS OF ENUMER-
18 ATED CONSUMER LAWS THAT RELATE TO STATE LAW.—
19 No provision of this title, except as provided in section
20 175, shall be construed as modifying, limiting, or super-
21 seding the operation of any provision of an enumerated
22 consumer law that relates to the application of a law in
23 effect in any State with respect to such Federal law.

1 **SEC. 142. PRESERVATION OF ENFORCEMENT POWERS OF**
2 **STATES.**

3 (a) IN GENERAL.—

4 (1) ACTION BY STATE.—Any State attorney
5 general may bring a civil action in the name of such
6 State, as *parens patriae* on behalf of natural persons
7 residing in such State, in any district court of the
8 United States or State court having jurisdiction of
9 the defendant, to secure monetary or equitable relief
10 for violation of any provisions of this title or regula-
11 tions issued thereunder.

12 (2) RULE OF CONSTRUCTION.—No provision of
13 this title shall be construed as modifying, limiting,
14 or superseding the operation of any provision of an
15 enumerated consumer law that relates to the author-
16 ity of a State attorney general or State regulator to
17 enforce such Federal law.

18 (b) CONSULTATION REQUIRED.—

19 (1) NOTICE.—

20 (A) IN GENERAL.—Before initiating any
21 action in a court or other administrative or reg-
22 ulatory proceeding against any covered person
23 to enforce any provision of this title, including
24 any regulation prescribed by the Director under
25 this title, a State attorney general or State reg-
26 ulator shall timely provide a copy of the com-

1 plete complaint to be filed and written notice
2 describing such action or proceeding to the
3 Agency, or the Agency's designee.

4 (B) EMERGENCY ACTION.—If prior notice
5 is not practicable, the State attorney general or
6 State regulator shall provide a copy of the com-
7 plete complaint and the notice to the Agency
8 immediately upon instituting the action or pro-
9 ceeding.

10 (C) CONTENTS OF NOTICE.—The notifica-
11 tion required under this section shall, at a min-
12 imum, describe—

13 (i) the identity of the parties;

14 (ii) the alleged facts underlying the
15 proceeding; and

16 (iii) whether there may be a need to
17 coordinate the prosecution of the pro-
18 ceeding so as not to interfere with any ac-
19 tion, including any rulemaking, undertaken
20 by the Director or Agency or another Fed-
21 eral agency.

22 (2) AGENCY RESPONSE.—In any action de-
23 scribed in paragraph (1), the Agency may—

24 (A) intervene in the action as a party;

25 (B) upon intervening—

1 (i) remove the action to the appro-
2 priate United States district court, if the
3 action was not originally brought there;
4 and

5 (ii) be heard on all matters arising in
6 the action; and

7 (C) appeal any order or judgment to the
8 same extent as any other party in the pro-
9 ceeding may.

10 (c) REGULATIONS.—The Director shall prescribe reg-
11 ulations to implement the requirements of this section
12 and, from time to time, provide guidance in order to fur-
13 ther coordinate actions with the State attorneys general
14 and other regulators.

15 (d) PRESERVATION OF STATE CLAIMS.—Nothing in
16 this section shall be construed as limiting the authority
17 of a State attorney general or State regulator to bring an
18 action or other regulatory proceeding arising solely under
19 the law of that State.

20 **SEC. 143. STATE LAW PREEMPTION STANDARDS FOR NA-**
21 **TIONAL BANKS AND SUBSIDIARIES CLARI-**
22 **FIED.**

23 (a) IN GENERAL.—Chapter one of title LXII of the
24 Revised Statutes of the United States (12 U.S.C. 21 et

1 seq.) is amended by inserting after section 5136B the fol-
2 lowing new section:

3 **“SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NA-**
4 **TIONAL BANKS AND SUBSIDIARIES CLARI-**
5 **FIED.**

6 “(a) DEFINITIONS.—For purposes of this section, the
7 following definitions shall apply:

8 “(1) NATIONAL BANK.—The term ‘national
9 bank’ includes—

10 “(A) any bank organized under the laws of
11 the United States;

12 “(B) any affiliate of a national bank;

13 “(C) any subsidiary of a national bank;
14 and

15 “(D) any Federal branch established in ac-
16 cordance with the International Banking Act of
17 1978.

18 “(2) OTHER DEFINITIONS.—The terms ‘affil-
19 iate’, ‘subsidiary’, ‘includes’, and ‘including’ have the
20 same meaning as in section 3 of the Federal Deposit
21 Insurance Act.

22 “(3) STATE CONSUMER LAW.—The term ‘State
23 consumer law’ means any law of a State that—

24 “(A) accords rights to or protects the
25 rights of its citizens in financial transactions

1 concerning negotiation, sales, solicitation, dis-
2 closure, terms and conditions, advice, and rem-
3 edies; or

4 “(B) prevents counterparties, successors,
5 and assigns of financial contracts from engag-
6 ing in unfair or deceptive acts and practices.

7 “(b) STATE CONSUMER LAWS OF GENERAL APPLI-
8 CATION.—Notwithstanding any other provision of Federal
9 law and except as provided in subsection (d), any con-
10 sumer protection provision in State consumer laws of gen-
11 eral application, including any law relating to unfair or
12 deceptive acts or practices, any consumer fraud law and
13 repossession, foreclosure, and collection law, shall apply to
14 any national bank.

15 “(c) STATE BANKING LAWS ENACTED PURSUANT TO
16 FEDERAL LAW.—Notwithstanding any other provision of
17 Federal law and except as provided in subsection (d), any
18 State consumer law that—

19 “(1) is applicable to State banks; and

20 “(2) was enacted pursuant to or in accordance
21 with, and is not inconsistent with, an Act of Con-
22 gress, including the Gramm-Leach-Bliley Act, the
23 Consumer Credit Protection Act, and the Real Es-
24 tate Settlement Procedures Act, that explicitly or by

1 implication, permits States to exceed or supplement
2 the requirements of any comparable Federal law,
3 shall apply to any national bank.

4 “(d) EXCEPTIONS.—

5 “(1) IN GENERAL.—Subsections (b) and (c)
6 shall not apply with respect to any State consumer
7 law if—

8 “(A) the State consumer law discriminates
9 against national banks; or

10 “(B) the State consumer law is incon-
11 sistent with provisions of Federal law other
12 than this title, but only to the extent of the in-
13 consistency (as determined in accordance with
14 the provision of the other Federal law).

15 “(2) RULE FOR DETERMINING INCONSIST-
16 ENCY.—For purposes of paragraph (1)(B), a State
17 consumer law is not inconsistent with Federal law if
18 the protection the State consumer law affords con-
19 sumers is greater than the protection provided under
20 Federal law as determined by the Director.

21 “(e) NO NEGATIVE IMPLICATIONS FOR APPLICA-
22 BILITY OF OTHER STATE LAWS.—No provision of this
23 section shall be construed as altering or affecting the ap-
24 plicability, to national banks, of any State law which is
25 not described in this section.

1 “(f) EFFECT OF TRANSFER OF TRANSACTION.—
2 State consumer law applicable to a transaction at the in-
3 ception of the transaction may not be preempted under
4 Federal law solely because a national bank subsequently
5 acquires the asset or instrument that is the subject of the
6 transaction.

7 “(g) DENIAL OF PREEMPTION NOT A DEPRIVATION
8 OF A CIVIL RIGHT.—The preemption of any provision of
9 the law of any State with respect to any national bank
10 shall not be treated as a right, privilege, or immunity for
11 purposes of section 1979 of the Revised Statutes of the
12 United States (42 U.S.C. 1983).”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for chapter one of title LXII of the Revised Statutes of
15 the United States is amended by inserting after the item
16 relating to section 5136B the following new item:

“5136C. State law preemption standards for national banks and subsidiaries
clarified.”.

17 **SEC. 144. VISITORIAL STANDARDS.**

18 Section 5136C of the Revised Statutes of the United
19 States (as added by section 143) is amended by adding
20 at the end the following new subsections:

21 “(h) VISITORIAL POWERS.—

22 “(1) RULE OF CONSTRUCTION.—No provision
23 of this title which relates to visitorial powers or oth-
24 erwise limits or restricts the supervisory, examina-

1 tion, or regulatory authority to which any national
2 bank is subject shall be construed as limiting or re-
3 stricting the authority of any attorney general (or
4 other chief law enforcement officer) of any State to
5 bring any action in any court of appropriate jurisdic-
6 tion—

7 “(A) to require a national bank to produce
8 records relative to the investigation of violations
9 of State consumer law, or Federal consumer
10 laws;

11 “(B) to enforce any applicable Federal or
12 State law, as authorized by such law; or

13 “(C) on behalf of residents of such State,
14 to enforce any applicable provision of any Fed-
15 eral or State law against a national bank, as
16 authorized by such law, or to seek relief and re-
17 cover damages for such residents from any vio-
18 lation of any such law by any national bank.

19 “(2) CONSULTATION.—The attorney general (or
20 other chief law enforcement officer) of any State
21 shall consult with the head of the agency responsible
22 for chartering and regulating national banks before
23 acting under paragraph (1).

24 “(i) ENFORCEMENT ACTIONS.—The ability of the
25 head of the agency responsible for chartering and regu-

1 lating national banks to bring an enforcement action
2 under this title or section 5 of the Federal Trade Commis-
3 sion Act shall not be construed as precluding private par-
4 ties from enforcing rights granted under Federal or State
5 law in the courts.”.

6 **SEC. 145. CLARIFICATION OF LAW APPLICABLE TO NON-**
7 **DEPOSITORY INSTITUTION SUBSIDIARIES.**

8 Section 5136C of the Revised Statutes of the United
9 States is amended by inserting after subsection (i) (as
10 added by section 144) the following new subsection:

11 “(j) CLARIFICATION OF LAW APPLICABLE TO NON-
12 DEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILI-
13 ATES OF NATIONAL BANKS.—

14 “(1) DEFINITIONS.—For purposes of this sec-
15 tion, the following definitions shall apply:

16 “(A) DEPOSITORY INSTITUTION, SUB-
17 SIDIARY, AFFILIATE.—The terms ‘depository in-
18 stitution’, ‘subsidiary’, and ‘affiliate’ have the
19 same meanings as in section 3 of the Federal
20 Deposit Insurance Act.

21 “(B) NONDEPOSITORY INSTITUTION.—The
22 term ‘nondepository institution’ means any enti-
23 ty that is not a depository institution.

24 “(2) IN GENERAL.—No provision of this title
25 shall be construed as annulling, altering, or affecting

1 the applicability of State law to any nondepository
2 institution, subsidiary, other affiliate, or agent of a
3 national bank.”.

4 **SEC. 146. STATE LAW PREEMPTION STANDARDS FOR FED-**
5 **ERAL SAVINGS ASSOCIATIONS AND SUBSIDI-**
6 **ARIES CLARIFIED.**

7 (a) IN GENERAL.—The Home Owners’ Loan Act (12
8 U.S.C. 1461 et seq.) is amended by inserting after section
9 5 the following new section:

10 **“SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FED-**
11 **ERAL SAVINGS ASSOCIATIONS CLARIFIED.**

12 “(a) DEFINITION.—For purposes of this section—

13 “(1) the terms ‘includes’ and ‘including’ have
14 the same meaning as in section 3(t) of the Federal
15 Deposit Insurance Act.

16 “(2) the term ‘State consumer law’ means any
17 law of a State that:

18 “(A) accords rights to or protects the
19 rights of its citizens in financial transactions
20 concerning negotiation, sales, solicitation, dis-
21 closure, terms and conditions, advice, and rem-
22 edies; or

23 “(B) prevents counterparties, successors,
24 and assigns of financial contracts from engag-
25 ing in unfair or deceptive acts and practices.

1 “(b) STATE CONSUMER LAWS OF GENERAL APPLI-
2 CATION.—Notwithstanding any other provision of Federal
3 law and except as provided in subsection (c), any con-
4 sumer protection provision in State consumer laws of gen-
5 eral application, including any law relating to unfair or
6 deceptive acts or practices, any consumer fraud law and
7 repossession, foreclosure, and collection law, shall apply to
8 any Federal savings association.

9 “(c) EXCEPTIONS.—

10 “(1) IN GENERAL.—Subsection (b) shall not
11 apply with respect to any State law if—

12 “(A) the State law discriminates against
13 Federal savings associations; or

14 “(B) the State consumer law is incon-
15 sistent with provisions of Federal law other
16 than this Act, but only to the extent of the in-
17 consistency (as determined in accordance with
18 the provision of the other Federal law).

19 “(2) RULE FOR DETERMINING INCONSIST-
20 ENCY.—For purposes of paragraph (1)(B), a State
21 consumer law is not inconsistent with Federal law if
22 the protection the State consumer law affords con-
23 sumers is greater than the protection provided under
24 Federal law, as determined by the Director.

1 “(d) STATE BANKING OR THRIFT LAWS ENACTED
2 PURSUANT TO FEDERAL LAW.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of Federal law and except as provided in
5 paragraph (2), any State law that—

6 “(A) is applicable to State savings associa-
7 tions (as defined in section 3 of the Federal De-
8 posit Insurance Act); and

9 “(B) was enacted pursuant to or in accord-
10 ance with, and is not inconsistent with, an Act
11 of Congress, including the Gramm-Leach-Bliley
12 Act, the Consumer Credit Protection Act, and
13 the Real Estate Settlement Procedures Act,
14 that explicitly or by implication, permits States
15 to exceed or supplement the requirements of
16 any comparable Federal law,
17 shall apply to any Federal savings association.

18 “(2) EXCEPTIONS.—Paragraph (1) shall not
19 apply with respect to any State law if—

20 “(A) the State law discriminates against
21 Federal savings associations; or

22 “(B) the State consumer law is incon-
23 sistent with provisions of Federal law other
24 than this Act, but only to the extent of the in-
25 consistency (as determined in accordance with

1 the provision of the other Federal law). For this
2 purpose, a State consumer law is not incon-
3 sistent with Federal law if the protection the
4 State consumer law affords consumers is great-
5 er than the protection provided under Federal
6 law, as determined by the Director.

7 “(e) NO NEGATIVE IMPLICATIONS FOR APPLICA-
8 BILITY OF OTHER STATE LAWS.—No provision of this
9 section shall be construed as altering or affecting the ap-
10 plicability, to Federal savings associations, of any State
11 law which is not described in this section.

12 “(f) EFFECT OF TRANSFER OF TRANSACTION.—
13 State consumer law applicable to a transaction at the in-
14 ception of the transaction may not be preempted under
15 Federal law solely because a Federal savings association
16 subsequently acquires the asset or instrument that is the
17 subject of the transaction.

18 “(g) DENIAL OF PREEMPTION NOT A DEPRIVATION
19 OF A CIVIL RIGHT.—The preemption of any provision of
20 the law of any State with respect to any Federal savings
21 association shall not be treated as a right, privilege, or
22 immunity for purposes of section 1979 of the Revised
23 Statutes of the United States (42 U.S.C. 1983).”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for the Home Owners’ Loan Act (12 U.S.C. 1461 et seq.)

1 is amended by striking the item relating to section 6 and
2 inserting the following new item:

“6. State law preemption standards for Federal savings associations and subsidiaries clarified.”.

3 **SEC. 147. VISITORIAL STANDARDS.**

4 Section 6 of the Home Owners’ Loan Act (as added
5 by section 146 of this title) is amended by adding at the
6 end the following new subsections:

7 “(h) VISITORIAL POWERS.—

8 “(1) IN GENERAL.—No provision of this Act
9 shall be construed as limiting or restricting the au-
10 thority of any attorney general (or other chief law
11 enforcement officer) of any State to bring any action
12 in any court of appropriate jurisdiction—

13 “(A) to require a Federal savings associa-
14 tion to produce records relative to the investiga-
15 tion of violations of State consumer law, or
16 Federal consumer laws;

17 “(B) to enforce any applicable Federal or
18 State law, as authorized by such law; or

19 “(C) on behalf of residents of such State,
20 to enforce any applicable provision of any Fed-
21 eral or State law against a Federal savings as-
22 sociation, as authorized by such law, or to seek
23 relief and recover damages for such residents

1 from any violation of any such law by any Fed-
2 eral savings association.

3 “(2) CONSULTATION.—The attorney general (or
4 other chief law enforcement officer) of any State
5 shall consult with the Director or any successor
6 agency before acting under paragraph (1).

7 “(i) ENFORCEMENT ACTIONS.—The ability of the Di-
8 rector or any successor officer or agency to bring an en-
9 forcement action under this Act or section 5 of the Federal
10 Trade Commission Act shall not be construed as pre-
11 cluding private parties from enforcing rights granted
12 under Federal or State law in the courts.”.

13 **SEC. 148. CLARIFICATION OF LAW APPLICABLE TO NON-**
14 **DEPOSITORY INSTITUTION SUBSIDIARIES.**

15 Section 6 of the Home Owners’ Loan Act is amended
16 by adding after subsection (i) (as added by section 147)
17 the following new subsection:

18 “(j) CLARIFICATION OF LAW APPLICABLE TO NON-
19 DEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILI-
20 ATES OF FEDERAL SAVINGS ASSOCIATIONS.—

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 preempting the applicability of
8 State law to any nondepository institution, sub-
9 sidiary, other affiliate, or agent of a Federal savings
10 association.”.

11 **SEC. 149. EFFECTIVE DATE.**

12 This subtitle shall take effect on the designated
13 transfer date.

14 **Subtitle E—Enforcement Powers**

15 **SEC. 151. DEFINITIONS.**

16 For purposes of this subtitle, the following definitions
17 shall apply:

18 (1) CIVIL INVESTIGATIVE DEMAND AND DE-
19 MAND.—The terms “civil investigative demand” and
20 “demand” mean any demand issued by the Agency.

21 (2) AGENCY INVESTIGATION.—The term
22 “Agency investigation” means any inquiry conducted
23 by an Agency investigator for the purpose of
24 ascertaining whether any person is or has been en-
25 gaged in any conduct that violates this title, any

1 enumerated consumer law, or any regulation pre-
2 scribed or order issued by the Director under this
3 title or under the authorities transferred under sub-
4 titles F and H.

5 (3) AGENCY INVESTIGATOR.—The term “Agen-
6 cy investigator” means any attorney or investigator
7 employed by the Agency who is charged with the
8 duty of enforcing or carrying into effect any provi-
9 sions of this title, any enumerated consumer law, the
10 authorities transferred under subtitles F and H, or
11 any regulation prescribed or order issued under this
12 title or pursuant to any such authority by the Direc-
13 tor.

14 (4) CUSTODIAN.—The term “custodian” means
15 the custodian or any deputy custodian designated by
16 the Agency.

17 (5) DOCUMENTARY MATERIAL.—The term
18 “documentary material” includes the original or any
19 copy of any book, document, record, report, memo-
20 randum, paper, communication, tabulation, chart,
21 log, electronic file, or other data or data compila-
22 tions stored in any medium.

23 (6) VIOLATION.—The term “violation” means
24 any act or omission that, if proved, would constitute
25 a violation of any provision of this title, any enumer-

1 ated consumer law, any law for which authorities
2 were transferred under subtitles F and H, or of any
3 regulation prescribed or order issued by the Director
4 under this title or pursuant to any such authority.

5 **SEC. 152. INVESTIGATIONS AND ADMINISTRATIVE DIS-**
6 **COVERY.**

7 (a) JOINT INVESTIGATIONS.—

8 (1) IN GENERAL.—The Agency or, where ap-
9 appropriate, an Agency representative may engage in
10 joint investigations and requests for information.

11 (2) FAIR LENDING.—The authority under para-
12 graph (1) includes matters relating to fair lending,
13 and where appropriate, joint investigations and re-
14 quests for information with the Secretary of Hous-
15 ing and Urban Development, the Attorney General,
16 or both.”

17 (b) SUBPOENAS.—

18 (1) IN GENERAL.—The Agency or an Agency
19 investigator may issue subpoenas for the attendance
20 and testimony of witnesses and the production of
21 relevant papers, books, documents, or other material
22 in connection with hearings under this title.

23 (2) FAILURE TO OBEY.—In case of contumacy
24 or refusal to obey a subpoena issued pursuant to
25 this paragraph and served upon any person, the dis-

1 district court of the United States for any district in
2 which such person is found, resides, or transacts
3 business, upon application by the Agency or an
4 Agency investigator and after notice to such person,
5 shall have jurisdiction to issue an order requiring
6 such person to appear and give testimony or to ap-
7 pear and produce documents or other material, or
8 both.

9 (3) CONTEMPT.—Any failure to obey an order
10 of the court under this subsection may be punished
11 by the court as a contempt thereof.

12 (c) DEMANDS.—

13 (1) IN GENERAL.—Whenever the Agency has
14 reason to believe that any person may be in posses-
15 sion, custody, or control of any documentary mate-
16 rial or tangible things, or may have any information,
17 relevant to a violation, the Agency may, before the
18 institution of any proceedings under this title or
19 under any enumerated consumer law or pursuant to
20 the authorities transferred under subtitles F and H,
21 issue in writing, and cause to be served upon such
22 person, a civil investigative demand requiring such
23 person to—

1 (A) produce such documentary material for
2 inspection and copying or reproduction in the
3 form or medium requested by the Agency;

4 (B) submit such tangible things;

5 (C) file written reports or answers to ques-
6 tions;

7 (D) give oral testimony concerning docu-
8 mentary material or other information; or

9 (E) furnish any combination of such mate-
10 rial, answers, or testimony.

11 (2) REQUIREMENTS.—Each civil investigative
12 demand shall state the nature of the conduct consti-
13 tuting the alleged violation which is under investiga-
14 tion and the provision of law applicable to such vio-
15 lation.

16 (3) PRODUCTION OF DOCUMENTS.—Each civil
17 investigative demand for the production of documen-
18 tary material shall—

19 (A) describe each class of documentary
20 material to be produced under the demand with
21 such definiteness and certainty as to permit
22 such material to be fairly identified;

23 (B) prescribe a return date or dates which
24 will provide a reasonable period of time within
25 which the material so demanded may be assem-

1 bled and made available for inspection and
2 copying or reproduction; and

3 (C) identify the custodian to whom such
4 material shall be made available.

5 (4) PRODUCTION OF THINGS.—Each civil inves-
6 tigative demand for the submission of tangible
7 things shall—

8 (A) describe each class of tangible things
9 to be submitted under the demand with such
10 definiteness and certainty as to permit such
11 things to be fairly identified;

12 (B) prescribe a return date or dates which
13 will provide a reasonable period of time within
14 which the things so demanded may be assem-
15 bled and submitted; and

16 (C) identify the custodian to whom such
17 things shall be submitted.

18 (5) DEMAND FOR WRITTEN REPORTS OR AN-
19 SWERS.—Each civil investigative demand for written
20 reports or answers to questions shall—

21 (A) propound with definiteness and cer-
22 tainty the reports to be produced or the ques-
23 tions to be answered;

1 (B) prescribe a date or dates at which time
2 written reports or answers to questions shall be
3 submitted; and

4 (C) identify the custodian to whom such
5 reports or answers shall be submitted.

6 (6) ORAL TESTIMONY.—Each civil investigative
7 demand for the giving of oral testimony shall—

8 (A) prescribe a date, time, and place at
9 which oral testimony shall be commenced; and

10 (B) identify a Agency investigator who
11 shall conduct the investigation and the custo-
12 dian to whom the transcript of such investiga-
13 tion shall be submitted.

14 (7) SERVICE.—

15 (A) Any civil investigative demand may be
16 served by any Agency investigator at any place
17 within the territorial jurisdiction of any court of
18 the United States.

19 (B) Any such demand or any enforcement
20 petition filed under this section may be served
21 upon any person who is not found within the
22 territorial jurisdiction of any court of the
23 United States, in such manner as the Federal
24 Rules of Civil Procedure prescribe for service in
25 a foreign nation.

1 (C) To the extent that the courts of the
2 United States have authority to assert jurisdic-
3 tion over such person consistent with due proc-
4 ess, the United States District Court for the
5 District of Columbia shall have the same juris-
6 diction to take any action respecting compliance
7 with this section by such person that such dis-
8 trict court would have if such person were per-
9 sonally within the jurisdiction of such district
10 court.

11 (8) METHOD OF SERVICE.—Service of any civil
12 investigative demand or any enforcement petition
13 filed under this section may be made upon a person,
14 including any legal entity, by—

15 (A) delivering a duly executed copy of such
16 demand or petition to the individual or to any
17 partner, executive officer, managing agent, or
18 general agent of such person, or to any agent
19 of such person authorized by appointment or by
20 law to receive service of process on behalf of
21 such person;

22 (B) delivering a duly executed copy of such
23 demand or petition to the principal office or
24 place of business of the person to be served; or

1 (C) depositing a duly executed copy in the
2 United States mails, by registered or certified
3 mail, return receipt requested, duly addressed
4 to such person at its principal office or place of
5 business.

6 (9) PROOF OF SERVICE.—

7 (A) A verified return by the individual
8 serving any civil investigative demand or any
9 enforcement petition filed under this section
10 setting forth the manner of such service shall
11 be proof of such service.

12 (B) In the case of service by registered or
13 certified mail, such return shall be accompanied
14 by the return post office receipt of delivery of
15 such demand or enforcement petition.

16 (10) PRODUCTION OF DOCUMENTARY MATE-
17 RIAL.—The production of documentary material in
18 response to a civil investigative demand shall be
19 made under a sworn certificate, in such form as the
20 demand designates, by the person, if a natural per-
21 son, to whom the demand is directed or, if not a
22 natural person, by any person having knowledge of
23 the facts and circumstances relating to such produc-
24 tion, to the effect that all of the documentary mate-
25 rial required by the demand and in the possession,

1 custody, or control of the person to whom the de-
2 mand is directed has been produced and made avail-
3 able to the custodian.

4 (11) SUBMISSION OF TANGIBLE THINGS.—The
5 submission of tangible things in response to a civil
6 investigative demand shall be made under a sworn
7 certificate, in such form as the demand designates,
8 by the person to whom the demand is directed or,
9 if not a natural person, by any person having knowl-
10 edge of the facts and circumstances relating to such
11 production, to the effect that all of the tangible
12 things required by the demand and in the posses-
13 sion, custody, or control of the person to whom the
14 demand is directed have been submitted to the cus-
15 todian.

16 (12) SEPARATE ANSWERS.—Each reporting re-
17 quirement or question in a civil investigative demand
18 shall be answered separately and fully in writing
19 under oath, unless it is objected to, in which event
20 the reasons for the objection shall be stated in lieu
21 of an answer, and it shall be submitted under a
22 sworn certificate, in such form as the demand des-
23 ignates, by the person, if a natural person, to whom
24 the demand is directed or, if not a natural person,
25 by any person responsible for answering each report-

1 ing requirement or question, to the effect that all in-
2 formation required by the demand and in the posses-
3 sion, custody, control, or knowledge of the person to
4 whom the demand is directed has been submitted.

5 (13) TESTIMONY.—

6 (A) PROCEDURE.—

7 (i) OATH AND RECORDATION.—Any
8 Agency investigator before whom oral testi-
9 mony is to be taken shall put the witness
10 on oath or affirmation and shall person-
11 ally, or by any individual acting under the
12 direction of and in the presence of the in-
13 vestigator, record the testimony of the wit-
14 ness.

15 (ii) TRANSCRIPTIONS.—The testimony
16 shall be taken stenographically and tran-
17 scribed.

18 (iii) COPY TO CUSTODIAN.—After the
19 testimony is fully transcribed, the Agency
20 investigator before whom the testimony is
21 taken shall promptly transmit a copy of
22 the transcript of the testimony to the cus-
23 todian.

24 (B) PARTIES PRESENT.—Any Agency in-
25 vestigator before whom oral testimony is to be

1 taken shall exclude from the place where the
2 testimony is to be taken all other persons ex-
3 cept the person giving the testimony, the attor-
4 ney for such person, the officer before whom
5 the testimony is to be taken, an investigator or
6 representative of an agency with which the
7 Agency is engaged in a joint investigation, and
8 any stenographer taking such testimony.

9 (C) LOCATION.—The oral testimony of any
10 person taken pursuant to a civil investigative
11 demand shall be taken in the judicial district of
12 the United States in which such person resides,
13 is found, or transacts business, or in such other
14 place as may be agreed upon by the Agency in-
15 vestigator before whom the oral testimony of
16 such person is to be taken and such person.

17 (D) ATTORNEY REPRESENTATION.—

18 (i) IN GENERAL.—Any person com-
19 pelled to appear under a civil investigative
20 demand for oral testimony pursuant to this
21 section may be accompanied, represented,
22 and advised by an attorney.

23 (ii) CONFIDENTIAL ADVICE.—The at-
24 torney may advise the person summoned,
25 in confidence, either upon the request of

1 such person or upon the initiative of the
2 attorney, with respect to any question
3 asked of such person.

4 (iii) OBJECTIONS.—The person sum-
5 moned or the attorney may object on the
6 record to any question, in whole or in part,
7 and shall briefly state for the record the
8 reason for the objection.

9 (iv) REFUSAL TO ANSWER.—An objec-
10 tion may properly be made, received, and
11 entered upon the record when it is claimed
12 that the person summoned is entitled to
13 refuse to answer the question on grounds
14 of any constitutional or other legal right or
15 privilege, including the privilege against
16 self-incrimination, but such person shall
17 not otherwise object to or refuse to answer
18 any question, and shall not otherwise inter-
19 rupt the oral examination, directly or
20 through such person's attorney.

21 (v) PETITION FOR ORDER.—If such
22 person refuses to answer any question, the
23 Agency may petition the district court of
24 the United States pursuant to this section

1 for an order compelling such person to an-
2 swer such question.

3 (vi) BASIS FOR COMPELLING TESTI-
4 MONY.—If such person refuses to answer
5 any question on grounds of the privilege
6 against self-incrimination, the testimony of
7 such person may be compelled in accord-
8 ance with the provisions of section 6004 of
9 title 18, United States Code.

10 (E) TRANSCRIPTS.—

11 (i) RIGHT TO EXAMINE.—After the
12 testimony of any witness is fully tran-
13 scribed, the Agency investigator shall af-
14 ford the witness (who may be accompanied
15 by an attorney) a reasonable opportunity
16 to examine the transcript.

17 (ii) READING THE TRANSCRIPT.—The
18 transcript shall be read to or by the wit-
19 ness, unless such examination and reading
20 are waived by the witness.

21 (iii) REQUEST FOR CHANGES.—Any
22 changes in form or substance which the
23 witness desires to make shall be entered
24 and identified upon the transcript by the
25 Agency investigator with a statement of

1 the reasons given by the witness for mak-
2 ing such changes.

3 (iv) SIGNATURE.—The transcript
4 shall be signed by the witness, unless the
5 witness in writing waives the signing, is ill,
6 cannot be found, or refuses to sign.

7 (v) AGENCY ACTION IN LIEU OF SIG-
8 NATURE.—If the transcript is not signed
9 by the witness during the 30-day period
10 following the date upon which the witness
11 is first afforded a reasonable opportunity
12 to examine it, the Agency investigator shall
13 sign the transcript and state on the record
14 the fact of the waiver, illness, absence of
15 the witness, or the refusal to sign, together
16 with any reasons given for the failure to
17 sign.

18 (F) CERTIFICATION BY INVESTIGATOR.—
19 The Agency investigator shall certify on the
20 transcript that the witness was duly sworn by
21 the investigator and that the transcript is a
22 true record of the testimony given by the wit-
23 ness, and the Agency investigator shall prompt-
24 ly deliver the transcript or send it by registered
25 or certified mail to the custodian.

1 (G) COPY OF TRANSCRIPT.—The Agency
2 investigator shall furnish a copy of the tran-
3 script (upon payment of reasonable charges for
4 the transcript) to the witness only, except that
5 the Agency may for good cause limit such wit-
6 ness to inspection of the official transcript of
7 the testimony of such witness.

8 (H) WITNESS FEES.—Any witness appear-
9 ing for the taking of oral testimony pursuant to
10 a civil investigative demand shall be entitled to
11 the same fees and mileage which are paid to
12 witnesses in the district courts of the United
13 States.

14 (d) CONFIDENTIAL TREATMENT OF DEMAND MATE-
15 RIAL.—

16 (1) IN GENERAL.—Materials received as a re-
17 sult of a civil investigative demand shall be subject
18 to requirements and procedures regarding confiden-
19 tiality, in accordance with regulations established by
20 the Director.

21 (2) DISCLOSURE TO CONGRESS.—No regulation
22 established by the Director regarding the confiden-
23 tiality of materials submitted to, or otherwise ob-
24 tained by, the Agency shall be intended to prevent
25 disclosure to either House of the Congress or to an

1 appropriate committee of the Congress, except that
2 the Director may prescribe regulations allowing prior
3 notice to any party that owns or otherwise provided
4 the material to the Agency and has designated such
5 material as confidential.

6 (e) PETITION FOR ENFORCEMENT.—

7 (1) IN GENERAL.—Whenever any person fails
8 to comply with any civil investigative demand duly
9 served upon such person under this section, or when-
10 ever satisfactory copying or reproduction of material
11 requested pursuant to the demand cannot be accom-
12 plished and such person refuses to surrender such
13 material, the Agency, through such officers or attor-
14 neys as the Director may designate, may file, in the
15 district court of the United States for any judicial
16 district in which such person resides, is found, or
17 transacts business, and serve upon such person, a
18 petition for an order of such court for the enforce-
19 ment of this section.

20 (2) SERVICE OF PROCESS.—All process of any
21 court to which application may be made as provided
22 in this subsection may be served in any judicial dis-
23 trict.

24 (f) PETITION FOR ORDER MODIFYING OR SETTING
25 ASIDE DEMAND.—

1 (1) IN GENERAL.—Not later than 20 days after
2 the service of any civil investigative demand upon
3 any person under subsection (b), or at any time be-
4 fore the return date specified in the demand, which-
5 ever period is shorter, or within such period exceed-
6 ing 20 days after service or in excess of such return
7 date as may be prescribed in writing, subsequent to
8 service, by any Agency investigator named in the de-
9 mand, such person may file with the Agency a peti-
10 tion for an order by the Agency modifying or setting
11 aside the demand.

12 (2) COMPLIANCE DURING PENDENCY.—The
13 time permitted for compliance with the demand in
14 whole or in part, as deemed proper and ordered by
15 the Agency, shall not run during the pendency of
16 such petition at the Agency, except that such person
17 shall comply with any portions of the demand not
18 sought to be modified or set aside.

19 (3) SPECIFIC GROUNDS.—Such petition shall
20 specify each ground upon which the petitioner relies
21 in seeking such relief, and may be based upon any
22 failure of the demand to comply with the provisions
23 of this section, or upon any constitutional or other
24 legal right or privilege of such person.

1 (g) CUSTODIAL CONTROL.—At any time during
2 which any custodian is in custody or control of any docu-
3 mentary material, tangible things, reports, answers to
4 questions, or transcripts of oral testimony given by any
5 person in compliance with any civil investigative demand,
6 such person may file, in the district court of the United
7 States for the judicial district within which the office of
8 such custodian is situated, and serve upon such custodian,
9 a petition for an order of such court requiring the per-
10 formance by such custodian of any duty imposed upon
11 such custodian by this section or regulation prescribed by
12 the Director.

13 (h) JURISDICTION OF COURT.—

14 (1) IN GENERAL.—Whenever any petition is
15 filed in any district court of the United States under
16 this section, such court shall have jurisdiction to
17 hear and determine the matter so presented, and to
18 enter such order or orders as may be required to
19 carry into effect the provisions of this section.

20 (2) APPEAL.—Any final order so entered shall
21 be subject to appeal pursuant to section 1291 of title
22 28, United States Code.

23 **SEC. 153. HEARINGS AND ADJUDICATION PROCEEDINGS.**

24 (a) IN GENERAL.—The Agency may conduct hear-
25 ings and adjudication proceedings with respect to any per-

1 son in the manner prescribed by chapter 5 of title 5,
2 United States Code in order to ensure or enforce compli-
3 ance with—

4 (1) the provisions of this title, including any
5 regulations prescribed by the Director under this
6 title; and

7 (2) any other Federal law that the Agency is
8 authorized to enforce, including an enumerated con-
9 sumer law, and any regulations or order prescribed
10 thereunder, unless such Federal law specifically lim-
11 its the Agency from conducting a hearing or adju-
12 dication proceeding and only to the extent of such
13 limitation.

14 (b) SPECIAL RULES FOR CEASE-AND-DESIST PRO-
15 CEEDINGS.—

16 (1) ISSUANCE.—

17 (A) NOTICE OF CHARGES.—If, in the opin-
18 ion of the Agency, any covered person is engag-
19 ing or has engaged in an activity that violates
20 a law, regulation, or any condition imposed in
21 writing on the person by the Agency, the Agen-
22 cy may issue and serve upon the person a no-
23 tice of charges with respect to such violation.

24 (B) CONTENTS OF NOTICE.—The notice
25 shall contain a statement of the facts consti-

1 tuting any alleged violation and shall fix a time
2 and place at which a hearing will be held to de-
3 termine whether an order to cease-and-desist
4 there from should issue against the person.

5 (C) TIME OF HEARING.—A hearing under
6 this subsection shall be fixed for a date not ear-
7 lier than 30 days nor later than 60 days after
8 service of such notice unless an earlier or a
9 later date is set by the Agency at the request
10 of any party so served.

11 (D) NONAPPEARANCE DEEMED TO BE
12 CONSENT TO ORDER.—Unless the party or par-
13 ties so served shall appear at the hearing per-
14 sonally or by a duly authorized representative,
15 they shall be deemed to have consented to the
16 issuance of the cease-and-desist order.

17 (E) ISSUANCE OF ORDER.—In the event of
18 such consent, or if upon the record made at any
19 such hearing, the Agency shall find that any
20 violation specified in the notice of charges has
21 been established, the Agency may issue and
22 serve upon the person an order to cease-and-de-
23 sist from any such violation or practice.

24 (F) INCLUDES REQUIREMENT FOR COR-
25 RECTIVE ACTION.—Such order may, by provi-

1 sions which may be mandatory or otherwise, re-
2 quire the person to cease-and-desist from the
3 same, and, further, to take affirmative action to
4 correct the conditions resulting from any such
5 violation.

6 (2) EFFECTIVENESS OF ORDER.—A cease-and-
7 desist order shall take effect at the end of the 30-
8 day period beginning on the date of the service of
9 such order upon the covered person concerned (ex-
10 cept in the case of a cease-and-desist order issued
11 upon consent, which shall take effect at the time
12 specified therein), and shall remain effective and en-
13 forceable as provided therein, except to such extent
14 as it is stayed, modified, terminated, or set aside by
15 action of the Agency or a reviewing court.

16 (3) DECISION AND APPEAL.—

17 (A) PLACE OF AND PROCEDURES FOR
18 HEARING.—Any hearing provided for in this
19 subsection shall be held in the Federal judicial
20 district or in the territory in which the resi-
21 dence or home office of the person is located
22 unless the person consents to another place,
23 and shall be conducted in accordance with the
24 provisions of chapter 5 of title 5 of the United
25 States Code.

1 (B) TIME LIMIT FOR DECISION.—After
2 such hearing, and within 90 days after the
3 Agency has notified the parties that the case
4 has been submitted to it for final decision, the
5 Agency shall—

6 (i) render its decision (which shall in-
7 clude findings of fact upon which its deci-
8 sion is predicated) and shall issue; and

9 (ii) serve upon each party to the pro-
10 ceeding an order or orders consistent with
11 the provisions of this section. Judicial re-
12 view of any such order shall be exclusively
13 as provided in this subsection.

14 (C) MODIFICATION OF ORDER GEN-
15 ERALLY.—Unless a petition for review is timely
16 filed in a court of appeals of the United States,
17 as hereinafter provided in paragraph (4), and
18 thereafter until the record in the proceeding has
19 been filed as so provided, the Agency may at
20 any time, upon such notice and in such manner
21 as it shall deem proper, modify, terminate, or
22 set aside any such order.

23 (D) MODIFICATION OF ORDER AFTER FIL-
24 ING RECORD ON APPEAL.—Upon such filing of
25 the record, the Agency may modify, terminate,

1 or set aside any such order with permission of
2 the court.

3 (4) APPEAL TO COURT OF APPEALS.—

4 (A) IN GENERAL.—Any party to any pro-
5 ceeding under this subsection may obtain a re-
6 view of any order served pursuant to this sub-
7 section (other than an order issued with the
8 consent of the person concerned) by the filing
9 in the court of appeals of the United States for
10 the circuit in which the principal office of the
11 covered person is located, or in the United
12 States Court of Appeals for the District of Co-
13 lumbia Circuit, within 30 days after the date of
14 service of such order, a written petition praying
15 that the order of the Agency be modified, termi-
16 nated, or set aside.

17 (B) TRANSMITTAL OF COPY TO THE AGEN-
18 CY.—A copy of such petition shall be forthwith
19 transmitted by the clerk of the court to the
20 Agency, and thereupon the Agency shall file in
21 the court the record in the proceeding, as pro-
22 vided in section 2112 of title 28 of the United
23 States Code.

24 (C) JURISDICTION OF COURT.—Upon the
25 filing of a petition under subparagraph (A),

1 such court shall have jurisdiction, which upon
2 the filing of the record shall except as provided
3 in the last sentence of paragraph (3) be exclu-
4 sive, to affirm, modify, terminate, or set aside,
5 in whole or in part, the order of the Agency.

6 (D) SCOPE OF REVIEW.—Review of such
7 proceedings shall be had as provided in chapter
8 7 of title 5 of the United States Code.

9 (E) FINALITY.—The judgment and decree
10 of the court shall be final, except that the same
11 shall be subject to review by the Supreme Court
12 upon certiorari, as provided in section 1254 of
13 title 28 of the United States Code.

14 (5) NO STAY.—The commencement of pro-
15 ceedings for judicial review under paragraph (4)
16 shall not, unless specifically ordered by the court,
17 operate as a stay of any order issued by the Agency.

18 (c) SPECIAL RULES FOR TEMPORARY CEASE-AND-
19 DESIST PROCEEDINGS.—

20 (1) ISSUANCE.—

21 (A) IN GENERAL.—Whenever the Agency
22 determines that the violation specified in the
23 notice of charges served upon a person pursu-
24 ant to subsection (b), or the continuation of
25 such violation, is likely to cause the person to

1 be insolvent or otherwise prejudice the interests
2 of consumers before the completion of the pro-
3 ceedings conducted pursuant to subsection (b),
4 the Agency may issue a temporary order requir-
5 ing the covered person to cease-and-desist from
6 any such violation or practice and to take af-
7 firmative action to prevent or remedy such in-
8 solvency or other condition pending completion
9 of such proceedings.

10 (B) OTHER REQUIREMENTS.—Any tem-
11 porary order issued under this paragraph may
12 include any requirement authorized under this
13 subtitle.

14 (C) EFFECT DATE OF ORDER.—Any tem-
15 porary order issued under this paragraph shall
16 take effect upon service upon the person and,
17 unless set aside, limited, or suspended by a
18 court in proceedings authorized by paragraph
19 (2) of this subsection, shall remain effective and
20 enforceable pending the completion of the ad-
21 ministrative proceedings pursuant to such no-
22 tice and until such time as the Agency shall dis-
23 miss the charges specified in such notice, or if
24 a cease-and-desist order is issued against the
25 person, until the effective date of such order.

1 (2) APPEAL.—Within 10 days after the person
2 concerned has been served with a temporary cease-
3 and-desist order, the person may apply to the United
4 States district court for the judicial district in which
5 the home office of the covered person is located, or
6 the United States District Court for the District of
7 Columbia, for an injunction setting aside, limiting,
8 or suspending the enforcement, operation, or effec-
9 tiveness of such order pending the completion of the
10 administrative proceedings pursuant to the notice of
11 charges served upon the person under subsection
12 (b), and such court shall have jurisdiction to issue
13 such injunction.

14 (3) INCOMPLETE OR INACCURATE RECORDS.—

15 (A) TEMPORARY ORDER.—If a notice of
16 charges served under subsection (b) specifies,
17 on the basis of particular facts and cir-
18 cumstances, that a person’s books and records
19 are so incomplete or inaccurate that the Agency
20 is unable to determine the financial condition of
21 that person or the details or purpose of any
22 transaction or transactions that may have a
23 material effect on the financial condition of that
24 person, the Agency may issue a temporary
25 order requiring—

1 (i) the cessation of any activity or
2 practice which gave rise, whether in whole
3 or in part, to the incomplete or inaccurate
4 state of the books or records; or

5 (ii) affirmative action to restore such
6 books or records to a complete and accu-
7 rate state, until the completion of the pro-
8 ceedings under subsection (b)(1).

9 (B) EFFECTIVE PERIOD.—Any temporary
10 order issued under subparagraph (A)—

11 (i) shall take effect upon service; and

12 (ii) unless set aside, limited, or sus-
13 pended by a court in proceedings under
14 paragraph (2), shall remain in effect and
15 enforceable until the earlier of—

16 (I) the completion of the pro-
17 ceeding initiated under subsection (b)
18 in connection with the notice of
19 charges; or

20 (II) the date the Agency deter-
21 mines, by examination or otherwise,
22 that the person's books and records
23 are accurate and reflect the financial
24 condition of the person.

1 (d) SPECIAL RULES FOR ENFORCEMENT OF OR-
2 DERS.—

3 (1) IN GENERAL.—The Agency may in its dis-
4 cretion apply to the United States district court
5 within the jurisdiction of which the principal office
6 of the covered person is located, for the enforcement
7 of any effective and outstanding notice or order
8 issued under this section, and such court shall have
9 jurisdiction and power to order and require compli-
10 ance herewith.

11 (2) EXCEPTION.—Except as otherwise provided
12 in this subsection, no court shall have jurisdiction to
13 affect by injunction or otherwise the issuance or en-
14 forcement of any notice or order or to review, mod-
15 ify, suspend, terminate, or set aside any such notice
16 or order.

17 (e) REGULATIONS.—The Director shall prescribe reg-
18 ulations establishing such procedures as may be necessary
19 to carry out this section.

20 **SEC. 154. LITIGATION AUTHORITY.**

21 (a) IN GENERAL.—If any person violates a provision
22 of this title, any enumerated consumer law, any law for
23 which authorities were transferred under subtitles F and
24 H, or any regulation prescribed or order issued by the Di-
25 rector under this title or pursuant to any such authority,

1 the Agency may commence a civil action against such per-
2 son to impose a civil penalty and to seek all appropriate
3 legal and equitable relief including a permanent or tem-
4 porary injunction as permitted by law.

5 (b) REPRESENTATION.—The Agency may act in its
6 own name and through its own attorneys in enforcing any
7 provision of this title, regulations under this title, or any
8 other law or regulation, or in any action, suit, or pro-
9 ceeding to which the Agency is a party.

10 (c) COMPROMISE OF ACTIONS.—The Agency may
11 compromise or settle any action if such compromise is ap-
12 proved by the court.

13 (d) NOTICE TO THE ATTORNEY GENERAL.—When
14 commencing a civil action under this title, any enumerated
15 consumer law, any law for which authorities were trans-
16 ferred under subtitles F and H, or any regulation there-
17 under, the Agency shall notify the Attorney General.

18 (e) APPEARANCE BEFORE THE SUPREME COURT.—
19 The Agency may represent itself in its own name before
20 the Supreme Court of the United States, if—

21 (1) the Agency makes a written request to the
22 Attorney General within the 10-day period which be-
23 gins on the date of entry of the judgment which
24 would permit any party to file a petition for writ of
25 certiorari; and

1 (2) the Attorney General concurs with such re-
2 quest or fails to take action within 60 days of the
3 Agency's request.

4 (f) FORUM.—Any civil action brought under this title
5 may be brought in a United States district court or in
6 any court of competent jurisdiction of a state in a district
7 in which the defendant is located or resides or is doing
8 business, and such court shall have jurisdiction to enjoin
9 such person and to require compliance with this title, any
10 enumerated consumer law, any law for which authorities
11 were transferred under subtitles F and H, or any regula-
12 tion prescribed or order issued by the Director under this
13 title or pursuant to any such authority.

14 (g) TIME FOR BRINGING ACTION.—

15 (1) IN GENERAL.—Except as otherwise per-
16 mitted by law or equity, no action may be brought
17 under this title more than 3 years after the date of
18 the discovery of the violation to which an action re-
19 lates.

20 (2) LIMITATIONS UNDER OTHER FEDERAL
21 LAWS.—

22 (A) For purposes of this section, an action
23 arising under this title shall not include claims
24 arising solely under enumerated consumer laws.

1 (B) In any action arising solely under an
2 enumerated consumer law, the Agency may
3 commence, defend, or intervene in the action in
4 accordance with the requirements of that law,
5 as applicable.

6 (C) In any action arising solely under the
7 laws for which authorities were transferred by
8 subtitles F and H, the Agency may commence,
9 defend, or intervene in the action in accordance
10 with the requirements of that law, as applicable.

11 **SEC. 155. RELIEF AVAILABLE.**

12 (a) ADMINISTRATIVE PROCEEDINGS OR COURT AC-
13 TIONS.—

14 (1) JURISDICTION.—The court (or Agency, as
15 the case may be) in an action or adjudication pro-
16 ceeding brought under this title, any enumerated
17 consumer law, or any law for which authorities were
18 transferred by subtitles F and H, shall have jurisdic-
19 tion to grant any appropriate legal or equitable relief
20 with respect to a violation of this title, any enumer-
21 ated consumer law, and any law for which authori-
22 ties were transferred by subtitles F and H, including
23 a violation of a regulation prescribed or order issued
24 under this title, any enumerated consumer law and

1 any law for which authorities were transferred by
2 subtitles F and H.

3 (2) RELIEF.—Such relief may include—

4 (A) rescission or reformation of contracts;

5 (B) refund of moneys or return of real
6 property;

7 (C) restitution;

8 (D) disgorgement or compensation for un-
9 just enrichment;

10 (E) payment of damages;

11 (F) public notification regarding the viola-
12 tion, including the costs of notification;

13 (G) limits on the activities or functions of
14 the person; and

15 (H) civil money penalties under subsection
16 (c).

17 (3) NO EXEMPLARY OR PUNITIVE DAMAGES.—

18 Nothing in this subsection shall be construed as au-
19 thORIZING the imposition of exemplary or punitive
20 damages.

21 (b) RECOVERY OF COSTS.—In any action brought by
22 the Agency, a State attorney general, or a State bank su-
23 pervisor to enforce any provision of this title, any enumer-
24 ated consumer law, any law for which authorities were
25 transferred by subtitles F and H, or any regulation pre-

1 scribed or order issued by the Director under this title
2 or pursuant to any such authority, the Agency, State at-
3 torney general, or State bank supervisor may recover the
4 costs incurred by such Agency, attorney general, or super-
5 visor in connection with prosecuting such action if the
6 Agency, State attorney general, or State bank supervisors
7 (as the case may be) is the prevailing party in the action.

8 (c) CIVIL MONEY PENALTY IN COURT AND ADMINIS-
9 TRATIVE ACTIONS.—

10 (1) Any person that violates, through any act or
11 omission, any provision of this title, any enumerated
12 consumer law, or any regulation prescribed or order
13 issued by the Director under this title shall forfeit
14 and pay a civil penalty pursuant to this subsection
15 determined as follows:

16 (A) FIRST TIER.—For any violation of any
17 law, regulation, final order or condition imposed
18 in writing by the Agency, or for any failure to
19 pay any fee or assessment imposed by the
20 Agency (including any fee or assessment for
21 which a related person may be liable), a civil
22 penalty shall not exceed \$5,000 for each day
23 during which such violation continues.

24 (B) SECOND TIER.—Notwithstanding
25 paragraph (A), for any violation of a regulation

1 prescribed under section 136 or for any person
2 that recklessly engages in a violation of this
3 title, any enumerated consumer law, or any reg-
4 ulation prescribed or order issued by the Direc-
5 tor under this title, relating to the provision of
6 an alternative consumer financial product or
7 service, a civil penalty shall not exceed \$25,000
8 for each day during which such violation con-
9 tinues.

10 (C) THIRD TIER.—Notwithstanding sub-
11 paragraphs (A) and (B), for any person that
12 knowingly violates this title, any enumerated
13 consumer law, or any regulation prescribed or
14 order issued by the Director under this title, a
15 civil penalty shall not exceed \$1,000,000 for
16 each day during which such violation continues.

17 (2) MITIGATING FACTORS.—In determining the
18 amount of any penalty assessed under paragraph
19 (1), the Agency or the court shall take into account
20 the appropriateness of the penalty with respect to—

21 (A) the size of financial resources and good
22 faith of the person charged;

23 (B) the gravity of the violation or failure
24 to pay;

1 (C) the severity of the risks to or losses of
2 the consumer, which may take into account the
3 number of products or services sold or provided;

4 (D) the history of previous violations; and

5 (E) such other matters as justice may re-
6 quire.

7 (3) AUTHORITY TO MODIFY OR REMIT PEN-
8 ALTY.—The Agency may compromise, modify, or
9 remit any penalty which may be assessed or had al-
10 ready been assessed under paragraph (1). The
11 amount of such penalty, when finally determined,
12 shall be exclusive of any sums owed by the person
13 to the United States in connection with the costs of
14 the proceeding, and may be deducted from any sums
15 owing by the United States to the person charged.

16 (4) NOTICE AND HEARING.—No civil penalty
17 may be assessed with respect to a violation of this
18 title, any enumerated consumer law, or any regula-
19 tion prescribed or order issued by the Director, un-
20 less—

21 (A) the Agency gives notice and an oppor-
22 tunity for a hearing to the person accused of
23 the violation; or

1 (B) the appropriate court has ordered such
2 assessment and entered judgment in favor of
3 the Agency.

4 **SEC. 156. REFERRALS FOR CRIMINAL PROCEEDINGS.**

5 Whenever the Agency obtains evidence that any per-
6 son, either domestic or foreign, has engaged in conduct
7 that may constitute a violation of Federal criminal law,
8 the Agency may transmit such evidence to the Attorney
9 General, who may institute criminal proceedings under ap-
10 propriate law. No provision of this section shall be con-
11 strued as affecting any other authority of the Agency to
12 disclose information.

13 **SEC. 157. EMPLOYEE PROTECTION.**

14 (a) IN GENERAL.—No covered person shall terminate
15 or in any other way discriminate against, or cause to be
16 terminated or discriminated against, any covered employee
17 or any authorized representative of covered employees by
18 reason of the fact that such employee or representative,
19 whether at the employee's initiative or in the ordinary
20 course of the employee's duties (or any person acting pur-
21 suant to a request of the employee)—

22 (1) has provided information to the Agency or
23 to any other State, local, or Federal Government au-
24 thority or law enforcement official information relat-
25 ing to any violation of, or any act or omission the

1 employee reasonably believes to be a violation of any
2 provision of this Act or any other law that is subject
3 to the jurisdiction of the Agency, or any regulation,
4 order, standard, or prohibition prescribed by the Di-
5 rector;

6 (2) has testified or is about to testify in any
7 proceeding resulting from the administration or en-
8 forcement of any provision of this Act or any other
9 law that is subject to the jurisdiction of the Agency,
10 or any regulation, order, standard, or prohibition
11 prescribed by the Director;

12 (3) has filed or instituted, or has caused to be
13 filed or instituted, any proceeding under any enu-
14 merated consumer law or any law for which authori-
15 ties were transferred by subtitles F and H; or

16 (4) has objected to, or refused to participate in,
17 any activity, policy, practice, or assigned task that
18 the employee (or other such person) reasonably be-
19 lieved to be in violation of any law, regulation, order,
20 standard, or prohibition, subject to the jurisdiction
21 of, or enforceable by, the Agency.

22 (b) COVERED EMPLOYEE DEFINED.—For the pur-
23 poses of this section, the term “covered employee” means
24 any individual performing tasks related to the provision
25 of a financial product or service to a consumer.

1 (c) TIMETABLES.—

2 (1) FILING COMPLAINT.—Any individual who
3 believes that such individual has been discharged or
4 otherwise discriminated against by any person in
5 violation of subsection (a) may, before the end of the
6 180-day period beginning on the date on which such
7 violation occurs, file (or have any person file on be-
8 half of such individual) a complaint with the Sec-
9 retary of Labor (hereafter in this subsection referred
10 to as the “Secretary”, notwithstanding section
11 101(32)) alleging such discharge or discrimination
12 and identifying the person responsible for such act.

13 (2) SECRETARY’S ACTION ON RECEIPT OF COM-
14 PLAINT.—Upon receipt of a complaint by any indi-
15 vidual under paragraph (1), the Secretary shall no-
16 tify, in writing, the person named in the complaint
17 who is alleged to have committed the violation of—

18 (A) the filing of the complaint;

19 (B) the allegations contained in the com-
20 plaint;

21 (C) the substance of the evidence sup-
22 porting the complaint; and

23 (D) the opportunities that will be afforded
24 to such person under paragraph (3).

25 (3) INVESTIGATION, HEARING, AND ORDERS.—

1 (A) FINDINGS.—Not later than 60 days
2 after the date of receipt of a complaint filed
3 under paragraph (1) and after affording the in-
4 dividual filing the complaint and the person
5 named in the complaint who is alleged to have
6 committed the violation an opportunity to sub-
7 mit to the Secretary a written response to the
8 complaint and an opportunity to meet with a
9 representative of the Secretary to present state-
10 ments from witnesses, the Secretary shall ini-
11 tiate an investigation and determine whether
12 there is reasonable cause to believe that the
13 complaint has merit and notify, in writing, the
14 complainant and the person alleged to have
15 committed a violation of subsection (a) of the
16 Secretary's findings.

17 (B) PRELIMINARY ORDER.—If the Sec-
18 retary concludes that there is reasonable cause
19 to believe that a violation of subsection (a) has
20 occurred, the Secretary shall accompany the
21 Secretary's findings with a preliminary order
22 providing the relief prescribed by paragraph
23 (3)(B).

24 (C) OBJECTIONS TO FINDINGS OR PRE-
25 LIMINARY ORDER.—Not later than 30 days

1 after the date of notification of findings under
2 subparagraph (A), the person alleged to have
3 committed the violation or the complainant may
4 file objections to the findings or preliminary
5 order, or both, and request a hearing on the
6 record.

7 (D) OBJECTIONS DO NOT CONSTITUTE A
8 STAY.— The filing of objections under subpara-
9 graph (C) shall not operate to stay any rein-
10 statement remedy contained in the preliminary
11 order.

12 (E) EXPEDITIOUS HEARING.—Any hearing
13 requested under subparagraph (C) shall be con-
14 ducted expeditiously.

15 (F) FINALITY OF ORDER.— If a hearing is
16 not requested under subparagraph (C) with re-
17 spect to any findings of the Secretary under
18 subparagraph (A) within the 30-day period de-
19 scribed in subparagraph (C), the preliminary
20 order shall be deemed a final order that is not
21 subject to judicial review.

22 (4) STANDARDS FOR DETERMINATION.—

23 (A) PRIMA FACIE EVIDENCE OF CONTRIBU-
24 TION.—The Secretary shall dismiss a complaint
25 filed under paragraph (1) and shall not conduct

1 an investigation otherwise required under para-
2 graph (3)(A) unless the individual filing the
3 complaint makes a prima facie showing that
4 any behavior described in paragraph (1), (2),
5 (3), or (4) of subsection (a) was a contributing
6 factor in the unfavorable personnel action al-
7 leged in the complaint.

8 (B) PROHIBITION ON INVESTIGATION IN
9 CASE OF CLEAR AND CONVINCING EVIDENCE OF
10 INDEPENDENT BASIS.—Notwithstanding a find-
11 ing by the Secretary that the complainant has
12 made the showing required under subparagraph
13 (A), no investigation otherwise required under
14 paragraph (3) shall be conducted if the em-
15 ployer demonstrates, by clear and convincing
16 evidence, that the employer would have taken
17 the same unfavorable personnel action in the
18 absence of that behavior.

19 (C) CONTRIBUTING FACTOR REQUIRE-
20 MENT.—The Secretary may determine that a
21 violation of subsection (a) has occurred only if
22 the complainant demonstrates that any behavior
23 described in paragraph (1), (2), (3), or (4) of
24 subsection (a) was a contributing factor in the

1 unfavorable personnel action alleged in the com-
2 plaint.

3 (D) PROHIBITION ON FINAL ORDER IN
4 CASE OF CLEAR AND CONVINCING EVIDENCE OF
5 INDEPENDENT BASIS.—Relief may not be or-
6 dered under paragraph (3) if the employer dem-
7 onstrates by clear and convincing evidence that
8 the employer would have taken the same unfa-
9 vorable personnel action in the absence of that
10 behavior.

11 (5) FINAL ORDER.—

12 (A) IN GENERAL.—Not later than 120
13 days after the date of conclusion of any hearing
14 under paragraph (3), the Secretary shall issue
15 a final order providing the relief prescribed by
16 this subsection or denying the complaint.

17 (B) SETTLEMENT AGREEMENT.— At any
18 time before issuance of a final order, a pro-
19 ceeding under this subsection may be termi-
20 nated on the basis of a settlement agreement
21 entered into by the Secretary, the complainant,
22 and the person alleged to have committed the
23 violation.

24 (C) CONTENTS OF ORDER.— If, in re-
25 sponse to a complaint filed under paragraph

1 (1), the Secretary determines that a violation of
2 subsection (a) has occurred, the Secretary shall
3 order the person who committed such viola-
4 tion—

5 (i) to take affirmative action to abate
6 the violation;

7 (ii) to reinstate the complainant to
8 such individual's former position together
9 with compensation (including back pay)
10 and restore the terms, conditions, and
11 privileges associated with such individual's
12 employment; and

13 (iii) to provide compensatory damages
14 to the complainant.

15 (D) COSTS AND ATTORNEYS FEES.— If an
16 order is issued under this paragraph, the Sec-
17 retary, at the request of the complainant, shall
18 assess against the person against whom the
19 order is issued a sum equal to the aggregate
20 amount of all costs and expenses (including at-
21 torneys' and expert witness fees) reasonably in-
22 curred, as determined by the Secretary, by the
23 complainant for, or in connection with, the
24 bringing of the complaint upon which the order
25 was issued.

1 (E) FRIVOLOUS OR BAD FAITH COM-
2 PLAINTS.—If the Secretary finds that a com-
3 plaint under paragraph (1) is frivolous or has
4 been brought in bad faith, the Secretary may
5 award to the prevailing employer a reasonable
6 attorneys' fee, not exceeding \$1,000, to be paid
7 by the complainant.

8 (6) DE NOVO ACTION ON CLAIM.—

9 (A) ACTION AT LAW OR EQUITY.—If the
10 Secretary has not issued a final decision within
11 210 days after the filing of the complaint, or
12 within 90 days after receiving a written deter-
13 mination, the complainant who filed such com-
14 plaint may bring an action at law or equity for
15 de novo review in the appropriate district court
16 of the United States.

17 (B) JURY TRIAL.—At the request of either
18 party to an action brought under subparagraph
19 (A), such action shall be tried by the court with
20 a jury.

21 (C) STANDARDS FOR DETERMINATION.—
22 The standards for determination established
23 under paragraph (4) shall apply in any action
24 under this paragraph.

1 (D) RELIEF.—The court shall have juris-
2 diction to grant all relief, including injunctive
3 relief and compensatory damages , that nec-
4 essary to make the complainant who sought de
5 novo review whole, including—

6 (i) reinstatement with the same se-
7 niority status that the complainant would
8 have had, but for the discharge or dis-
9 crimination;

10 (ii) the amount of back pay, with in-
11 terest; and

12 (iii) compensation for any special
13 damages sustained as a result of the dis-
14 charge or discrimination, including litiga-
15 tion costs, expert witness fees, and reason-
16 able attorney's fees.

17 (E) NOT REVIEWABLE.—The decision of
18 the court shall be final without further review.

19 (7) JUDICIAL REVIEW OF FINAL ORDER.—

20 (A) IN GENERAL.—Unless a complainant
21 brings a de novo action under paragraph (6),
22 any person adversely affected or aggrieved by a
23 final order issued under paragraph (5) may ob-
24 tain review of the order in the United States
25 Court of Appeals for the circuit in which the

1 violation, with respect to which the order was
2 issued, allegedly occurred or the circuit in which
3 the complainant resided on the date of such vio-
4 lation.

5 (B) STATUTE OF LIMITATION.—Any peti-
6 tion for review of a final order under subsection
7 shall be filed not later than 60 days after the
8 date of the issuance of the final order by the
9 Secretary.

10 (C) STANDARDS FOR REVIEW.—The stand-
11 ards for review established under chapter 7 of
12 title 5, United States Code, shall apply in any
13 review of a final order under this paragraph.

14 (D) EFFECT OF PROCEEDINGS AS STAY.—
15 The commencement of proceedings under this
16 paragraph shall not operate as a stay of the
17 final order of the Secretary under review, unless
18 so ordered by the court.

19 (E) LIMITATION ON EFFECT OF OTHER
20 PROCEEDINGS.—Except as provided in para-
21 graph (6) and this paragraph, an order of the
22 Secretary with respect to which review could
23 have been obtained under subparagraph (A)
24 shall not be subject to judicial review in any
25 criminal or other civil proceeding.

1 (8) ENFORCEMENT OF ORDERS BY SEC-
2 RETARY.—

3 (A) IN GENERAL.—Whenever any person
4 has failed to comply with an order issued under
5 paragraph (5), the Secretary may file a civil ac-
6 tion in the United States district court for the
7 district in which the violation was found to
8 occur, or in the United States district court for
9 the District of Columbia, to enforce such order.

10 (B) RELIEF.— In actions brought under
11 this paragraph, the district courts shall have ju-
12 risdiction to grant all appropriate relief includ-
13 ing injunctive relief and compensatory damages.

14 (9) ENFORCEMENT OF ORDER BY AGGRIEVED
15 PARTY .—

16 (A) IN GENERAL.—A person on whose be-
17 half an order was issued under paragraph (5)
18 may commence a civil action against the person
19 to whom such order was issued to require com-
20 pliance with such order.

21 (B) RELIEF.—The court, in issuing any
22 final order under this paragraph, may award
23 costs of litigation (including reasonable attor-
24 neys' and expert witness fees) to any party

1 whenever the court determines such award is
2 appropriate.

3 (d) ACTION IN NATURE OF MANDAMUS.—Any non-
4 discretionary duty imposed by this section shall be enforce-
5 able in a mandamus proceeding brought under section
6 1361 of title 28, United States Code.

7 (e) UNENFORCEABILITY OF CERTAIN AGREE-
8 MENTS.—

9 (1) NO WAIVER OF RIGHTS AND REMEDIES.—
10 Notwithstanding any law and except as provided
11 under paragraph (3), the rights and remedies pro-
12 vided for in this section may not be waived by any
13 agreement, policy, form, or condition of employment,
14 including by any predispute arbitration agreement.

15 (2) PREDISPUTE ARBITRATION AGREEMENTS.—
16 Notwithstanding any law and except as provided
17 under paragraph (3), no predispute arbitration
18 agreement shall be valid or enforceable and to the
19 extent the agreement requires arbitration of a dis-
20 pute arising under this section.

21 (3) EXCEPTION.—Notwithstanding paragraphs
22 (1) and (2), an arbitration provision in a collective
23 bargaining agreement shall be enforceable as to dis-
24 putes arising under subsection (a)(2) unless the Di-

1 rector determines by regulation that such provision
2 is inconsistent with the purposes of this Act.

3 **SEC. 158. EFFECTIVE DATE.**

4 This subtitle shall take effect on the designated
5 transfer date.

6 **Subtitle F—Transfer of Functions**
7 **and Personnel; Transitional**
8 **Provisions**

9 **SEC. 161. TRANSFER OF CERTAIN FUNCTIONS.**

10 (a) IN GENERAL.—Except as provided in subsection
11 (b), consumer financial protection functions are trans-
12 ferred as follows:

13 (1) BOARD OF GOVERNORS.—

14 (A) TRANSFER OF FUNCTIONS.—All con-
15 sumer financial protection functions of the
16 Board of Governors are transferred to the Di-
17 rector.

18 (B) BOARD OF GOVERNORS' AUTHORITY.—
19 The Director shall have all powers and duties
20 that were vested in the Board of Governors, re-
21 lating to consumer financial protection func-
22 tions, on the day before the designated transfer
23 date.

24 (2) COMPTROLLER OF THE CURRENCY.—

1 (A) TRANSFER OF FUNCTIONS.—All con-
2 sumer financial protection functions of the
3 Comptroller of the Currency are transferred to
4 the Director.

5 (B) COMPTROLLER'S AUTHORITY.—The
6 Director shall have all powers and duties that
7 were vested in the Comptroller of the Currency,
8 relating to consumer financial protection func-
9 tions, on the day before the designated transfer
10 date.

11 (3) DIRECTOR OF THE OFFICE OF THRIFT SU-
12 PERVISION.—

13 (A) TRANSFER OF FUNCTIONS.—All con-
14 sumer financial protection functions of the Di-
15 rector of the Office of Thrift Supervision are
16 transferred to the Director.

17 (B) DIRECTOR'S AUTHORITY.—The Direc-
18 tor shall have all powers and duties that were
19 vested in the Director of the Office of Thrift
20 Supervision, relating to consumer financial pro-
21 tection functions, on the day before the des-
22 igned transfer date.

23 (4) FEDERAL DEPOSIT INSURANCE CORPORA-
24 TION.—

1 (A) TRANSFER OF FUNCTIONS.—All con-
2 sumer financial protection functions of the Fed-
3 eral Deposit Insurance Corporation are trans-
4 ferred to the Director.

5 (B) CORPORATION'S AUTHORITY.—The Di-
6 rector shall have all powers and duties that
7 were vested in the Federal Deposit Insurance
8 Corporation, relating to consumer financial pro-
9 tection functions, on the day before the des-
10 ignated transfer date.

11 (5) FEDERAL TRADE COMMISSION.—

12 (A) TRANSFER OF FUNCTIONS.—Except as
13 provided in subparagraph (C), all consumer fi-
14 nancial protection functions of the Federal
15 Trade Commission are transferred to the Direc-
16 tor.

17 (B) COMMISSION'S AUTHORITY.—Except
18 as provided in subparagraph (C), the Director
19 shall have all powers and duties that were vest-
20 ed in the Federal Trade Commission, relating
21 to consumer financial protection functions, on
22 the day before the designated transfer date.

23 (C) CONTINUATION OF CERTAIN COMMIS-
24 SION AUTHORITIES.—Notwithstanding subpara-
25 graphs (A) and (B), the Federal Trade Com-

1 mission shall continue to enforce the following
2 provisions of law and prescribe regulations
3 under such provisions:

4 (i) The Credit Repair Organizations
5 Act.

6 (ii) Section 5 of the Federal Trade
7 Commission Act.

8 (iii) The Telemarketing and Consumer
9 Fraud and Abuse Prevention Act.

10 (6) NATIONAL CREDIT UNION ADMINISTRA-
11 TION.—

12 (A) TRANSFER OF FUNCTIONS.—All con-
13 sumer financial protection functions of the Na-
14 tional Credit Union Administration are trans-
15 ferred to the Director.

16 (B) NATIONAL CREDIT UNION ADMINIS-
17 TRATION'S AUTHORITY.—The Director shall
18 have all powers and duties that were vested in
19 the National Credit Union Administration, re-
20 lating to consumer financial protection func-
21 tions, on the day before the designated transfer
22 date.

23 (7) SECRETARY OF HOUSING AND URBAN DE-
24 VELOPMENT.—

1 (A) TRANSFER OF FUNCTIONS.—All con-
2 sumer protection functions of the Secretary of
3 Housing and Urban Development relating to
4 the Real Estate Settlement Procedures Act of
5 1974 and the Secure and Fair Enforcement for
6 Mortgage Licensing Act of 2008 are transferred
7 to the Director.

8 (B) SECRETARY OF HUD'S AUTHORITY.—
9 The Director shall have all powers and duties
10 that were vested in the Secretary of Housing
11 and Urban Development relating to the Real
12 Estate Settlement Procedures Act of 1974 and
13 the Secure and Fair Enforcement for Mortgage
14 Licensing Act of 2008, on the day before the
15 designated transfer date

16 (b) TRANSFERS OF FUNCTIONS SUBJECT TO BACK-
17 STOP ENFORCEMENT AUTHORITY REMAINING WITH
18 TRANSFEROR AGENCIES.—The transfers of functions in
19 subsection (a) shall not affect the authority of the agencies
20 identified in subsection (a) from initiating enforcement
21 proceedings under the circumstances described in section
22 122(e)(3).

23 (c) TERMINATION OF AUTHORITY OF TRANSFEROR
24 AGENCIES TO COLLECT FEES FOR CONSUMER FINAN-
25 CIAL PROTECTION PURPOSES.—Authorities of the agen-

1 cies identified in subsection (a) to assess and collect fees
2 to cover the cost of conducting consumer financial protec-
3 tion functions shall terminate on the day before the des-
4 ignated transfer date.

5 (d) CONSUMER FINANCIAL PROTECTION FUNCTIONS
6 DEFINED.—For purposes of this subtitle, the term “con-
7 sumer financial protection functions” means research,
8 rulemaking, issuance of orders or guidance, supervision,
9 examination, and enforcement activities, powers, and du-
10 ties relating to the provision of consumer financial prod-
11 ucts or services, including the authority to assess and col-
12 lect fees for those purposes, except that such term shall
13 not include any such function relating to an agency’s re-
14 sponsibilities under the Community Reinvestment Act of
15 1977.

16 (e) EFFECTIVE DATE.—Subsections (a) and (b) shall
17 take effect on the designated transfer date.

18 **SEC. 162. DESIGNATED TRANSFER DATE.**

19 (a) IN GENERAL.—Not later than 60 days after the
20 date of the enactment of this Act, the Secretary—

21 (1) shall, in consultation with the Chairman of
22 the Board of Governors, the Chairperson of the Fed-
23 eral Deposit Insurance Corporation, the Chairman
24 of the Federal Trade Commission, the Chairman of
25 the National Credit Union Administration Board,

1 the Comptroller of the Currency, the Director of the
2 Office of Thrift Supervision, the Secretary of Hous-
3 ing and Urban Development, and the Director of the
4 Office of Management and Budget, designate a sin-
5 gle calendar date for the transfer of functions to the
6 Director under section 161; and

7 (2) shall publish notice of that designation in
8 the Federal Register.

9 (b) CHANGING DESIGNATION.—The Secretary—

10 (1) may, in consultation with the Chairman of
11 the Board of Governors, the Chairperson of the Fed-
12 eral Deposit Insurance Corporation, the Chairman
13 of the Federal Trade Commission, the Chairman of
14 the National Credit Union Administration Board,
15 the Comptroller of the Currency, the Director of the
16 Office of Thrift Supervision, the Secretary of Hous-
17 ing and Urban Development, and the Director of the
18 Office of Management and Budget, change the date
19 designated under subsection (a); and

20 (2) shall publish notice of any changed designa-
21 tion in the Federal Register.

22 (c) PERMISSIBLE DATES.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), any date designated under this section

1 shall be not earlier than 180 days nor later than 18
2 months after the date of the enactment of this Act.

3 (2) EXTENSION OF TIME.—The Secretary may
4 designate a date that is later than 18 months after
5 the date of the enactment of this Act if the Sec-
6 retary transmits to appropriate committees of Con-
7 gress—

8 (A) a written determination that orderly
9 implementation of this title is not feasible on
10 the date that is 18 months after the date of the
11 enactment of this Act;

12 (B) an explanation of why an extension is
13 necessary for the orderly implementation of this
14 title; and

15 (C) a description of the steps that will be
16 taken to effect an orderly and timely implemen-
17 tation of this title within the extended time pe-
18 riod.

19 (3) EXTENSION LIMITED.—In no case shall any
20 date designated under this section be later than 24
21 months after the date of the enactment of this Act.

22 **SEC. 163. SAVINGS PROVISIONS.**

23 (a) BOARD OF GOVERNORS.—

24 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
25 TIONS NOT AFFECTED.—Section 161(a)(1) shall not

1 affect the validity of any right, duty, or obligation of
2 the United States, the Board of Governors (or any
3 Federal reserve bank), or any other person that—

4 (A) arises under any provision of law relat-
5 ing to any consumer financial protection func-
6 tion of the Board of Governors transferred to
7 the Director by this title; and

8 (B) existed on the day before the des-
9 ignated transfer date.

10 (2) CONTINUATION OF SUITS.—This Act shall
11 not abate any proceeding commenced by or against
12 the Board of Governors (or any Federal reserve
13 bank) before the designated transfer date with re-
14 spect to any consumer financial protection function
15 of the Board of Governors (or any Federal reserve
16 bank) transferred to the Director by this title, ex-
17 cept that the Director shall be substituted for the
18 Board of Governors (or Federal reserve bank) as a
19 party to any such proceeding as of the designated
20 transfer date.

21 (b) FEDERAL DEPOSIT INSURANCE CORPORATION.—

22 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
23 TIONS NOT AFFECTED.—Section 161(a)(4) shall not
24 affect the validity of any right, duty, or obligation of
25 the United States, the Federal Deposit Insurance

1 Corporation, the Board of Directors of that Corpora-
2 tion, or any other person, that—

3 (A) arises under any provision of law relat-
4 ing to any consumer financial protection func-
5 tion of the Federal Deposit Insurance Corpora-
6 tion transferred to the Director by this title;
7 and

8 (B) existed on the day before the des-
9 ignated transfer date.

10 (2) CONTINUATION OF SUITS.—This Act shall
11 not abate any proceeding commenced by or against
12 the Federal Deposit Insurance Corporation (or the
13 Board of Directors of that Corporation) before the
14 designated transfer date with respect to any con-
15 sumer financial protection function of the Federal
16 Deposit Insurance Corporation transferred to the
17 Director by this title, except that the Director shall
18 be substituted for the Federal Deposit Insurance
19 Corporation (or Board of Directors) as a party to
20 any such proceeding as of the designated transfer
21 date.

22 (c) FEDERAL TRADE COMMISSION.—

23 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
24 TIONS NOT AFFECTED.—Section 161(a)(5) shall not
25 affect the validity of any right, duty, or obligation of

1 the United States, the Federal Trade Commission,
2 or any other person, that—

3 (A) arises under any provision of law relat-
4 ing to any consumer financial protection func-
5 tion of the Federal Trade Commission trans-
6 ferred to the Director by this title; and

7 (B) existed on the day before the des-
8 igned transfer date.

9 (2) CONTINUATION OF SUITS.—This Act shall
10 not abate any proceeding commenced by or against
11 the Federal Trade Commission before the designated
12 transfer date with respect to any consumer financial
13 protection function of the Federal Trade Commis-
14 sion transferred to the Director by this title, except
15 that the Director shall be substituted for the Federal
16 Trade Commission as a party to any such pro-
17 ceeding as of the designated transfer date.

18 (d) NATIONAL CREDIT UNION ADMINISTRATION.—

19 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
20 TIONS NOT AFFECTED.—Section 161(a)(6) shall not
21 affect the validity of any right, duty, or obligation of
22 the United States, the National Credit Union Ad-
23 ministration, the National Credit Union Administra-
24 tion Board, or any other person, that—

1 (A) arises under any provision of law relat-
2 ing to any consumer financial protection func-
3 tion of the National Credit Union Administra-
4 tion transferred to the Director by this title;
5 and

6 (B) existed on the day before the des-
7 igned transfer date.

8 (2) CONTINUATION OF SUITS.—This Act shall
9 not abate any proceeding commenced by or against
10 the National Credit Union Administration (or the
11 National Credit Union Administration Board) before
12 the designated transfer date with respect to any con-
13 sumer financial protection function of the National
14 Credit Union Administration transferred to the Di-
15 rector by this title, except that the Director shall be
16 substituted for the National Credit Union Adminis-
17 tration (or National Credit Union Administration
18 Board) as a party to any such proceeding as of the
19 designated transfer date.

20 (e) COMPTROLLER OF THE CURRENCY.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
22 TIONS NOT AFFECTED.—Section 161(a)(2) shall not
23 affect the validity of any right, duty, or obligation of
24 the United States, the Comptroller of the Currency,

1 the Office of the Comptroller of the Currency, or
2 any other person, that—

3 (A) arises under any provision of law relat-
4 ing to any consumer financial protection func-
5 tion of the Comptroller of the Currency trans-
6 ferred to the Director by this title; and

7 (B) existed on the day before the des-
8 igned transfer date.

9 (2) CONTINUATION OF SUITS.—This Act shall
10 not abate any proceeding commenced by or against
11 the Comptroller of the Currency (or the Office of the
12 Comptroller of the Currency) with respect to any
13 consumer financial protection function of the Comp-
14 troller of the Currency transferred to the Director
15 by this title before the designated transfer date, ex-
16 cept that the Director shall be substituted for the
17 Comptroller of the Currency (or the Office of the
18 Comptroller of the Currency) as a party to any such
19 proceeding as of the designated transfer date.

20 (f) DIRECTOR OF THE OFFICE OF THRIFT SUPER-
21 VISION.—

22 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
23 TIONS NOT AFFECTED.—Section 161(a)(3) shall not
24 affect the validity of any right, duty, or obligation of
25 the United States, the Director of the Office of

1 Thrift Supervision, the Office of Thrift Supervision,
2 or any other person, that—

3 (A) arises under any provision of law relat-
4 ing to any consumer financial protection func-
5 tion of the Director of the Office of Thrift Su-
6 pervision transferred to the Director by this
7 title; and

8 (B) that existed on the day before the des-
9 ignated transfer date.

10 (2) CONTINUATION OF SUITS.—This Act shall
11 not abate any proceeding commenced by or against
12 the Director of the Office of Thrift Supervision (or
13 the Office of Thrift Supervision) with respect to any
14 consumer financial protection function of the Direc-
15 tor of the Office of Thrift Supervision transferred to
16 the Director by this title before the designated
17 transfer date, except that the Director shall be sub-
18 stituted for the Director (or the Office of Thrift Su-
19 pervision) as a party to any such proceeding as of
20 the designated transfer date.

21 (g) SECRETARY OF HOUSING AND URBAN DEVELOP-
22 MENT.—

23 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
24 TIONS NOT AFFECTED.—Section 161(a)(7) shall not
25 affect the validity of any right, duty, or obligation of

1 the United States, the Secretary of Housing and
2 Urban Development, the Department of Housing
3 and Urban Development, or any other person,
4 that—

5 (A) arises under any provision of law relat-
6 ing to any function of the Secretary of Housing
7 and Urban Development under the Real Estate
8 Settlement Procedures Act of 1974 and the Se-
9 cure and Fair Enforcement for Mortgage Li-
10 censing Act of 2008 transferred to the Director
11 by this title; and

12 (B) that existed on the day before the des-
13 igned transfer date.

14 (2) CONTINUATION OF SUITS.—This Act shall
15 not abate any proceeding commenced by or against
16 the Secretary of Housing and Urban Development
17 (or the Department of Housing and Urban Develop-
18 ment) with respect to any consumer financial protec-
19 tion function of the Secretary of Housing and Urban
20 Development transferred to the Director by this title
21 before the designated transfer date, except that the
22 Director shall be substituted for the Secretary of
23 Housing and Urban Development (or such Depart-
24 ment) as a party to any such proceeding as of the
25 designated transfer date.

1 (h) CONTINUATION OF EXISTING ORDERS, REGULA-
2 TIONS, DETERMINATIONS, AGREEMENTS, AND RESOLU-
3 TIONS.—All orders, resolutions, determinations, agree-
4 ments, and regulations that have been issued, made, pre-
5 scribed, or allowed to become effective by the Board of
6 Governors (or any Federal reserve bank), the Federal De-
7 posit Insurance Corporation, the Federal Trade Commis-
8 sion, the National Credit Union Administration, the
9 Comptroller of the Currency, the Director of the Office
10 of Thrift Supervision, the Secretary of Housing and
11 Urban Development, or by a court of competent jurisdic-
12 tion, in the performance of consumer financial protection
13 functions that are transferred by this title and that are
14 in effect on the day before the designated transfer date,
15 shall continue in effect according to the terms of those
16 orders, resolutions, determinations, agreements, and regu-
17 lations, and shall be enforceable by or against the Director
18 until modified, terminated, set aside, or superseded in ac-
19 cordance with applicable law by the Director, by any court
20 of competent jurisdiction, or by operation of law.

21 (i) IDENTIFICATION OF REGULATIONS CONTIN-
22 UED.—Not later than the designated transfer date, the
23 Director—

24 (1) shall, after consultation with the Chairman
25 of the Board of Governors, the Chairperson of the

1 Federal Deposit Insurance Corporation, the Chair-
2 man of the Federal Trade Commission, the Chair-
3 man of the National Credit Union Administration
4 Board, the Comptroller of the Currency, the Direc-
5 tor of the Office of Thrift Supervision, and the Sec-
6 retary of Housing and Urban Development identify
7 the regulations continued under subsection (g) that
8 will be enforced by the Director; and

9 (2) shall publish a list of such regulations in
10 the Federal Register.

11 (j) STATUS OF REGULATIONS PROPOSED OR NOT
12 YET EFFECTIVE.—

13 (1) PROPOSED REGULATIONS.—Any proposed
14 regulation of the Board of Governors, the Federal
15 Deposit Insurance Corporation, the Federal Trade
16 Commission, the National Credit Union Administra-
17 tion, the Comptroller of the Currency, the Director
18 of the Office of Thrift Supervision, or the Secretary
19 of Housing and Urban Development which that
20 agency, in performing consumer financial protection
21 functions transferred by this title, has proposed be-
22 fore the designated transfer date but has not pub-
23 lished as a final regulation before that date, shall be
24 deemed to be a proposed regulation of the Director.

1 (2) REGULATIONS NOT YET EFFECTIVE.—Any
2 interim or final regulation of Board of Governors,
3 the Federal Deposit Insurance Corporation, the Fed-
4 eral Trade Commission, the National Credit Union
5 Administration, the Comptroller of the Currency, the
6 Director of the Office of Thrift Supervision, or the
7 Secretary of Housing and Urban Development which
8 that agency, in performing consumer financial pro-
9 tection functions transferred by this title, has pub-
10 lished before the designated transfer date but which
11 has not become effective before that date, shall take
12 effect as a regulation of the Director according to its
13 terms.

14 **SEC. 164. TRANSFER OF CERTAIN PERSONNEL.**

15 (a) IN GENERAL.—

16 (1) CERTAIN FEDERAL RESERVE SYSTEM EM-
17 PLOYEES TRANSFERRED.—

18 (A) IDENTIFYING EMPLOYEES FOR TRANS-
19 FER.—The Director and the Board of Gov-
20 ernors shall—

21 (i) jointly determine the number of
22 employees of the Board necessary to per-
23 form or support the consumer financial
24 protection functions of the Board of Gov-

1 ernors that are transferred to the Director
2 by this title; and

3 (ii) consistent with the number deter-
4 mined under clause (i), jointly identify em-
5 ployees of the Board of Governors for
6 transfer to the Agency in a manner that
7 the Director and the Board of Governors,
8 in their sole discretion, deem equitable.

9 (B) IDENTIFIED EMPLOYEES TRANS-
10 FERRED.—All employees of the Board of Gov-
11 ernors identified under subparagraph (A)(ii)
12 shall be transferred to the Agency for employ-
13 ment.

14 (C) FEDERAL RESERVE BANK EMPLOY-
15 EES.—Employees of any Federal reserve bank
16 who, on the day before the designated transfer
17 date, are performing consumer financial protec-
18 tion functions on behalf of the Board of Gov-
19 ernors shall be treated as employees of the
20 Board of Governors for purposes of subpara-
21 graphs (A) and (B).

22 (2) CERTAIN FDIC EMPLOYEES TRANS-
23 FERRED.—

24 (A) IDENTIFYING EMPLOYEES FOR TRANS-
25 FER.—The Director and the Board of Directors

1 of the Federal Deposit Insurance Corporation
2 shall—

3 (i) jointly determine the number of
4 employees of that Corporation necessary to
5 perform or support the consumer financial
6 protection functions of the Corporation
7 that are transferred to the Director by this
8 title; and

9 (ii) consistent with the number deter-
10 mined under clause (i), jointly identify em-
11 ployees of the Corporation for transfer to
12 the Agency in a manner that the Director
13 and the Board of Directors of the Corpora-
14 tion, in their discretion, deem equitable.

15 (B) IDENTIFIED EMPLOYEES TRANS-
16 FERRED.—All employees of the Corporation
17 identified under subparagraph (A)(ii) shall be
18 transferred to the Agency for employment.

19 (3) CERTAIN NCUA EMPLOYEES TRANS-
20 FERRED.—

21 (A) IDENTIFYING EMPLOYEES FOR TRANS-
22 FER.—The Director and the National Credit
23 Union Administration Board shall—

24 (i) jointly determine the number of
25 employees of the National Credit Union

1 Administration necessary to perform or
2 support the consumer financial protection
3 functions of the National Credit Union Ad-
4 ministration that are transferred to the Di-
5 rector by this title; and

6 (ii) consistent with the number deter-
7 mined under clause (i), jointly identify em-
8 ployees of the National Credit Union Ad-
9 ministration for transfer to the Agency in
10 a manner that the Director and the Na-
11 tional Credit Union Administration Board,
12 in their discretion, deem equitable.

13 (B) IDENTIFIED EMPLOYEES TRANS-
14 FERRED.—All employees of the National Credit
15 Union Administration identified under subpara-
16 graph (A)(ii) shall be transferred to the Agency
17 for employment.

18 (4) CERTAIN HUD EMPLOYEES TRANS-
19 FERRED.—

20 (A) IDENTIFYING EMPLOYEES FOR TRANS-
21 FER.—The Director and the Secretary of Hous-
22 ing and Urban Development shall—

23 (i) jointly determine the number of
24 employees of the Department of Housing
25 and Urban Development necessary to per-

1 form or support the consumer financial
2 protection functions of the Secretary of
3 Housing and Urban Development that are
4 transferred to the Director by this title;
5 and

6 (ii) consistent with the number deter-
7 mined under clause (i), jointly identify em-
8 ployees of the Department of Housing and
9 Urban Development for transfer to the
10 Agency in a manner that the Director and
11 the Secretary of Housing and Urban De-
12 velopment, in their discretion, deem equi-
13 table.

14 (B) IDENTIFIED EMPLOYEES TRANS-
15 FERRED.—All employees of the Department of
16 Housing and Urban Development identified
17 under subparagraph (A)(ii) shall be transferred
18 to the Agency for employment.

19 (5) APPOINTMENT AUTHORITY FOR EXCEPTED
20 SERVICE AND SENIOR EXECUTIVE SERVICE TRANS-
21 FERRED.—

22 (A) IN GENERAL.—In the case of employ-
23 ees occupying positions in the excepted service
24 or the Senior Executive Service, any appoint-
25 ment authority established pursuant to law or

1 regulations of the Director of the Office of Per-
2 sonnel Management for filling such positions
3 shall be transferred, subject to subparagraph
4 (B).

5 (B) DECLINING TRANSFERS ALLOWED.—
6 An agency or entity may decline to make a
7 transfer of authority under subparagraph (A)
8 (and the employees appointed pursuant to such
9 subparagraph) to the extent that such authority
10 relates to positions excepted from the competi-
11 tive service because of their confidential, policy-
12 making, policy-determining, or policy-advocating
13 character, and non-career positions in the Sen-
14 ior Executive Service (within the meaning of
15 section 3132(a)(7) of title 5, United States
16 Code).

17 (b) TIMING OF TRANSFERS AND POSITION ASSIGN-
18 MENTS.—Each employee to be transferred under this sec-
19 tion shall—

20 (1) be transferred not later than 90 days after
21 the designated transfer date; and

22 (2) receive notice of such employee's position
23 assignment not later than 120 days after the effec-
24 tive date of the employee's transfer.

25 (c) TRANSFER OF FUNCTION.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, the transfer of employees shall be
3 deemed a transfer of functions for the purpose of
4 section 3503 of title 5, United States Code.

5 (2) PRIORITY OF THIS TITLE.—If any provi-
6 sions of this title conflict with any protection pro-
7 vided to transferred employees under section 3503 of
8 title 5, United States Code, the provisions of this
9 title shall control.

10 (d) EQUAL STATUS AND TENURE POSITIONS.—

11 (1) EMPLOYEES TRANSFERRED FROM FDIC,
12 FTC, HUD, NCUA, OCC, AND OTS.—Each employee
13 transferred from the Federal Deposit Insurance Cor-
14 poration, the Federal Trade Commission, the De-
15 partment of Housing and Urban Development, the
16 National Credit Union Administration, the Office of
17 the Comptroller of the Currency, or the Office of
18 Thrift Supervision shall be placed in a position at
19 the Agency with the same status and tenure as he
20 or she held on the day before the designated transfer
21 date.

22 (2) EMPLOYEES TRANSFERRED FROM THE
23 FEDERAL RESERVE SYSTEM.—

24 (A) COMPARABILITY.—Each employee
25 transferred from the Board of Governors or

1 from a Federal reserve bank shall be placed in
2 a position with the same status and tenure as
3 that of employees transferring to the Agency
4 from the Office of the Comptroller of the Cur-
5 rency who perform similar functions and have
6 similar periods of service.

7 (B) SERVICE PERIODS CREDITED.—For
8 purposes of this paragraph, periods of service
9 with the Board of Governors or a Federal re-
10 serve bank shall be credited as periods of serv-
11 ice with a Federal agency.

12 (e) ADDITIONAL CERTIFICATION REQUIREMENTS
13 LIMITED.—Examiners transferred to the Agency shall not
14 be subject to any additional certification requirements be-
15 fore being placed in a comparable examiner's position at
16 the Agency examining the same types of institutions as
17 the transferred examiners examined before such examiners
18 were transferred.

19 (f) PERSONNEL ACTIONS LIMITED.—

20 (1) 5-YEAR PROTECTION.—Except as provided
21 in paragraph (2), each transferred employee holding
22 a permanent position on the day before the des-
23 ignated transfer date shall not, during the 5-year pe-
24 riod beginning on the designated transfer date, be
25 involuntarily separated, or involuntarily reassigned

1 outside such transferred employee's local locality pay
2 area as defined by the Director of the Office of Per-
3 sonnel Management.

4 (2) EXCEPTIONS.—Paragraph (1) shall not be
5 construed as limiting the right of the Director to—

6 (A) separate an employee for cause or for
7 unacceptable performance;

8 (B) terminate an appointment to a position
9 excepted from the competitive service because of
10 its confidential policy-making, policy-deter-
11 mining, or policy-advocating character; or

12 (C) reassign a supervisory employee out-
13 side such employee's locality pay area as de-
14 fined by the Director of the Office of Personnel
15 Management when the Director determines that
16 the reassignment is necessary for the efficient
17 operation of the Agency.

18 (g) PAY.—

19 (1) 1-YEAR PROTECTION.—Except as provided
20 in paragraph (2), each transferred employee shall,
21 during the 1-year period beginning on the des-
22 ignated transfer date, receive pay at a rate not less
23 than the basic rate of pay (including any geographic
24 differential) that the employee received during the 1-
25 year period immediately before the transfer.

1 (2) EXCEPTIONS.—Paragraph (1) shall not be
2 construed as limiting the right of the Agency to re-
3 duce the rate of basic pay of a transferred em-
4 ployee—

5 (A) for cause;

6 (B) for unacceptable performance; or

7 (C) with the employee’s consent.

8 (3) PROTECTION ONLY WHILE EMPLOYED.—
9 Paragraph (1) applies to a transferred employee
10 only while that employee remains employed by the
11 Agency.

12 (4) PAY INCREASES PERMITTED.—Paragraph
13 (1) shall not be construed as limiting the authority
14 of the Agency to increase a transferred employee’s
15 pay.

16 (h) REORGANIZATION.—

17 (1) BETWEEN 1ST AND 3RD YEAR.—

18 (A) IN GENERAL.—If the Agency deter-
19 mines, during the period beginning 1 year after
20 the designated transfer date and ending 3 years
21 after the designated transfer date, that a reor-
22 ganization of the staff of the Agency is re-
23 quired—

24 (i) that reorganization shall be
25 deemed a “major reorganization” for pur-

1 poses of affording affected employees re-
2 tirement under section 8336(d)(2) or
3 8414(b)(1)(B) of title 5, United States
4 Code;

5 (ii) before the reorganization occurs,
6 all employees in the same locality pay area
7 as defined by the Director of the Office of
8 Personnel Management shall be placed in a
9 uniform position classification system; and

10 (iii) any resulting reduction in force
11 shall be governed by the provisions of
12 chapter 35 of title 5, United States Code,
13 except that the Agency shall—

14 (I) establish competitive areas
15 (as that term is defined in regulations
16 issued by the Director of the Office of
17 Personnel Management) to include at
18 a minimum all employees in the same
19 locality pay area as defined by the Of-
20 fice of Personnel Management;

21 (II) establish competitive levels
22 (as that term is defined in regulations
23 issued by the Director of the Office of
24 Personnel Management) without re-
25 gard to whether the particular em-

1 ployees have been appointed to posi-
2 tions in the competitive service or the
3 excepted service; and

4 (III) afford employees appointed
5 to positions in the excepted service
6 (other than to a position excepted
7 from the competitive service because
8 of its confidential policy-making, pol-
9 icy-determining, or policy-advocating
10 character) the same assignment rights
11 to positions within the Agency as em-
12 ployees appointed to positions in the
13 competitive service.

14 (B) SERVICE CREDIT FOR REDUCTIONS IN
15 FORCE.—For purposes of this paragraph, peri-
16 ods of service with a Federal home loan bank,
17 a joint office of the Federal home loan banks,
18 the Board of Governors, a Federal reserve
19 bank, the Federal Deposit Insurance Corpora-
20 tion, or the National Credit Union Administra-
21 tion shall be credited as periods of service with
22 a Federal agency.

23 (2) AFTER 3RD YEAR.—

24 (A) IN GENERAL.—If the Agency deter-
25 mines, at any time after the 3-year period be-

1 ginning on the designated transfer date, that a
2 reorganization of the staff of the Agency is re-
3 quired, any resulting reduction in force shall be
4 governed by the provisions of chapter 35 of title
5 5, United States Code, except that the Agency
6 shall establish competitive levels (as that term
7 is defined in regulations issued by the Office of
8 Personnel Management) without regard to
9 types of appointment held by particular employ-
10 ees transferred under this section.

11 (B) SERVICE CREDIT FOR REDUCTIONS IN
12 FORCE.—For purposes of this paragraph, peri-
13 ods of service with a Federal home loan bank,
14 a joint office of the Federal home loan banks,
15 the Board of Governors, a Federal reserve
16 bank, the Federal Deposit Insurance Corpora-
17 tion, or the National Credit Union Administra-
18 tion shall be credited as periods of service with
19 a Federal agency.

20 (i) BENEFITS.—

21 (1) RETIREMENT BENEFITS FOR TRANSFERRED
22 EMPLOYEES.—

23 (A) IN GENERAL.—

24 (i) CONTINUATION OF EXISTING RE-
25 TIREMENT PLAN.—Except as provided in

1 subparagraph (B), each transferred em-
2 ployee shall remain enrolled in such em-
3 ployee's existing retirement plan as long as
4 the employee remains employed by the
5 Agency.

6 (ii) EMPLOYER'S CONTRIBUTION.—
7 The Director shall pay any employer con-
8 tributions to the existing retirement plan
9 of each transferred employee as required
10 under that plan.

11 (B) OPTION FOR EMPLOYEES TRANS-
12 FERRED FROM FEDERAL RESERVE SYSTEM TO
13 BE SUBJECT TO FEDERAL EMPLOYEE RETIRE-
14 MENT PROGRAM.—

15 (i) ELECTION.—Any transferred em-
16 ployee who was enrolled in a Federal Re-
17 serve System retirement plan on the day
18 before the date of the employee's transfer
19 to the Agency may, during the period be-
20 ginning 6 months after the designated
21 transfer date and ending 1 year after the
22 designated transfer date, elect to be sub-
23 ject to the Federal employee retirement
24 program.

1 (ii) EFFECTIVE DATE OF COV-
2 ERAGE.—For any employee making an
3 election under clause (i), coverage by the
4 Federal employee retirement program shall
5 begin 1 year after the designated transfer
6 date.

7 (C) AGENCY PARTICIPATION IN FEDERAL
8 RESERVE SYSTEM RETIREMENT PLAN.—

9 (i) SEPARATE ACCOUNT IN FEDERAL
10 RESERVE SYSTEM RETIREMENT PLAN ES-
11 TABLISHED.—A separate account in the
12 Federal Reserve System retirement plan
13 shall be established for Agency employees
14 who do not make the election under sub-
15 paragraph (B).

16 (ii) FUNDS ATTRIBUTABLE TO TRANS-
17 FERRED EMPLOYEES REMAINING IN FED-
18 ERAL RESERVE SYSTEM RETIREMENT
19 PLAN TRANSFERRED.—The proportionate
20 share of funds in the Federal Reserve Sys-
21 tem retirement plan, including the propor-
22 tionate share of any funding surplus in
23 that plan, attributable to a transferred em-
24 ployee who does not make the election
25 under subparagraph (B), shall be trans-

1 ferred to the account established under
2 clause (i).

3 (iii) EMPLOYER CONTRIBUTIONS DE-
4 POSITED.—The Director shall deposit into
5 the account established under clause (i)
6 the employer contributions that the Agency
7 makes on behalf of employees who do not
8 make the election under subparagraph (B).

9 (iv) ACCOUNT ADMINISTRATION.—The
10 Director shall administer the account es-
11 tablished under clause (i) as a partici-
12 pating employer in the Federal Reserve
13 System retirement plan.

14 (D) DEFINITIONS.—For purposes of this
15 paragraph, the following definitions shall apply:

16 (i) EXISTING RETIREMENT PLAN.—
17 The term “existing retirement plan”
18 means, with respect to any employee trans-
19 ferred under this section, the particular re-
20 tirement plan (including the Financial In-
21 stitutions Retirement Fund) and any asso-
22 ciated thrift savings plan of the agency or
23 Federal reserve bank from which the em-
24 ployee was transferred, which the employee

1 was enrolled in on the day before the des-
2 ignated transfer date.

3 (ii) FEDERAL EMPLOYEE RETIRE-
4 MENT PLAN.—The term “Federal employee
5 retirement program” means the retirement
6 program for Federal employees established
7 by chapters 83 and 84 of title 5, United
8 States Code.

9 (2) BENEFITS OTHER THAN RETIREMENT BEN-
10 EFITS FOR TRANSFERRED EMPLOYEES.—

11 (A) DURING 1ST YEAR.—

12 (i) EXISTING PLANS CONTINUE.—
13 Each transferred employee may, for 1 year
14 after the designated transfer date, retain
15 membership in any other employee benefit
16 program of the agency or bank from which
17 the employee transferred, including a den-
18 tal, vision, long-term care, or life insurance
19 program, to which the employee belonged
20 on the day before the designated transfer
21 date.

22 (ii) EMPLOYER’S CONTRIBUTION.—
23 The Director shall reimburse the agency or
24 bank from which an employee was trans-
25 ferred for any cost incurred by that agency

1 or bank in continuing to extend coverage
2 in the benefit program to the employee as
3 required under that program or negotiated
4 agreements.

5 (B) DENTAL, VISION, OR LIFE INSURANCE
6 AFTER 1ST YEAR.—If, after the 1-year period
7 beginning on the designated transfer date, the
8 Director decides not to continue participation in
9 any dental, vision, or life insurance program of
10 an agency or bank from which employees trans-
11 ferred, a transferred employee who is a member
12 of such a program may, before the Director's
13 decision takes effect, elect to enroll, without re-
14 gard to any regularly scheduled open season,
15 in—

16 (i) the enhanced dental benefits estab-
17 lished by chapter 89A of title 5, United
18 States Code;

19 (ii) the enhanced vision benefits estab-
20 lished by chapter 89B of title 5, United
21 States Code; and

22 (iii) the Federal Employees Group
23 Life Insurance Program established by
24 chapter 87 of title 5, United States Code,

1 without regard to any requirement of in-
2 surability.

3 (C) LONG-TERM CARE INSURANCE AFTER
4 1ST YEAR.—If, after the 1-year period begin-
5 ning on the designated transfer date, the Direc-
6 tor decides not to continue participation in any
7 long-term care insurance program of an agency
8 or bank from which employees transferred, a
9 transferred employee who is a member of such
10 a program may, before the Director's decision
11 takes effect, elect to apply for coverage under
12 the Federal Long Term Care Insurance Pro-
13 gram established by chapter 90 of title 5,
14 United States Code, under the underwriting re-
15 quirements applicable to a new active workforce
16 member (as defined in Part 875, title 5, Code
17 of Federal Regulations).

18 (D) EMPLOYEE'S CONTRIBUTION.—An in-
19 dividual enrolled in the Federal Employees
20 Health Benefits program shall pay any em-
21 ployee contribution required by the plan.

22 (E) ADDITIONAL FUNDING.—The Director
23 shall transfer to the Federal Employees Health
24 Benefits Fund established under section 8909
25 of title 5, United States Code, an amount deter-

1 mined by the Director of the Office of Per-
2 sonnel Management, after consultation with the
3 Director and the Director of the Office of Man-
4 agement and Budget, to be necessary to reim-
5 burse the Fund for the cost to the Fund of pro-
6 viding benefits under this subparagraph.

7 (F) CREDIT FOR TIME ENROLLED IN
8 OTHER PLANS.—For employees transferred
9 under this section, enrollment in a health bene-
10 fits plan administered by the Comptroller of the
11 Currency, the Director of the Office of Thrift
12 Supervision, the Federal Deposit Insurance
13 Corporation, the National Credit Union Admin-
14 istration, the Board of Governors, the Secretary
15 of Housing and Urban Development, or a Fed-
16 eral reserve bank, immediately before enroll-
17 ment in a health benefits plan under chapter 89
18 of title 5, United States Code, shall be consid-
19 ered as enrollment in a health benefits plan
20 under that chapter for purposes of section
21 8905(b)(1)(A) of title 5, United States Code.

22 (G) SPECIAL PROVISIONS TO ENSURE CON-
23 TINUATION OF LIFE INSURANCE BENEFITS.—

24 (i) IN GENERAL.—An annuitant (as
25 defined in section 8901(3) of title 5,

1 United States Code) who is enrolled in a
2 life insurance plan administered by the
3 Board of Governors of the Federal Reserve
4 System, the Federal Deposit Insurance
5 Corporation, the Federal Trade Commis-
6 sion, the Secretary of Housing and Urban
7 Development, the National Credit Union
8 Administration, the Comptroller of the
9 Currency, or the Director of the Office of
10 Thrift Supervision on the day before the
11 designated transfer date shall be eligible
12 for coverage by a life insurance plan under
13 sections 8706(b), 8714a, 8714b, and
14 8714c of title 5, United States Code, or in
15 a life insurance plan established by the
16 Agency, without regard to any regularly
17 scheduled open season and requirement of
18 insurability.

19 (ii) EMPLOYEE'S CONTRIBUTION.—An
20 individual enrolled in a life insurance plan
21 under this clause shall pay any employee
22 contribution required by the plan.

23 (iii) ADDITIONAL FUNDING.—The Di-
24 rector shall transfer to the Employees' Life
25 Insurance Fund established under section

1 8714 of title 5, United States Code, an
2 amount determined by the Director of the
3 Office of Personnel Management, after
4 consultation with the Director and the Di-
5 rector of the Office of Management and
6 Budget, to be necessary to reimburse the
7 Fund for the cost to the Fund of providing
8 benefits under this subparagraph not oth-
9 erwise paid for by the employee under
10 clause (ii).

11 (iv) CREDIT FOR TIME ENROLLED IN
12 OTHER PLANS.—For employees transferred
13 under this section, enrollment in a life in-
14 surance plan administered by the Board of
15 Governors, the Federal Deposit Insurance
16 Corporation, the Federal Trade Commis-
17 sion, the Secretary of Housing and Urban
18 Development, the National Credit Union
19 Administration, the Comptroller of the
20 Currency, the Director of the Office of
21 Thrift Supervision, or a Federal reserve
22 bank immediately before enrollment in a
23 life insurance plan under chapter 87 of
24 title 5, United States Code, shall be con-
25 sidered as enrollment in a life insurance

1 plan under that chapter for purposes of
2 section 8706(b)(1)(A) of title 5, United
3 States Code.

4 (j) IMPLEMENTATION OF UNIFORM PAY AND CLASSI-
5 FICATION SYSTEM.—Not later than 2 years after the des-
6 igned transfer date, the Director shall implement a uni-
7 form pay and classification system for all transferred em-
8 ployees.

9 (k) EQUITABLE TREATMENT.—In administering the
10 provisions of this section, the Director—

11 (1) shall take no action that would unfairly dis-
12 advantage transferred employees relative to each
13 other based on their prior employment by the Board
14 of Governors, the Federal Deposit Insurance Cor-
15 poration, the Federal Trade Commission, the Sec-
16 retary of Housing and Urban Development, the Na-
17 tional Credit Union Administration, the Office of the
18 Comptroller of the Currency, the Office of Thrift
19 Supervision, a Federal reserve bank, a Federal home
20 loan bank, or a joint office of the Federal home loan
21 banks; and

22 (2) may take such action as is appropriate in
23 individual cases so that employees transferred under
24 this section receive equitable treatment, with respect
25 to those employees' status, tenure, pay, benefits

1 (other than benefits under programs administered by
2 the Office of Personnel Management), and accrued
3 leave or vacation time, for prior periods of service
4 with any Federal agency, including the Board of
5 Governors of the Federal Reserve System, the Fed-
6 eral Deposit Insurance Corporation, the Federal
7 Trade Commission, the Department of Housing and
8 Urban Development, the National Credit Union Ad-
9 ministration, the Office of the Comptroller of the
10 Currency, the Office of Thrift Supervision, a Federal
11 reserve bank, a Federal home loan bank, or a joint
12 office of the Federal home loan banks.

13 (l) IMPLEMENTATION.—In implementing the provi-
14 sions of this section, the Director shall work with the Di-
15 rector of the Office of Personnel Management and other
16 entities with expertise in matters related to employment
17 to ensure a fair and orderly transition for affected employ-
18 ees.

19 **SEC. 165. INCIDENTAL TRANSFERS.**

20 (a) INCIDENTAL TRANSFERS AUTHORIZED.—The Di-
21 rector of the Office of Management and Budget, in con-
22 sultation with the Secretary, shall make such additional
23 incidental transfers and dispositions of assets and liabil-
24 ities held, used, arising from, available, or to be made
25 available, in connection with the functions transferred by

1 this title, as the Director may determine necessary to ac-
2 complish the purposes of this title.

3 (b) SUNSET.—The authority provided in this section
4 shall terminate 5 years after the date of the enactment
5 of this Act.

6 **SEC. 166. INTERIM AUTHORITY OF THE SECRETARY.**

7 (a) IN GENERAL.—The Secretary is authorized to
8 perform the functions of the Director under this subtitle
9 until the appointment of the Director is confirmed by the
10 Senate in accordance with section 112.

11 (b) INTERIM ADMINISTRATIVE SERVICES BY THE
12 DEPARTMENT OF THE TREASURY.—The Secretary of the
13 Treasury may provide administrative services necessary to
14 support the Agency before the designated transfer date.

15 (c) INTERIM FUNDING FOR THE DEPARTMENT OF
16 THE TREASURY.—For the purposes of carrying out the
17 authorities granted in this section, there are appropriated
18 to the Secretary of the Treasury such sums as are nec-
19 essary. Notwithstanding any other provision of law, such
20 amounts shall be subject to apportionment under section
21 1517 of title 31, United States Code, and restrictions that
22 generally apply to the use of appropriated funds in title
23 31, United States Code, and other laws.

1 **Subtitle G—Regulatory**
2 **Improvements**

3 **SEC. 171. COLLECTION OF DEPOSIT ACCOUNT DATA.**

4 (a) **PURPOSE.**—The purpose of this section is to pro-
5 mote awareness and understanding of the access of indi-
6 viduals and communities to financial services, and to iden-
7 tify business and community development needs and op-
8 portunities.

9 (b) **IN GENERAL.**—

10 (1) **RECORDS REQUIRED.**—For each branch,
11 automated teller machine at which deposits are ac-
12 cepted, and other deposit taking service facility with
13 respect to any financial institution, the financial in-
14 stitution shall maintain records of the number and
15 dollar amounts of deposit accounts of customers.

16 (2) **GEO-CODED ADDRESSES OF DEPOSITORS.**—
17 The customers' addresses maintained pursuant to
18 paragraph (1) shall be geo-coded so that data shall
19 be collected regarding the census tracts of the resi-
20 dence or business location of the customers.

21 (3) **IDENTIFICATION OF DEPOSITOR TYPE.**—In
22 maintaining records on any deposit account under
23 this section, the financial institution shall also
24 record whether the deposit account is for a residen-
25 tial or commercial customer.

1 (4) PUBLIC AVAILABILITY.—

2 (A) IN GENERAL.—The following informa-
3 tion shall be publicly available on an annual
4 basis—

5 (i) the address and census tracts of
6 each branch, automated teller machine at
7 which deposits are accepted, and other de-
8 posit taking service facility with respect to
9 any financial institution;

10 (ii) the type of deposit account includ-
11 ing whether the account was a checking or
12 savings account; and

13 (iii) data on the number and dollar
14 amounts of the accounts, presented by cen-
15 sus tract location of the residential and
16 commercial customers.

17 (iv) any other data deemed appro-
18 priate by the Director.

19 (B) PROTECTION OF IDENTITY.—In the
20 publicly available data, any personally identifi-
21 able data element shall be removed so as to pro-
22 tect the identities of the commercial and resi-
23 dential customers.

24 (c) AVAILABILITY OF INFORMATION.—

1 (1) SUBMISSION TO AGENCIES.—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, or to a Federal bank-
5 ing agency, in accordance with regulations pre-
6 scribed by the Director.

7 (2) AVAILABILITY OF INFORMATION.—Informa-
8 tion compiled and maintained under this section
9 shall be retained for not less than 3 years after the
10 date of preparation and shall be made available to
11 the public, upon request, in the form required under
12 regulations prescribed by the Director.

13 (d) AGENCY USE.—The Director—

14 (1) shall assess the distribution of residential
15 and commercial accounts at such financial institu-
16 tion across income and minority level of census
17 tracts; and

18 (2) may use the data for any other purpose as
19 permitted by law.

20 (e) REGULATIONS AND GUIDANCE.—

21 (1) IN GENERAL.—The Director shall prescribe
22 such regulations and issue guidance as may be nec-
23 essary to carry out, enforce, and compile data pursu-
24 ant to this section.

1 (2) DATA COMPILATION REGULATIONS.—The
2 Director shall prescribe regulations regarding the
3 provision of data compiled under this section to the
4 Federal banking agencies to carry out the purposes
5 of this section and shall issue guidance to financial
6 institutions regarding measures to facilitate compli-
7 ance with the this section and the requirements of
8 regulations prescribed under this section.

9 (f) DEFINITIONS.—For purposes of this section, the
10 following definitions shall apply:

11 (1) AGENCY.—The term “Agency” means the
12 Consumer Financial Protection Agency.

13 (2) CREDIT UNION.—The term “credit union”
14 means a Federal credit union or a State-chartered
15 credit union (as such terms are defined in section
16 101 of the Federal Credit Union Act).

17 (3) DEPOSIT ACCOUNT.—The term “deposit ac-
18 count” includes any checking account, savings ac-
19 count, credit union share account, and other type of
20 account as defined by the Director.

21 (4) DIRECTOR.—The term “Director” means
22 the Director of the Agency.

23 (5) FEDERAL BANKING AGENCY.—The term
24 “Federal banking agency” means the Board of Gov-
25 ernors of the Federal Reserve System, the head of

1 the agency responsible for chartering and regulating
2 national banks, the Director of the Office of Thrift
3 Supervision, the Federal Deposit Insurance Corpora-
4 tion, and the National Credit Union Administration;
5 and the term “Federal banking agencies” means all
6 of those agencies.

7 (6) FINANCIAL INSTITUTION.—The term “fi-
8 nancial institution”—

9 (A) has the meaning given to the term “in-
10 sured depository institution” in section 3(e)(2)
11 of the Federal Deposit Insurance Act; and

12 (B) includes any credit union.

13 (g) EFFECTIVE DATE.—This section shall take effect
14 on the designated transfer date.

15 **SEC. 172. SMALL BUSINESS DATA COLLECTION.**

16 (a) IN GENERAL.—The Equal Credit Opportunity
17 Act (15 U.S.C. 1691 et seq.) is amended by inserting after
18 section 704A the following new section:

19 **“§ 704B. Small business loan data collection**

20 “(a) PURPOSE.—The purpose of this section is to fa-
21 cilitate enforcement of fair lending laws and enable com-
22 munities, governmental entities, and creditors to identify
23 business and community development needs and opportu-
24 nities of women- and minority-owned small businesses.

1 “(b) IN GENERAL.—Subject to the requirements of
2 this section, in the case of any application to a financial
3 institution for credit for a small business, the financial in-
4 stitution shall—

5 “(1) inquire whether the business is a women-
6 or minority-owned business, without regard to
7 whether such application is received in person, by
8 mail, by telephone, by electronic mail or other form
9 of electronic transmission, or by any other means
10 and whether or not such application is in response
11 to a solicitation by the financial institution; and

12 “(2) maintain a record of the responses to such
13 inquiry separate from the application and accom-
14 panying information.

15 “(c) RIGHT TO REFUSE.—Any applicant for credit
16 may refuse to provide any information requested pursuant
17 to subsection (b) in connection with any application for
18 credit.

19 “(d) NO ACCESS BY UNDERWRITERS.—

20 “(1) IN GENERAL.—Where feasible, no loan un-
21 derwriter or other officer or employee of a financial
22 institution, or any affiliate of a financial institution,
23 involved in making any determination concerning an
24 application for credit shall have access to any infor-
25 mation provided by the applicant pursuant to a re-

1 quest under subsection (b) in connection with such
2 application.

3 “(2) EXCEPTION.—If a financial institution de-
4 termines that loan underwriter or other officer or
5 employee of a financial institution, or any affiliate of
6 a financial institution, involved in making any deter-
7 mination concerning an application for credit should
8 have access to any information provided by the ap-
9 plicant pursuant to a request under subsection (b),
10 the financial institution will provide notice to the ap-
11 plicant of the access of the underwriter to this infor-
12 mation, along with notice that the financial institu-
13 tion may not discriminate on this basis of this infor-
14 mation.

15 “(e) FORM AND MANNER OF INFORMATION.—

16 “(1) IN GENERAL.—Each financial institution
17 shall compile and maintain, in accordance with regu-
18 lations of the Agency, a record of the information
19 provided by any loan applicant pursuant to a request
20 under subsection (b).

21 “(2) ITEMIZATION.—Information compiled and
22 maintained under paragraph (1) shall also be
23 itemized in order to clearly and conspicuously dis-
24 close the following:

1 “(A) The number of the application and
2 the date the application was received.

3 “(B) The type and purpose of the loan or
4 other credit being applied for.

5 “(C) The amount of the credit or credit
6 limit applied for and the amount of the credit
7 transaction or the credit limit approved for such
8 applicant.

9 “(D) The type of action taken with respect
10 to such application and the date of such action.

11 “(E) The census tract in which is located
12 the principal place of business of the small busi-
13 ness loan applicant.

14 “(F) The gross annual revenue of the busi-
15 ness in the last fiscal year of the small business
16 loan applicant preceding the date of the appli-
17 cation.

18 “(G) The race, sex, and ethnicity of the
19 principal owners of the business.

20 “(H) Any additional data the Agency de-
21 termines would aid in fulfilling the purposes of
22 this section.

23 “(3) INCLUSION OF PERSONALLY IDENTIFIABLE
24 INFORMATION PROHIBITED.—In compiling and
25 maintaining any record of information under this

1 section, a financial institution may not include in
2 such record the name, specific address (other than
3 the census tract required under paragraph (1)(E)),
4 telephone number, electronic mail address, and any
5 other personally identifiable information concerning
6 any individual who is, or is connected with, the small
7 business loan applicant.

8 “(4) DISCRETION TO DELETE OR MODIFY PUB-
9 LICLY AVAILABLE DATA.—The Agency may, in the
10 discretion of the Agency, delete or modify data col-
11 lected under this section which is or will be available
12 to the public if the Agency determines that the dele-
13 tion or modification of the data would advance a
14 compelling privacy interest.

15 “(f) AVAILABILITY OF INFORMATION.—

16 “(1) SUBMISSION TO AGENCY.—The data re-
17 quired to be compiled and maintained under this
18 section by any financial institution shall be sub-
19 mitted annually to the Agency.

20 “(2) AVAILABILITY OF INFORMATION.—

21 “(A) IN GENERAL.—Information compiled
22 and maintained under this section shall be re-
23 tained for not less than 3 years after the date
24 of preparation and shall be made available to

1 the public, upon request, in the form required
2 under regulations prescribed by the Agency.

3 “(B) ANNUAL DISCLOSURE TO THE PUB-
4 LIC.—In addition to the availability by request
5 under subparagraph (A) of data compiled and
6 maintained under this section, the Agency shall
7 annually provide such data to the public.

8 “(C) PROCEDURES.—The procedures for
9 disclosing data compiled and maintained under
10 this section to the public shall be determined by
11 the Agency by regulation.

12 “(3) COMPILATION OF AGGREGATE DATA.—

13 “(A) IN GENERAL.—The Agency may, in
14 the discretion of the Agency, compile for the
15 Agency’s own use compilations of aggregate
16 data.

17 “(B) PUBLIC AVAILABILITY OF AGGRE-
18 GATE DATA.—The Agency may, in the discre-
19 tion of the Agency, make public compilations of
20 aggregate data in such manner as the Agency
21 may determine to be appropriate.

22 “(g) DEFINITIONS.—For purposes of this section, the
23 following definitions shall apply:

24 “(1) FINANCIAL INSTITUTION.—The term ‘fi-
25 nancial institution’ means any partnership, com-

1 pany, corporation, association (incorporated or unin-
2 corporated), trust, estate, cooperative organization,
3 or other entity that engages in any financial activity.

4 “(2) MINORITY-OWNED BUSINESS.—The term
5 ‘minority-owned business’ means a business—

6 “(A) more than 50 percent of the owner-
7 ship or control of which is held by 1 or more
8 minority individuals; and

9 “(B) more than 50 percent of the net prof-
10 it or loss of which accrues to 1 or more minor-
11 ity individuals.

12 “(3) WOMEN-OWNED BUSINESS.—The term
13 ‘women-owned business’ means a business—

14 “(A) more than 50 percent of the owner-
15 ship or control of which is held by 1 or more
16 women; and

17 “(B) more than 50 percent of the net prof-
18 it or loss of which accrues to 1 or more women.

19 “(4) MINORITY.—The term ‘minority’ has the
20 meaning given to such term by section 1204(c)(3) of
21 the Financial Institutions Reform, Recovery, and
22 Enforcement Act of 1989.

23 “(5) SMALL BUSINESS LOAN.—The term ‘small
24 business loan’ shall be defined by the Agency, which
25 may take into account—

1 “(A) the gross revenues of the borrower;

2 “(B) the total number of employees of the
3 borrower;

4 “(C) the industry in which the borrower
5 has its primary operations; and

6 “(D) the size of the loan.

7 “(h) AGENCY ACTION.—

8 “(1) IN GENERAL.—The Agency shall prescribe
9 such regulations and issue such guidance as may be
10 necessary to carry out, enforce, and compile data
11 pursuant to this section.

12 “(2) EXCEPTIONS.—The Agency, by regulation
13 or order, may adopt exceptions to any requirement
14 of this section and may, conditionally or uncondi-
15 tionally, exempt any financial institution or class of
16 institutions from the requirements of this section as
17 the Agency determines to be necessary or appro-
18 priate to carry out the purposes and objectives of
19 this section.

20 “(3) GUIDANCE.—The Agency shall issue guid-
21 ance designed to facilitate compliance with the re-
22 quirements of this section, including assisting finan-
23 cial institutions in working with applicants to deter-
24 mine whether the applicants are women- or minor-
25 ity-owned for the purposes of this section.’”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 Section 701(b) of the Equal Credit Opportunity Act (15
3 U.S.C. 1691(b)) is amended—

4 (1) by striking “or” after the semicolon at the
5 end of paragraph (3);

6 (2) by striking the period at the end of para-
7 graph (4) and inserting “; or”; and

8 (3) by inserting after paragraph (4), the fol-
9 lowing new paragraph:

10 “(5) to make an inquiry under section 704B in
11 accordance with the requirements of such section.”.

12 (c) CLERICAL AMENDMENT.—The table of sections
13 for title VII of the Consumer Credit Protection Act is
14 amended by inserting after the item relating to section
15 704A the following new item:

“704B. Small business loan data collection.”.

16 (d) EFFECTIVE DATE.—This section shall take effect
17 on the designated transfer date.

18 **Subtitle H—Conforming**
19 **Amendments**

20 **SEC. 181. AMENDMENTS TO THE INSPECTOR GENERAL ACT**
21 **OF 1978.**

22 (a) ESTABLISHMENT.—Section 8G(a)(2) of the In-
23 spector General Act of 1978 (5 U.S.C. App. 3, 8G(a)(2))
24 is amended by inserting “the Consumer Financial Protec-

1 tion Agency,” before “the Consumer Product Safety Com-
2 mission,”.

3 (b) EFFECTIVE DATE.—This section shall take effect
4 on the date of the enactment of this Act.

5 **SEC. 182. AMENDMENTS TO THE PRIVACY ACT OF 1974.**

6 (a) APPLICABILITY.—Section 552a of title 5, United
7 States Code, is amended by adding at the end the fol-
8 lowing new subsection:

9 “(w) APPLICABILITY TO CONSUMER FINANCIAL PRO-
10 TECTION AGENCY.—Except as provided in the Consumer
11 Financial Protection Agency Act of 2009, this section
12 shall apply with respect to the Consumer Financial Protec-
13 tion Agency.”.

14 (b) EFFECTIVE DATE.—This section shall take effect
15 on the date of the enactment of this Act.

16 **SEC. 183. AMENDMENTS TO THE ALTERNATIVE MORTGAGE**
17 **TRANSACTION PARITY ACT OF 1982.**

18 (a) SECTION 803(1).—Section 803(1) of the Alter-
19 native Mortgage Transaction Parity Act of 1982 (12
20 U.S.C. 3802(1)) is amended by striking paragraphs (B)
21 and (C).

22 (b) SECTION 804(a).—Section 804(a) of the Alter-
23 native Mortgage Transaction Parity Act of 1982 (12
24 U.S.C. 3803(a)) is amended—

1 (1) in paragraphs (1), (2), and (3), by inserting
2 “on or before the designated transfer date, as deter-
3 mined in section 1062 of the Consumer Financial
4 Protection Agency Act of 2009” after “transactions
5 made” each place such term appears;

6 (2) in paragraph (2), by striking “and” at the
7 end;

8 (3) in paragraph (3), by striking the period at
9 the end and inserting “; and”; and

10 (4) by adding at the end the following new
11 paragraph:

12 “(4) with respect to transactions made after the
13 designated transfer date, as determined in section
14 1062 of the Consumer Financial Protection Agency
15 Act of 2009, only in accordance with regulations
16 governing alternative mortgage transactions as
17 issued by the Consumer Financial Protection Agency
18 for federally chartered housing creditors, in accord-
19 ance with the rulemaking authority granted to the
20 Consumer Financial Protection Agency with regard
21 to federally chartered housing creditors under laws
22 other than this section.”.

23 (c) SECTION 804.—Section 804 of the Alternative
24 Mortgage Transaction Parity Act of 1982 (12 U.S.C.
25 3803) is amended—

1 (1) by striking subsection (c) and inserting the
2 following new subsection:

3 “(c) EFFECT OF STATE LAW.—

4 “(1) IN GENERAL.—An alternative mortgage
5 transaction may be made by a housing creditor in
6 accordance with this section, notwithstanding any
7 State Constitution, law, or regulation that prohibits
8 an alternative mortgage transaction.

9 “(2) RULE OF CONSTRUCTION.—For purposes
10 of this subsection, a State Constitution, law, or reg-
11 ulation that prohibits an alternative mortgage trans-
12 action does not include any State Constitution, law,
13 or regulation that regulates mortgage transactions
14 generally, including any restriction on prepayment
15 penalties or late charges.”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(d) DUTIES OF CONSUMER FINANCIAL PROTECTION
19 AGENCY.—The Consumer Financial Protection Agency
20 shall—

21 “(1) review the regulations identified by the
22 Comptroller of the Currency, the National Credit
23 Union Administration, and the Director of the Office
24 of Thrift Supervision (as those regulations exist on
25 the designated transfer date, as determined in sec-

1 tion 1062 of the Consumer Financial Protection
2 Agency Act of 2009) as applicable under paragraphs
3 (1), (2), and (3) of subsection (a);

4 “(2) determine whether such regulations are
5 fair and not deceptive and otherwise meet the objec-
6 tives of section 121 of the Consumer Financial Pro-
7 tection Agency Act of 2009; and

8 “(3) prescribe regulations under subsection
9 (a)(4) after the designated transfer date, as deter-
10 mined under such Act.”.

11 (d) EFFECTIVE DATE AND SCOPE OF APPLICA-
12 TION.—

13 (1) EFFECTIVE DATE.—This section shall take
14 effect on the designated transfer date.

15 (2) SCOPE OF APPLICATION.—The amendments
16 made by subsection (a) shall not affect any trans-
17 action covered by the Alternative Mortgage Trans-
18 action Parity Act of 1982 which is entered into on
19 or before the designated transfer date.

20 **SEC. 184. AMENDMENTS TO THE CONSUMER CREDIT PRO-**
21 **TECTION ACT.**

22 (a) TRUTH IN LENDING ACT.—

23 (1) SECTION 103.—Section 103 of the Truth in
24 Lending Act (15 U.S.C. 1602) is amended by strik-

1 ing subsection (b) and inserting the following new
2 subsection:

3 “(b) AGENCY DEFINITIONS.—

4 “(1) BOARD.—The term ‘Board’ means the
5 ‘Board of Governors of the Federal Reserve System’.

6 “(2) AGENCY.—The term ‘Agency’ means the
7 Consumer Financial Protection Agency.”.

8 (2) UNIVERSAL AMENDMENT RELATING TO
9 BOARD OF GOVERNORS OF THE FEDERAL RESERVE
10 SYSTEM.—

11 (A) IN GENERAL.—Except as provided in
12 subparagraph (B), the Truth in Lending Act
13 (15 U.S.C. 1601 et seq.) is amended by striking
14 “Board” each place such term appears, includ-
15 ing in chapters 4 and 5 relating to credit billing
16 and consumer leases, and inserting “Agency”.

17 (B) EXCEPTIONS.—The amendment de-
18 scribed in subparagraph (A) shall not apply to
19 sections 108(a) (as amended by paragraph (4))
20 and 140(d)) or any reference in either such sec-
21 tion to the term “Board”.

22 (3) SECTION 105.—Section 105(b) of the Truth
23 in Lending Act (15 U.S.C. 1604(b)) is amended by
24 striking the first sentence and inserting the fol-
25 lowing: “The Agency shall publish a single, inte-

1 grated disclosure for mortgage loan transactions, in-
2 cluding real estate settlement cost statements, which
3 include the disclosure requirements of this title, in
4 conjunction with the disclosure requirements of the
5 Real Estate Settlement Procedures Act that, taken
6 together, may apply to transactions subject to both
7 or either law. The purpose of such model disclosure
8 shall be to facilitate compliance with the disclosure
9 requirements of those titles, and to aid the borrower
10 or lessee in understanding the transaction by uti-
11 lizing readily understandable language to simplify
12 the technical nature of the disclosures.”.

13 (4) SECTION 108.—Section 108 of the Truth in
14 Lending Act (15 U.S.C. 1607) is amended—

15 (A) by striking subsection (a) and insert-
16 ing the following new subsection:

17 “(a) ENFORCING AGENCIES.—Subject to section 122
18 of the Consumer Financial Protection Agency Act of 2009,
19 compliance with the requirements imposed under this title
20 shall be enforced as follows:

21 “(1) Under section 8 of the Federal Deposit In-
22 surance Act, in the case of—

23 “(A) national banks, and Federal branches
24 and Federal agencies of foreign banks, by the

1 head of the agency responsible for chartering
2 and regulating national banks;

3 “(B) member banks of the Federal Reserve
4 System (other than national banks), branches
5 and agencies of foreign banks (other than Fed-
6 eral branches, Federal agencies, and insured
7 State branches of foreign banks), commercial
8 lending companies owned or controlled by for-
9 eign banks, and organizations operating under
10 section 25 or 25(a) of the Federal Reserve Act,
11 by the Board;

12 “(C) depository institution insured by the
13 Federal Deposit Insurance Corporation (other
14 than members of the Federal Reserve System,
15 Federal savings associations, and savings and
16 loan holding companies) and insured State
17 branches of foreign banks, by the Board of Di-
18 rectors of the Federal Deposit Insurance Cor-
19 poration; and

20 “(D) Federal savings associations and sav-
21 ings and loan holding companies, by the Direc-
22 tor of the Office of Thrift Supervision.

23 “(2) Under subtitle E of the Consumer Finan-
24 cial Protection Agency Act of 2009, by the Agency.

1 “(3) Under the Federal Credit Union Act, by
2 the head of the agency responsible for chartering
3 and regulating Federal credit unions.

4 “(4) Under the Federal Aviation Act of 1958,
5 by the Secretary of Transportation with respect to
6 any air carrier or foreign air carrier subject to that
7 Act.

8 “(5) Under the Packers and Stockyards Act,
9 1921 (except as provided in section 406 of that Act),
10 by the Secretary of Agriculture with respect to any
11 activities subject to that Act.

12 “(6) Under the Farm Credit Act of 1971, by
13 the Farm Credit Administration with respect to any
14 Federal land bank, Federal land bank association,
15 Federal intermediate credit bank, or production
16 credit association.”; and

17 (B) by striking subsection (c) and insert-
18 ing the following new subsection:

19 “(c) OVERALL ENFORCEMENT AUTHORITY OF THE
20 FEDERAL TRADE COMMISSION.—Except to the extent
21 that enforcement of the requirements imposed under this
22 title is specifically committed to some other Government
23 agency under subsection (a) and subject to section 122
24 of the Consumer Financial Protection Agency Act of 2009,
25 the Federal Trade Commission shall enforce such require-

1 ments. For the purpose of the exercise by the Federal
2 Trade Commission of its functions and powers under the
3 Federal Trade Commission Act, a violation of any require-
4 ment imposed under this title shall be deemed a violation
5 of a requirement imposed under that Act. All of the func-
6 tions and powers of the Federal Trade Commission under
7 the Federal Trade Commission Act are available to the
8 Commission to enforce compliance by any person with the
9 requirements under this title, irrespective of whether that
10 person is engaged in commerce or meets any other juris-
11 dictional tests in the Federal Trade Commission Act.”.

12 (5) UNIVERSAL AMENDMENT RELATING TO THE
13 FEDERAL TRADE COMMISSION.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), the Truth in Lending Act
16 (15 U.S.C. 1601 et seq.) is amended by striking
17 “Federal Trade Commission” each place such
18 term appears and inserting “Agency”.

19 (B) EXCEPTIONS.—The amendment de-
20 scribed in subparagraph (A) shall not apply to
21 sections 108(c) (as amended by paragraph (4))
22 and 129(m) (as amended by paragraph (7)) or
23 any reference in either such section to the term
24 “Federal Trade Commission”.

1 (6) SECTION 127.—Subparagraph (C) of section
2 127(b)(11) of the Truth in Lending Act (15 U.S.C.
3 1637(b)(11)) is amended to read as follows:

4 “(C) Notwithstanding subparagraphs (A)
5 and (B), in the case of a creditor with respect
6 to which compliance with this title is enforced
7 by the Agency, the following statement, in a
8 prominent location on the front of the billing
9 statement, disclosed clearly and conspicuously:
10 ‘Minimum Payment Warning: Making only the
11 required minimum payment will increase the in-
12 terest you pay and the time it takes to repay
13 your balance. For example, making only the
14 typical 5 percent minimum monthly payment on
15 a balance of \$300 at an interest rate of 17 per-
16 cent would take 24 months to repay the balance
17 in full. For an estimate of the time it would
18 take to repay your balance, making only min-
19 imum monthly payments, call the Consumer Fi-
20 nancial Protection Agency at this toll-free num-
21 ber: _____ [the blank space to
22 be filled in by the creditor].’ A creditor who is
23 subject to this subparagraph shall not be sub-
24 ject to subparagraph (A) or (B).”.

1 (7) SECTION 129.—Section 129(m) of the Truth
2 in Lending Act (15 U.S.C. 1639(m)) is amended to
3 read as follows:

4 “(m) CIVIL PENALTIES IN FEDERAL TRADE COM-
5 MISSION ENFORCEMENT ACTIONS.—For purposes of en-
6 forcement by the Federal Trade Commission, any violation
7 of a regulation issued by the Agency pursuant to sub-
8 section (l)(2) of this section shall be treated as a violation
9 of a regulation promulgated under section 18 of the Fed-
10 eral Trade Commission Act (15 U.S.C. 57a) regarding un-
11 fair or deceptive acts or practices.”.

12 (b) FAIR CREDIT REPORTING ACT.—

13 (1) SECTION 603.—Section 603 of the Fair
14 Credit Reporting Act (15 U.S.C. 1681a) is amend-
15 ed—

16 (A) by redesignating subsections (w) and
17 (x) as subsections (x) and (y), respectively; and

18 (B) by inserting after subsection (v) the
19 following new subsection:

20 “(w) AGENCY.—The term ‘Agency’ means the Con-
21 sumer Financial Protection Agency.”.

22 (2) UNIVERSAL AMENDMENTS RELATING TO
23 THE FEDERAL TRADE COMMISSION.—Other than in
24 connection with the amendment made by paragraph

1 (7)(A), the Fair Credit Reporting Act (15 U.S.C.
2 1681a) is amended—

3 (A) by striking “Federal Trade Commis-
4 sion” each place such term appears and insert-
5 ing “Agency”;

6 (B) by striking “Commission” each place
7 such term appears (other than in connection
8 with the term amended in subparagraph (A))
9 and inserting “Agency”; and

10 (C) by striking “Federal banking agencies,
11 the National Credit Union Administration, and
12 the Commission shall jointly” each place such
13 term appears in sections 605(h)(2), 615(e)(1),
14 623(a)(8)(A), 623(e)(1), 628(a)(1), and
15 628(a)(3) and inserting “Agency shall”.

16 (3) SECTION 603.—Section 603(k)(2) of the
17 Fair Credit Reporting Act (15 U.S.C. 1681a(k)(2))
18 is amended by striking “Board of Governors of the
19 Federal Reserve System” and inserting “Agency”.

20 (4) SECTION 604.—Subsection 604(g) of the
21 Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is
22 amended—

23 (A) by striking subparagraph (C) of para-
24 graph (3) and inserting the following new sub-
25 sections:

1 “(C) as otherwise determined to be nec-
2 essary and appropriate, by regulation or order
3 and subject to paragraph (6), by the Agency
4 (consistent with the enforcement authorities
5 prescribed under paragraph (2) of section
6 621(b)), or the applicable State insurance au-
7 thority (with respect to any person engaged in
8 providing insurance or annuities).”;

9 (B) by striking paragraph (5) and insert-
10 ing the following new paragraph:

11 “(5) REGULATIONS AND EFFECTIVE DATE FOR
12 PARAGRAPH (2).—

13 “(A) REGULATIONS REQUIRED.—The
14 Agency may, after notice and opportunity for
15 comment, prescribe regulations that permit
16 transactions under paragraph (2) that are de-
17 termined to be necessary and appropriate to
18 protect legitimate operational, transactional,
19 risk, consumer, and other needs (and which
20 shall include permitting actions necessary for
21 administrative verification purposes), consistent
22 with the intent of paragraph (2) to restrict the
23 use of medical information for inappropriate
24 purposes.”; and

25 (C) by striking paragraph (6).

1 (5) SECTION 611.—Subsection 611(e)(2) of the
2 Fair Credit Reporting Act (15 U.S.C.1681i(e)(2)) is
3 amended to read as follows:

4 “(2) EXCLUSION.—Complaints received or ob-
5 tained by the Agency pursuant to its investigative
6 authority under the Consumer Financial Protection
7 Agency Act of 2009 shall not be subject to para-
8 graph (1).”.

9 (6) SECTION 615.—Subparagraph 615(h)(6)(A)
10 of the Fair Credit Reporting Act (15 U.S.C.
11 1681m(h)(6)(A)) is amended to read as follows:

12 “(A) REGULATIONS REQUIRED.—The
13 Agency shall prescribe regulations.”.

14 (7) SECTION 621.—Section 621 of the Fair
15 Credit Reporting Act (15 U.S.C. 1681s) is amend-
16 ed—

17 (A) by striking subsection (a) and insert-
18 ing the following new subsection:

19 “(a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
20 SION.—

21 “(1) IN GENERAL.—Subject to section 122 of
22 the Consumer Financial Protection Agency Act of
23 2009, compliance with the requirements imposed
24 under this title shall be enforced under the Federal
25 Trade Commission Act by the Federal Trade Com-

1 mission with respect to consumer reporting agencies
2 and all other persons subject thereto, except to the
3 extent that enforcement of the requirements imposed
4 under this title is specifically committed to some
5 other government agency under subsection (b) here-
6 of. For the purpose of the exercise by the Federal
7 Trade Commission of its functions and powers under
8 the Federal Trade Commission Act, a violation of
9 any requirement or prohibition imposed under this
10 title shall constitute an unfair or deceptive act or
11 practice in commerce in violation of section 5(a) of
12 the Federal Trade Commission Act and shall be sub-
13 ject to enforcement by the Federal Trade Commis-
14 sion under section 5(b) of such Act with respect to
15 any consumer reporting agency or person subject to
16 enforcement by the Federal Trade Commission pur-
17 suant to this subsection, irrespective of whether that
18 person is engaged in commerce or meets any other
19 jurisdictional tests in the Federal Trade Commission
20 Act. The Federal Trade Commission shall have such
21 procedural, investigative, and enforcement powers
22 (subject to section 122 of the Consumer Financial
23 Protection Agency Act of 2009), including the power
24 to issue procedural rules in enforcing compliance
25 with the requirements imposed under this title and

1 to require the filing of reports, the production of
2 documents, and the appearance of witnesses as
3 though the applicable terms and conditions of the
4 Federal Trade Commission Act were part of this
5 title.

6 “(2) CIVIL MONEY PENALTIES.—

7 “(A) IN GENERAL.—Subject to section 122
8 of the Consumer Financial Protection Agency
9 Act of 2009, in the event of a knowing viola-
10 tion, which constitutes a pattern or practice of
11 violations of this title, the Commission may
12 commence a civil action to recover a civil pen-
13 alty in a district court of the United States
14 against any person that violates this title. In
15 such action, such person shall be liable for a
16 civil penalty of not more than \$2,500 per viola-
17 tion.

18 “(B) FACTORS IN DETERMINING
19 AMOUNT.—In determining the amount of a civil
20 penalty under subparagraph (A), the court shall
21 take into account the degree of culpability, any
22 history of prior such conduct, ability to pay, ef-
23 fect on ability to continue to do business, and
24 such other matters as justice may require.

1 “(3) EXCEPTION.—Notwithstanding paragraph
2 (2), a court may not impose any civil penalty on a
3 person for a violation of section 623(a)(1) unless the
4 person has been enjoined from committing the viola-
5 tion, or ordered not to commit the violation, in an
6 action or proceeding brought by or on behalf of the
7 Agency, and has violated the injunction or order,
8 and the court may not impose any civil penalty for
9 any violation occurring before the date of the viola-
10 tion of the injunction or order.”;

11 (B) by striking subsection (b) and insert-
12 ing the following new subsection:

13 “(b) ENFORCEMENT BY OTHER AGENCIES.—Subject
14 to section 122 of the Consumer Financial Protection
15 Agency Act of 2009, compliance with the requirements im-
16 posed under this title with respect to consumer reporting
17 agencies, persons who use consumer reports from such
18 agencies, persons who furnish information to such agen-
19 cies, and users of information that are subject to sub-
20 section (d) of section 615 shall be enforced as follows:

21 “(1) Under section 8 of the Federal Deposit In-
22 surance Act, in the case of—

23 “(A) national banks, and Federal branches
24 and Federal agencies of foreign banks, by the

1 head of the agency responsible for chartering
2 and regulating national banks;

3 “(B) member banks of the Federal Reserve
4 System (other than national banks), branches
5 and agencies of foreign banks (other than Fed-
6 eral branches, Federal agencies, and insured
7 State branches of foreign banks), commercial
8 lending companies owned or controlled by for-
9 eign banks, and organizations operating under
10 section 25 or 25A of the Federal Reserve Act,
11 by the Board of Governors of the Federal Re-
12 serve System;

13 “(C) banks insured by the Federal Deposit
14 Insurance Corporation (other than members of
15 the Federal Reserve System, Federal savings
16 associations, and savings and loan holding com-
17 panies) and insured State branches of foreign
18 banks, by the Board of Directors of the Federal
19 Deposit Insurance Corporation; and

20 “(D) Federal savings associations and sav-
21 ings and loan holding companies, by the Direc-
22 tor of the Office of Thrift Supervision.

23 “(2) Under subtitle E of the Consumer Finan-
24 cial Protection Agency Act of 2009, by the Agency.

1 “(3) Under the Federal Credit Union Act, by
2 the National Credit Union Administration Board
3 with respect to any Federal credit union.

4 “(4) Under subtitle IV of title 49, United
5 States Code, by the Secretary of Transportation,
6 with respect to all carriers subject to the jurisdiction
7 of the Surface Transportation Board.

8 “(5) Under the Federal Aviation Act of 1958,
9 by the Secretary of Transportation with respect to
10 any air carrier or foreign air carrier subject to that
11 Act.

12 “(6) Under the Packers and Stockyards Act,
13 1921 (except as provided in section 406 of that Act),
14 by the Secretary of Agriculture with respect to any
15 activities subject to that Act.

16 “(7) Under the Commodity Exchange Act, with
17 respect to a person subject to the jurisdiction of the
18 Commodity Futures Trading Commission.

19 “(8) Under the Federal securities laws and any
20 other laws subject to the jurisdiction of the Securi-
21 ties and Exchange Commission, with respect to a
22 person subject to the jurisdiction of the Securities
23 and Exchange Commission

24 ““Any term used in paragraph (1) that is not defined in
25 this title or otherwise defined in section 3(s) of the Federal

1 Deposit Insurance Act shall have the meaning given to
2 such term in section 1(b) of the International Banking Act
3 of 1978.’”;

4 (C) by striking subsection (e) and inserting
5 the following new subsection:

6 “(e) REGULATORY AUTHORITY.—

7 “(1) IN GENERAL.—

8 “(A) AGENCY.—Except as provided under
9 subparagraph (B), the Agency shall prescribe
10 such regulations as necessary to carry out the
11 purposes of this Act with respect to a covered
12 person described in subsection (b).

13 “(B) COMMISSION.—The Commission shall
14 prescribe such regulations as necessary to carry
15 out the purposes of this Act with respect to
16 consumer reporting agencies.

17 “(2) SCOPE OF APPLICATION.—The regulations
18 prescribed by the Agency under paragraph (1) shall
19 apply to any person subject to this Act, notwith-
20 standing the enforcement authorities granted to
21 other agencies under this section”; and

22 (D) in the heading of subsection (g) by
23 striking “FTC”.

1 (8) SECTION 623.—Section 623 of the Fair
2 Credit Reporting Act (15 U.S.C. 1681s–2) is
3 amended—

4 (A) by amending subparagraph (a)(7)(D)
5 to read as follows:

6 “(D) MODEL DISCLOSURE.—

7 “(i) DUTY OF AGENCY TO PRE-
8 PARE.—The Agency shall prescribe a brief
9 model disclosure a financial institution
10 may use to comply with subparagraph (A),
11 which shall not exceed 30 words.

12 “(ii) USE OF MODEL NOT RE-
13 QUIRED.—No provision of this paragraph
14 shall be construed as requiring a financial
15 institution to use any such model form pre-
16 scribed by the Agency.

17 “(iii) COMPLIANCE USING MODEL.—A
18 financial institution shall be deemed to be
19 in compliance with subparagraph (A) if the
20 financial institution uses any such model
21 form prescribed by the Agency, or the fi-
22 nancial institution uses any such model
23 form and rearranges its format.”.

24 (B) by amending subsection (e) to read as
25 follows:

1 “(e) ACCURACY GUIDELINES AND REGULATIONS RE-
2 QUIRED.—

3 “(1) GUIDELINES.—The Agency shall, with re-
4 spect to the persons or entities that are subject to
5 its enforcement authority under section 621—

6 “(A) establish and maintain guidelines for
7 use by each person that furnishes information
8 to a consumer reporting agency regarding the
9 accuracy and integrity of the information relat-
10 ing to consumers that such entities furnish to
11 consumer reporting agencies, and update such
12 guidelines as often as necessary; and

13 “(B) prescribe regulations requiring each
14 person that furnishes information to a con-
15 sumer reporting agency to establish reasonable
16 policies and procedures or implementing the
17 guidelines established pursuant to subpara-
18 graph (A).

19 “(2) CRITERIA.—In developing the guidelines
20 required by paragraph (1)(A), the Agency shall—

21 “(A) identify patterns, practices, and spe-
22 cific forms of activity that can compromise the
23 accuracy and integrity of information furnished
24 to consumer reporting agencies;

1 “(B) review the methods (including techno-
2 logical means) used to furnish information re-
3 lating to consumers to consumer reporting
4 agencies;

5 “(C) determine whether persons that fur-
6 nish information to consumer reporting agen-
7 cies maintain and enforce policies to ensure the
8 accuracy and integrity of information furnished
9 to consumer reporting agencies; and

10 “(D) examine the policies and processes
11 that persons that furnish information to con-
12 sumer reporting agencies employ to conduct re-
13 investigations and correct inaccurate informa-
14 tion relating to consumers that has been fur-
15 nished to consumer reporting agencies.”

16 (c) EQUAL CREDIT OPPORTUNITY ACT.—

17 (1) SECTION 701.—Section 701 of the Equal
18 Credit Opportunity Act (15 U.S.C. 1691) is amend-
19 ed by striking “Board” each place such term ap-
20 pears and inserting “Agency”.

21 (2) SECTION 702.—Section 702(c) of the Equal
22 Credit Opportunity Act (15 U.S.C. 1691a) is
23 amended to read as follows:

24 “(c) The term ‘Agency’ means the Consumer Finan-
25 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 subject to the juris-
5 diction of the Agency under that Act, but not with
6 respect to the standards under section 501.”.

7 (2) Section 505(b)(1) of the Gramm-Leach-Bliley
8 Act (15 U.S.C. 6805(b)(1)) is amended by in-
9 serting “, other than the Consumer Financial Pro-
10 tection Agency,” after “described in subsection (a)”.

11 **SEC. 188. AMENDMENTS TO THE HOME MORTGAGE DISCLO-**
12 **SURE ACT OF 1975.**

13 (a) SECTION 303.—Section 303 of the Home Mort-
14 gage Disclosure Act of 1975 (12 U.S.C. 2802) is amend-
15 ed—

16 (1) by redesignating paragraphs (1), (2), (3),
17 (4), (5), and (6) as paragraphs (2), (3), (4), (5),
18 (6), and (7), respectively; and

19 (2) by inserting before paragraph (2) (as so re-
20 designated) the following new paragraph:

21 “(1) The term ‘Agency’ means the Consumer
22 Financial Protection Agency.”.

23 (b) UNIVERSAL AMENDMENT RELATING TO AGEN-
24 CY.—Except as provided in subsections (c), (d), (e), and
25 (f), the Home Mortgage Disclosure Act of 1975 (12

1 U.S.C. 2801–11) is amended by striking “Board” each
2 place such term appears and inserting “Agency”.

3 (c) SECTION 304.—Section 304 of the Home Mort-
4 gage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is
5 amended—

6 (1) in subsection (b)—

7 (A) by striking “and” after the semicolon
8 at the end of paragraph (3);

9 (B) by striking “and gender” in paragraph
10 (4), and inserting “age, and gender”;

11 (C) by striking the period at the end of
12 paragraph (4) and inserting a semicolon; and

13 (D) by inserting after paragraph (4) the
14 following new paragraphs:

15 “(5) the number and dollar amount of mort-
16 gage loans grouped according to the following meas-
17 urements:

18 “(A) the total points and fees payable at
19 origination in connection with the mortgage as
20 determined by the Agency, taking into account
21 15 U.S.C. 1602(aa)(4);

22 “(B) the difference between the annual
23 percentage rate associated with the loan and a
24 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 proscribe; and

15 “(J) such other information as the Agency
16 may require.”;

17 (2) by striking subsection (h) and inserting the
18 following new subsection:

19 “(h) SUBMISSION TO AGENCIES.—

20 “(1) IN GENERAL.—The data required to be
21 disclosed under subsection (b) shall be submitted to
22 the Agency or to the appropriate agency for any in-
23 stitution reporting under this title, in accordance
24 with regulations prescribed by the Agency.

1 “(2) REGULATIONS.— Notwithstanding the re-
2 quirement of section 304(a)(2)(A) for disclosure by
3 census tract, the Agency, in cooperation with other
4 appropriate regulators, including—

5 “(A) the head of the agency responsible for
6 chartering and regulating national banks for
7 national banks and Federal branches, Federal
8 agencies of foreign banks, and savings associa-
9 tions;

10 “(B) the Federal Deposit Insurance Cor-
11 poration for depository institutions insured by
12 the Federal Deposit Insurance Corporation
13 (other than members of the Federal Reserve
14 System, Federal savings associations, and sav-
15 ings and loan holding companies) and insured
16 State branches of foreign banks;

17 “(C) the Director of the Office of Thrift
18 Supervision for Federal savings associations
19 and savings and loan holding companies;

20 “(D) the National Credit Union Adminis-
21 tration Board for credit unions; and

22 “(E) the Secretary of Housing and Urban
23 Development for other lending institutions not
24 regulated by an agency referred to in subpara-
25 graphs (A), (B), (C), or (D),

1 shall develop regulations prescribing the format for
2 such disclosures, the method for submission of the
3 data to the appropriate regulatory agency, and the
4 procedures for disclosing the information to the pub-
5 lic.

6 “(3) REQUIRED DISCLOSURES.—The regula-
7 tions prescribed under paragraph (2) shall require
8 the collection of data required to be disclosed under
9 subsection (b) with respect to loans sold by each in-
10 stitution reporting under this title, and, in addition,
11 shall require disclosure of the class of the purchaser
12 of such loans.

13 “(4) ADDITIONAL DATA OR EXPLANATIONS.—
14 Any reporting institution may submit in writing to
15 the Agency or to the appropriate agency such addi-
16 tional data or explanations as it deems relevant to
17 the decision to originate or purchase mortgage
18 loans.”;

19 (3) in subsection (i), by striking “subsection
20 (b)(4)” and inserting “paragraphs (4), (5), and (6)
21 of subsections (b)”;

22 (4) in subsection (j)—

23 (A) by striking “(as” where such term ap-
24 pears in paragraph (1) and inserting “(con-
25 taining loan-level and application-level informa-

1 tion relating to disclosures required under sub-
2 sections (a) and (b) and as otherwise”;

3 (B) by striking “in the format in which
4 such information is maintained by the institu-
5 tion” where such term appears in paragraph
6 (2)(A), and inserting “in such formats as the
7 Agency may require”;

8 (C) by inserting “credit score or similar
9 measurement,” after “number,” where such
10 term appears in paragraph (2)(B)(i); and

11 (D) by striking paragraph (3) and insert-
12 ing the following new paragraph:

13 “(3) CHANGE OF FORM NOT REQUIRED.—A de-
14 pository institution meets the disclosure requirement
15 of paragraph (1) if the institution provides the infor-
16 mation required under such paragraph in such for-
17 mats as the Agency may require.”; and

18 (5) by striking paragraph (2) of subsection (m)
19 and inserting the following new paragraph:

20 “(2) FORM OF INFORMATION.—In complying
21 with paragraph (1), a depository institution shall
22 provide the person requesting the information with
23 a copy of the information requested in such formats
24 as the Agency may require.”.

1 (d) SECTION 305.—Section 305 of the Home Mort-
2 gage Disclosure Act of 1975 (12 U.S.C. 2804) is amend-
3 ed—

4 (1) by striking subsection (b) and inserting the
5 following new subsection:

6 “(b) POWERS OF CERTAIN OTHER AGENCIES.—Com-
7 pliance with the requirements imposed under this title
8 shall be enforced under—

9 “(1) section 8 of the Federal Deposit Insurance
10 Act, in the case of—

11 “(A) national banks, and Federal branches
12 and Federal agencies of foreign banks, by the
13 head of the agency responsible for chartering
14 and regulating national banks;

15 “(B) member banks of the Federal Reserve
16 System (other than national banks), branches
17 and agencies of foreign banks (other than Fed-
18 eral branches, Federal agencies, and insured
19 State branches of foreign banks), commercial
20 lending companies owned or controlled by for-
21 eign banks, and organizations operating under
22 section 25 or 25(a) of the Federal Reserve Act,
23 by the Board;

24 “(C) depository institutions insured by the
25 Federal Deposit Insurance Corporation (other

1 than members of the Federal Reserve System,
2 Federal savings associations, and savings and
3 loan holding companies) and insured State
4 branches of foreign banks, by the Board of Di-
5 rectors of the Federal Deposit Insurance Cor-
6 poration; and

7 “(D) Federal savings associations, and
8 savings and loan holding companies, by the Di-
9 rector of the Office of Thrift Supervision;

10 “(2) subtitle E of the Consumer Financial Pro-
11 tection Agency Act of 2009, by the Agency;

12 “(3) the Federal Credit Union Act, by the Ad-
13 ministrator of the National Credit Union Adminis-
14 tration with respect to any credit union; and

15 “(4) other lending institutions, by the Secretary
16 of Housing and Urban Development. The terms
17 used in paragraph (1) that are not defined in this
18 title or otherwise defined in section 3(s) of the Fed-
19 eral Deposit Insurance Act (12 U.S.C. 1813(s))
20 shall have the meaning given to them in section 1(b)
21 of the International Banking Act of 1978 (12 U.S.C.
22 3101).

23 The terms used in paragraph (1) that are not defined in
24 this title or otherwise defined in section 3(s) of the Federal
25 Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the

1 meaning given to them in section 1(b) of the International
2 Banking Act of 1978”; and

3 (2) by inserting at the end of section 305 the
4 following new subsection:

5 “(d) OVERALL ENFORCEMENT AUTHORITY OF THE
6 CONSUMER FINANCIAL PROTECTION AGENCY.—Subject
7 to section 122 of the Consumer Financial Protection
8 Agency Act of 2009, enforcement of the requirements im-
9 posed under this title is committed to each of the agencies
10 under subsection (b). The Agency may exercise its authori-
11 ties under the Consumer Financial Protection Agency Act
12 of 2009 to exercise principal authority to examine and en-
13 force compliance by any person with the requirements
14 under this title.”.

15 (e) SECTION 306.—Subsection 306(b) of the Home
16 Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)) is
17 amended to read as follows:

18 “(b) The Agency may, by regulation, exempt from the
19 requirements of this title any State chartered depository
20 institution within any State or subdivision of any state if
21 the Agency determines that, under the law of such State
22 or subdivision, that institution is subject to requirements
23 substantially similar to those imposed under this title, and
24 that such law contains adequate provisions for enforce-
25 ment. Notwithstanding any other provision of this sub-

1 section, compliance with the requirements imposed under
2 this subsection shall be enforced by the head of the agency
3 responsible for chartering and regulating national banks
4 under section 8 of the Federal Deposit Insurance Act in
5 the case of national banks and savings association the de-
6 posits of which are insured by the Federal Deposit Insur-
7 ance Corporation.”.

8 (f) SECTION 307.—Section 307 of the Home Mort-
9 gage Disclosure Act of 1975 (12 U.S.C. 2806) is amended
10 to read as follows:

11 **“SEC. 307. RESEARCH AND IMPROVED METHODS.**

12 “(a) ENHANCED COMPLIANCE IN ECONOMICAL MAN-
13 NER.—

14 “(1) IN GENERAL.—The Director of the Con-
15 sumer Financial Protection Agency, with the assist-
16 ance of the Secretary, the Director of the Bureau of
17 the Census, the Board of Governors of the Federal
18 Reserve System, the Federal Deposit Insurance Cor-
19 poration, and such other persons as the Consumer
20 Financial Protection Agency deems appropriate,
21 shall develop or assist in the improvement of, meth-
22 ods of matching addresses and census tracts to fa-
23 cilitate compliance by depository institutions in as
24 economical a manner as possible with the require-
25 ments of this title.

1 “(2) AUTHORIZATION OF APPROPRIATION.—

2 There is authorized to be appropriated such sums as
3 may be necessary to carry out this subsection.

4 “(3) AUTHORITY OF AGENCY.—The Director of
5 the Consumer Financial Protection Agency is au-
6 thorized to utilize, contract with, act through, or
7 compensate any person or agency in order to carry
8 out this subsection.

9 “(b) RECOMMENDATIONS TO THE CONGRESS.—The
10 Director of the Consumer Financial Protection Agency
11 shall recommend to the Committee on Financial Services
12 of the House of Representatives and the Committee on
13 Banking, Housing, and Urban Affairs of the Senate such
14 additional legislation as the Director of the Consumer Fi-
15 nancial Protection Agency deems appropriate to carry out
16 the purpose of this title.”.

17 **SEC. 189. AMENDMENTS TO DIVISION D OF THE OMNIBUS**
18 **APPROPRIATIONS ACT, 2009.**

19 (a) Section 626(a) of title VI of division D of the
20 Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 nt.)
21 (as amended by the Credit Card Accountability Respon-
22 sibility and Disclosure Act of 2009) is amended—

23 (1) by striking by paragraph (1) and inserting
24 the following new paragraph:

1 “(1) The Director of the Consumer Financial
2 Protection Agency shall have authority to prescribe
3 regulations with respect to mortgage loans in ac-
4 cordance with section 553 of title 5, United States
5 Code. Such rulemaking shall relate to unfair or de-
6 ceptive acts or practices regarding mortgage loans,
7 which may include unfair or deceptive acts or prac-
8 tices involving loan modification and foreclosure res-
9 cue services. Any violation of a regulation prescribed
10 under this subsection shall be treated as a violation
11 of a regulation prohibiting unfair, deceptive, or abu-
12 sive acts or practices under the Consumer Financial
13 Protection Agency Act of 2009.”;

14 (2) by striking paragraph (2);

15 (3) by striking paragraph (3); and

16 (4) by striking paragraph (4) and inserting the
17 following new paragraph:

18 “(2) The Director of the Consumer Financial
19 Protection Agency shall enforce the regulations
20 issued under paragraph (1) in the same manner, by
21 the same means, and with the same jurisdiction,
22 powers, and duties as though all applicable terms
23 and provisions of the Consumer Financial Protection
24 Agency Act of 2009 were incorporated into and
25 made part of this section.”.

1 (b) Section 626(b) of title VI of division D of the
2 Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 nt.)
3 is amended—

4 (1) by striking “Federal Trade Commission”
5 and inserting “Consumer Financial Protection Agen-
6 cy”;

7 (2) by striking “the Commission” and inserting
8 “the Consumer Financial Protection Agency”; and

9 (3) by striking “primary Federal regulatory”
10 and inserting “Consumer Financial Protection Agen-
11 cy”.

12 **SEC. 190. AMENDMENTS TO THE HOMEOWNERS PROTEC-**
13 **TION ACT OF 1998.**

14 Section 10 of the Homeowners Protection Act of
15 1998 (12 U.S.C. 4909) is amended—

16 (1) in that portion of subsection (a) that pre-
17 cedes paragraph (1), subsection (a), by striking
18 “Compliance” and inserting “Subject to section 122
19 of the Consumer Financial Protection Agency Act of
20 2009, compliance”;

21 (2) in subsection (a)(2), by striking “and after
22 the semicolon at the end;”

23 (3) in subsection (a)(3), by striking the period
24 at the end and inserting “; and”;

1 (4) by inserting after subsection (a)(3), the fol-
2 lowing new paragraph:

3 “(4) subtitle E of the Consumer Financial Pro-
4 tection Agency Act of 2009, by the Consumer Fi-
5 nancial Protection Agency.”; and.

6 (5) in subsection (b)(2), by inserting “, subject
7 to section 122 of the Consumer Financial Protection
8 Agency Act of 2009” before the period at the end.

9 **SEC. 191. AMENDMENTS TO THE REAL ESTATE SETTLE-**
10 **MENT PROCEDURES ACT OF 1974.**

11 (a) SECTION 3.—Section 3 of the Real Estate Settle-
12 ment Procedures Act of 1974 (12 U.S.C. 2602) is amend-
13 ed by adding at the end the following new paragraph—

14 “(9) the term ‘Agency’ means the Consumer Fi-
15 nancial Protection Agency.”.

16 (b) SECTION 4.—Section 4 of the Real Estate Settle-
17 ment Procedures Act of 1974 (12 U.S.C. 2603) is amend-
18 ed—

19 (1) in subsection (a), by striking the first sen-
20 tence and inserting the following: “The Agency shall
21 publish a single, integrated disclosure for mortgage
22 loan transactions, including real estate settlement
23 cost statements, which include the disclosure re-
24 quirements of this title, in conjunction with the dis-
25 closure requirements of the Truth in Lending Act

1 (15 U.S.C. 1601 note et seq.) that, taken together,
2 may apply to transactions subject to both or either
3 law. The purpose of such model disclosure shall be
4 to facilitate compliance with the disclosure require-
5 ments of those titles, and to aid the borrower or les-
6 see in understanding the transaction by utilizing
7 readily understandable language to simplify the tech-
8 nical nature of the disclosures.”;

9 (2) by striking “Secretary” each place such
10 term appears and inserting “Agency”; and

11 (3) by striking “form” each place such term ap-
12 pears and inserting “forms”.

13 (c) SECTION 5.—Section 5 of the Real Estate Settle-
14 ment Procedures Act of 1974 (12 U.S.C. 2604) is amend-
15 ed—

16 (1) by striking “Secretary” each place such
17 term appears, and inserting “Agency”; and

18 (2) by striking the first sentence of subsection
19 (a), and inserting “The Agency shall prepare and
20 distribute booklets jointly complying with the re-
21 quirements of the Truth in Lending Act (15 U.S.C.
22 1601 note et seq.) and the provisions of this title,
23 in order to help persons borrowing money to finance
24 the purchase of residential real estate better to un-

1 understand the nature and costs of real estate settle-
2 ment services.”.

3 (d) SECTION 6.—Section 6(j)(1) of the Real Estate
4 Settlement Procedures Act of 1974 (12 U.S.C. 2605(j)(1))
5 is amended—

6 (1) by striking “Secretary” and inserting “Di-
7 rector of the Agency”; and

8 (2) by striking “by regulations that shall take
9 effect not later than April 20, 1991,” and inserting
10 “by regulation,”.

11 (e) SECTION 7.—Section 7 of the Real Estate Settle-
12 ment Procedures Act of 1974 (12 U.S.C. 2606) is amend-
13 ed by striking “Secretary” and inserting “the Director of
14 the Agency”.

15 (f) SECTION 8.—Section 8 of the Real Estate Settle-
16 ment Procedures Act of 1974 (12 U.S.C. 2607) is amend-
17 ed—

18 (1) in subsection (c)(5), by striking “prescribed
19 by the Secretary” and inserting “prescribed by the
20 Director of the Agency”; and

21 (2) in subsection (d)(4)—

22 (A) by striking “The Secretary,” and in-
23 serting “The Agency, the Secretary,”; and

24 (B) by adding at the end the following new
25 sentence: “However, to the extent that a Fed-

1 eral law authorizes the Agency and other Fed-
2 eral and State agencies to enforce or administer
3 the law, the Agency shall have primary author-
4 ity to enforce or administer that Federal law in
5 accordance with section 122 of the Consumer
6 Financial Protection Agency Act of 2009.”.

7 (g) SECTION 10.—Section 10(d) of the Real Estate
8 Settlement Procedures Act of 1974 (12 U.S.C. 2609(d))
9 is amended by striking “Secretary” and inserting “Agen-
10 cy”.

11 (h) SECTION 16.—Section 16 of the Real Estate Set-
12 tlement Procedures Act of 1974 (12 U.S.C. 2614) is
13 amended by inserting “the Agency,” before “the Sec-
14 retary”.

15 (i) SECTION 18.—Section 18 of the Real Estate Set-
16 tlement Procedures Act of 1974 (12 U.S.C. 2616) is
17 amended by striking “Secretary” and inserting “Agency”.

18 (j) SECTION 19.—Section 19 of the Real Estate Set-
19 tlement Procedures Act of 1974 (12 U.S.C. 2617) is
20 amended by striking “Secretary” each place where such
21 term appears and inserting “Agency”.

1 **SEC. 192. AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-**
2 **VACY ACT OF 1978.**

3 (a) AMENDMENTS TO SECTION 1101.—Section 1101
4 of the Right to Financial Privacy Act of 1978 (12 U.S.C.
5 3401) is amended—

6 (1) by striking paragraph (1) and inserting the
7 following new paragraph:

8 “(1) ‘financial institution’ means any bank, sav-
9 ings association, card issuer as defined in section
10 103(n) of the Truth in Lending Act, credit union, or
11 consumer finance institution located in any State or
12 territory of the United States, the District of Colum-
13 bia, Puerto Rico, Guam, American Samoa, or the
14 Virgin Islands;” and

15 (2) in paragraph (7)—

16 (A) by redesignating subparagraphs (F),
17 (G), (H), and (I) as subparagraphs (G), (H),
18 (I), and (J), respectively; and

19 (B) by inserting after subparagraph (E)
20 the following new subparagraph:

21 “(F) the Consumer Financial Protection
22 Agency;”.

23 (b) AMENDMENTS TO SECTION 1112.—Section
24 1112(e) of the Right to Financial Privacy Act (12 U.S.C.
25 3412) is amended by striking “and the Commodity Fu-
26 tures Trading Commission is permitted” and inserting

1 “the Commodity Futures Trading Commission, and the
2 Consumer Financial Protection Agency is permitted”.

3 (c) AMENDMENTS TO SECTION 1113.—Section 1113
4 of the Right to Financial Privacy Act (12 U.S.C. 3413)
5 is amended by adding at the end the following new sub-
6 section—

7 “(r) DISCLOSURE TO THE CONSUMER FINANCIAL
8 PROTECTION AGENCY.—Nothing in this chapter shall
9 apply to the examination by or disclosure to the Consumer
10 Financial Protection Agency of financial records or infor-
11 mation in the exercise of its authority with respect to a
12 financial institution.”.

13 **SEC. 193. AMENDMENTS TO THE SECURE AND FAIR EN-**
14 **FORCEMENT FOR MORTGAGE LICENSING ACT**
15 **OF 2008.**

16 (a) SECTION 1503.—Section 1503 of the Secure and
17 Fair Enforcement for Mortgage Licensing Act of 2008 (12
18 U.S.C. 5102) is amended—

19 (1) by striking paragraph (9);

20 (2) by redesignating existing paragraph (1) as
21 paragraph (2), redesignating existing paragraph (2)
22 as paragraph (1), and moving paragraph (2) (as so
23 redesignated) and inserting such paragraph after
24 paragraph (1) (as so redesignated);

1 (3) by redesignating paragraphs (1), (2), (3),
2 (4), (5), (6), (7), (8), (10), (11), and (12), as so re-
3 designated by paragraph (2), as paragraphs (2), (4),
4 (5), (6), (7), (8), (9), (10), (11), (12), and (13), re-
5 spectively;

6 (4) by inserting before paragraph (2), as so re-
7 designated by paragraph (3), the following new
8 paragraphs:

9 “(1) AGENCY.—The term ‘Agency’ means the
10 Consumer Financial Protection Agency.”; and

11 (5) by inserting after paragraph (2), as so re-
12 designated by paragraph (3), the following new
13 paragraph:

14 “(3) DIRECTOR.—The term ‘Director’ means
15 the Director of the Agency.”.

16 (b) UNIVERSAL AMENDMENTS RELATING TO AGEN-
17 CY.—The Secure and Fair Enforcement for Mortgage Li-
18 censing Act of 2008 (12 U.S.C. 5101 et seq.) is amend-
19 ed—

20 (1) by striking “a Federal banking agency”
21 each place such term appears (other than in connec-
22 tion with a reference that is specifically amended by
23 another provision of this section) and inserting “the
24 Agency”;

1 (2) by striking “Federal banking agencies”
2 each place such term appears (other than in connec-
3 tion with a reference that is specifically amended by
4 another provision of this section) and inserting
5 “Agency”; and

6 (3) by striking “Secretary” each place such
7 term appears (other than in connection with a ref-
8 erence that is specifically amended by another provi-
9 sion of this section) and inserting “Director”.

10 (c) SECTION 1507.—Section 1507 of the Secure and
11 Fair Enforcement for Mortgage Licensing Act of 2008 (12
12 U.S.C. 5106) is amended—

13 (1) in subsection (a)—

14 (A) by striking paragraph (1) and insert-
15 ing the following new paragraph:

16 “(1) IN GENERAL.—The Agency shall develop
17 and maintain a system for registering employees of
18 a of a depository institution, employees of a sub-
19 sidiary that is owned and controlled by a depository
20 institution and regulated by a Federal banking agen-
21 cy, or employees of an institution regulated by the
22 Farm Credit Administration, as registered loan
23 originators with the Nationwide Mortgage Licensing
24 System and Registry. The system shall be imple-
25 mented before July 30, 2010.”; and

1 (B) by striking “appropriate Federal bank-
2 ing agency and the Farm Credit Administra-
3 tion” where such term appears in paragraph
4 (2) and inserting “Agency”;

5 (2) in subsection (b), by striking “Federal
6 banking agencies, through the Financial Institutions
7 Examination Council and the Farm Credit Adminis-
8 tration”, and inserting “Agency”; and

9 (3) in subsection (c), by striking “Federal
10 banking agencies”, and inserting “Agency”.

11 (d) SECTION 1508.—

12 (1) IN GENERAL.—Section 1508 of the Secure
13 and Fair Enforcement for Mortgage Licensing Act
14 of 2008 (12 U.S.C. 5107) is amended by adding at
15 the end the following new subsection—

16 “(f) REGULATIONS.—

17 “(1) IN GENERAL.—The Agency may prescribe
18 regulations setting minimum net worth or surety
19 bond requirements for residential mortgage loan
20 originators and minimum requirements for recovery
21 funds paid into by loan originators.

22 “(2) FACTORS TAKEN INTO ACCOUNT.—Such
23 regulations shall take into account the need to pro-
24 vide originators adequate incentives to originate af-
25 fordable and sustainable mortgage loans as well as

1 the need to ensure a competitive origination market
2 that maximizes consumers' access to affordable and
3 sustainable mortgage loans.”.

4 (2) CLERICAL AMENDMENT.—The heading for
5 section 1508 of the Secure and Fair Enforcement
6 for Mortgage Licensing Act of 2008 is amended by
7 striking “**SECRETARY OF HOUSING AND URBAN**
8 **DEVELOPMENT**” and inserting “**CONSUMER FI-**
9 **NANCIAL PROTECTION AGENCY**”.

10 (e) SECTION 1510.—Section 1510 of the Secure and
11 Fair Enforcement for Mortgage Licensing Act of 2008 (12
12 U.S.C. 5109) is amended to read as follows:

13 **“SEC. 1510. FEES.**

14 “The Agency and the Nationwide Mortgage Licensing
15 System and Registry may charge reasonable fees to cover
16 the costs of maintaining and providing access to informa-
17 tion from the Nationwide Mortgage Licensing System and
18 Registry, to the extent that such fees are not charged to
19 consumers for access to such system and registry.”.

20 (f) SECTION 1513.—Section 1513 of the Secure and
21 Fair Enforcement for Mortgage Licensing Act of 2008 (12
22 U.S.C. 5112) is amended to read as follows:

23 **“SEC. 1513. LIABILITY PROVISIONS.**

24 “The Agency, any State official or agency, or any or-
25 ganization serving as the administrator of the Nationwide

1 Mortgage Licensing System and Registry or a system es-
2 tablished by the Director under section 5109, or any offi-
3 cer or employee of any such entity, shall not be subject
4 to any civil action or proceeding for monetary damages
5 by reason of the good faith action or omission of any offi-
6 cer or employee of any such entity, while acting within
7 the scope of office or employment, relating to the collec-
8 tion, furnishing, or dissemination of information con-
9 cerning persons who are loan originators or are applying
10 for licensing or registration as loan originators.”.

11 (g) SECTION 1514.—The heading for section 1514
12 of the Secure and Fair Enforcement for Mortgage Licens-
13 ing Act of 2008 (12 U.S.C. 5113) is amended by striking
14 “**UNDER HUD BACKUP LICENSING SYSTEM**” and in-
15 serting “**BY THE AGENCY**”.

16 **SEC. 194. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.**

17 (a) SECTION 263.—Section 263 of the Truth in Sav-
18 ings Act (12 U.S.C. 4302) is amended in subsection (b)
19 by striking “Board” each place such term appears and
20 inserting “Agency”.

21 (b) SECTION 265.—Section 265 of the Truth in Sav-
22 ings Act (12 U.S.C. 4304) is amended by striking
23 “Board” each place such term appears and inserting
24 “Agency”.

1 (c) SECTION 266.—Section 266(e) of the Truth in
2 Savings Act is amended (12 U.S.C. 4305) by striking
3 “Board” and inserting “Agency”.

4 (d) SECTION 269.—Section 269 of the Truth in Sav-
5 ings Act (12 U.S.C. 4308) is amended by striking
6 “Board” each place such term appears and inserting
7 “Agency”.

8 (e) SECTION 270.—Section 270 of the Truth in Sav-
9 ings Act (12 U.S.C. 4309) is amended—

10 (1) in subsection (a)—

11 (A) by striking “Compliance” and insert-
12 ing “Subject to section 122 of the Consumer
13 Financial Protection Agency Act of 2009, com-
14 pliance”;

15 (B) by striking subparagraph (A) of para-
16 graph (1) and inserting the following new sub-
17 paragraph:

18 “(A) by the head of the agency responsible
19 for chartering and regulating national banks for
20 national banks, and Federal branches and Fed-
21 eral agencies of foreign banks;”; and

22 (C) by adding at the end, the following
23 new paragraph:

24 “(3) subtitle E of the Consumer Financial Pro-
25 tection Agency Act of 2009, by the Agency.”; and

1 (2) in subsection (c), by striking “Board” and
2 inserting “Agency”.

3 (f) SECTION 272.—Section 272 of the Truth in Sav-
4 ings Act (12 U.S.C. 4311) is amended—

5 (1) in subsection (a), by striking “Board” and
6 inserting “Agency”; and

7 (2) in subsection (b), by striking “regulation
8 prescribed by the Board” each place such term ap-
9 pears and inserting “regulation prescribed by the
10 Agency”.

11 (g) SECTION 273.—Section 273 of the Truth in Sav-
12 ings Act (12 U.S.C. 4312) is amended in the last sentence
13 by striking “Board” and inserting “Agency”.

14 (h) SECTION 274.—Section 274 of the Truth in Sav-
15 ings Act (12 U.S.C. 4313) is amended—

16 (1) in paragraph (2) by striking “Board” and
17 inserting “Agency”; and

18 (2) by striking paragraph (4) and inserting the
19 following new paragraph:

20 “(4) AGENCY.—The term ‘Agency’ means the
21 Consumer Financial Protection Agency.”.

1 **SEC. 195. AMENDMENTS TO THE TELEMARKETING AND**
2 **CONSUMER FRAUD AND ABUSE PREVENTION**
3 **ACT.**

4 (a) SECTION 3.—Section 3 of the Telemarketing and
5 Consumer Fraud and Abuse Prevention Act (15 U.S.C.
6 6102) is amended—

7 (1) in subsection (b), by inserting after the 2nd
8 sentence “In prescribing a regulation under this Act
9 that relates to the provision of a consumer financial
10 product or service that is subject to the Consumer
11 Financial Protection Agency Act, including any enu-
12 merated consumer law thereunder, the Commission
13 shall consult with the Consumer Financial Protec-
14 tion Agency regarding the consistency of a proposed
15 regulation with standards, purposes, or objectives
16 administered by the Consumer Financial Protection
17 Agency.”; and

18 (2) in subsection (c), by adding at the end
19 “Any violation of any regulation prescribed under
20 subsection (a) committed by a person subject to the
21 Consumer Financial Protection Agency Act shall be
22 treated as a violation of a regulation under section
23 131of the Consumer Financial Protection Agency
24 Act regarding unfair, deceptive, or abusive acts or
25 practices.”.

1 (b) AMENDMENTS TO SECTION 4.—Section 4(d) of
2 the Telemarketing and Consumer Fraud and Abuse Pre-
3 vention Act (15 U.S.C. 6103(d)) is amended by inserting
4 after “Commission” each place such term appears “or the
5 Consumer Financial Protection Agency”.

6 (c) AMENDMENTS TO SECTION 5.—Section 5(c) of
7 the Telemarketing and Consumer Fraud and Abuse Pre-
8 vention Act (15 U.S.C. 6104(c)) is amended by inserting
9 after “Commission” each place such term appears “or the
10 Consumer Financial Protection Agency”.

11 (d) AMENDMENT TO SECTION 6.—Section 6 of the
12 Telemarketing and Consumer Fraud and Abuse Preven-
13 tion Act (15 U.S.C. 6105) is amended by adding at the
14 end the following new subsection:

15 “(d) ENFORCEMENT BY CONSUMER FINANCIAL PRO-
16 TECTION AGENCY.—Except as otherwise provided in sec-
17 tion 3(d), 3(e), 4, and 5, this Act shall be enforced by
18 the Consumer Financial Protection Agency under subtitle
19 E of the Consumer Financial Protection Agency Act.”.

20 **SEC. 196. EFFECTIVE DATE.**

21 The amendments made by sections 183 through 195
22 shall take effect on the designated transfer date.

1 **TITLE J—IMPROVEMENTS TO**
2 **THE FEDERAL TRADE COM-**
3 **MISSION ACT**

4 **SEC. 201. AMENDMENTS TO THE FEDERAL TRADE COMMIS-**
5 **SION ACT.**

6 (a) Section 5(a) of the Federal Trade Commission
7 Act (15 U.S.C. 45(a)) is amended by adding at the end
8 the following new paragraph:

9 “(5) In any investigation or proceeding in which
10 it appears to the Commission that an unfair or de-
11 ceptive act or practice is being committed in connec-
12 tion with the marketing, sale, provision or delivery
13 of a consumer financial product or service, the Com-
14 mission shall consult and coordinate with the Con-
15 sumer Financial Protection Agency, as the agencies
16 deem to be appropriate.”.

17 (b) Section 5(m)(1)(A) of the Federal Trade Com-
18 mission Act (15 U.S.C. 45(m)(1)(A)) is amended—

19 (1) by inserting “this Act or” after “violates”
20 the first place such term appears;

21 (2) by inserting a comma after “Act” and after
22 “section)”; and

23 (3) by inserting “a violation of this Act or is”
24 before “prohibited”.

1 (c) Section 5 of the Federal Trade Commission Act
2 (15 U.S.C. 45) is amended by adding at the end thereof
3 the following new subsection:

4 “(o) UNLAWFUL ASSISTANCE.—It is unlawful for any
5 person, knowingly or recklessly, to provide substantial as-
6 sistance to another in violating any provision of this Act
7 or of any other Act enforceable by the Commission that
8 relates to unfair or deceptive acts or practices. Any such
9 violation shall constitute an unfair or deceptive act or
10 practice described in section 5(a)(1) of this Act.”.

11 (d) Section 18 of the Federal Trade Commission Act
12 (15 U.S.C. 57a) is amended—

13 (1) in subsection (a)(1)(B), by adding after
14 “pursuant to this section” the following: “or with re-
15 gard to the marketing, sale, provision or delivery to
16 an individual, for personal, family or household pur-
17 poses, of a consumer financial product or service
18 that is subject to the jurisdiction of the Consumer
19 Financial Protection Agency under the Consumer
20 Financial Protection Agency Act of 2009, other than
21 a financial activity (as defined in that Act) issued or
22 engaged in directly by a merchant or retailer or
23 other person pursuant to subsection (a) or (b) of
24 section 124 of such Act”;

1 (2) by amending subsection (b) to read as fol-
2 lows:

3 “(b) PROCEDURE APPLICABLE.—When prescribing a
4 rule under subsection (a)(1)(B) of this section, the Com-
5 mission shall proceed in accordance with section 553 of
6 Title 5 (without regard to any reference in such section
7 to sections 556 and 557 of such title).”;

8 (3) by striking subsections (c), (d)(1), (d)(2),
9 (f), (i), and (j), and redesignating subsections (e),
10 (g) and (h) as (d), (e) and (f);

11 (4) by redesignating paragraph (d)(3) as sub-
12 section (c); and

13 (5) in subsection (e)—

14 (A) in paragraph (1)(B), by striking “the
15 transcript required by subsection (c)(5) of this
16 section,”;

17 (B) in paragraph (2), by striking every-
18 thing following “error”); and

19 (C) in paragraph (5), by striking subpara-
20 graph (C).