

111TH CONGRESS  
1ST SESSION

# H. R. 3126

To establish the Consumer Financial Protection Agency, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 8, 2009

Mr. FRANK of Massachusetts (for himself, Ms. WATERS, Mrs. MALONEY, Mr. GUTIERREZ, Mr. WATT, Mr. ACKERMAN, Mr. SHERMAN, Mr. CAPUANO, Mr. MILLER of North Carolina, Mr. AL GREEN of Texas, Mr. ELLISON, Ms. SPEIER, and Mr. GRAYSON) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish the Consumer Financial Protection Agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. TABLE OF CONTENTS.**

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

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

#### TITLE I—CONSUMER FINANCIAL PROTECTION AGENCY

- Sec. 101. Definitions.

##### Subtitle A—Establishment of the Agency

- Sec. 111. Establishment of the Consumer Financial Protection Agency.
- Sec. 112. Board.
- Sec. 113. Executive and administrative powers.
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- Sec. 115. Consumer Advisory Board.
- Sec. 116. Coordination.
- Sec. 117. Reports to the Congress.
- Sec. 118. Funding; fees and assessments; penalties and fines.
- Sec. 119. Effective date.

##### Subtitle B—General Powers of the Agency

- Sec. 121. Mandate and objectives.
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- Sec. 123. Collection of information; confidentiality rules.
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- Sec. 125. Authority to restrict mandatory pre-dispute arbitration.
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##### Subtitle C—Specific Authorities

- Sec. 131. Prohibiting unfair, deceptive, or abusive acts or practices.
- Sec. 132. Disclosures and communications.
- Sec. 133. Sales practices.
- Sec. 134. Pilot disclosures.
- Sec. 135. Adopting operational standards to deter unfair, deceptive, or abusive practices.
- Sec. 136. Standard consumer financial products or services.
- Sec. 137. Duties.
- Sec. 138. Consumer rights to access information.
- Sec. 139. Prohibited acts.
- Sec. 140. Effective date.

##### Subtitle D—Preservation of State Law

- Sec. 141. Relation to State law.
- Sec. 142. Preservation of enforcement powers of States.
- Sec. 143. State law preemption standards for national banks and subsidiaries clarified.
- Sec. 144. Visitorial standards.
- Sec. 145. Clarification of law applicable to nondepository institution subsidiaries.
- Sec. 146. State law preemption standards for Federal savings associations and subsidiaries clarified.
- Sec. 147. Visitorial standards.
- Sec. 148. Clarification of law applicable to nondepository institution subsidiaries.
- Sec. 149. Effective date.

Subtitle E—Enforcement Powers

- Sec. 151. Definitions.
- Sec. 152. Investigations and administrative discovery.
- Sec. 153. Hearings and adjudication proceedings.
- Sec. 154. Litigation authority.
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- Sec. 156. Referrals for criminal proceedings.
- Sec. 157. Employee protection.
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Subtitle F—Transfer of Functions and Personnel; Transitional Provisions

- Sec. 161. Transfer of certain functions.
- Sec. 162. Designated transfer date.
- Sec. 163. Savings provisions.
- Sec. 164. Transfer of certain personnel.
- Sec. 165. Incidental transfers.
- Sec. 166. Interim authority of the Secretary.

Subtitle G—Regulatory Improvements

- Sec. 171. Collection of deposit account data.
- Sec. 172. Small business data collection.

Subtitle H—Conforming Amendments

- Sec. 181. Amendments to the Inspector General Act of 1978.
- Sec. 182. Amendments to the Privacy Act of 1974.
- Sec. 183. Amendments to the Alternative Mortgage Transaction Parity Act of 1982.
- Sec. 184. Amendments to the Consumer Credit Protection Act.
- Sec. 185. Amendments to the Expedited Funds Availability Act.
- Sec. 186. Amendments to the Federal Deposit Insurance Act.
- Sec. 187. Amendments to the Gramm-Leach-Bliley Act.
- Sec. 188. Amendments to the Home Mortgage Disclosure Act of 1975.
- Sec. 189. Amendments to division D of the Omnibus Appropriations Act, 2009.
- Sec. 190. Amendments to the Real Estate Settlement Procedures Act of 1974.
- Sec. 191. Amendments to the Right to Financial Privacy Act of 1978.
- Sec. 192. Amendments to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008.
- Sec. 193. Amendments to the Truth in Savings Act.
- Sec. 194. Effective date.

TITLE J—IMPROVEMENTS TO THE FEDERAL TRADE COMMISSION  
ACT

- Sec. 201. Amendments to the Federal Trade Commission Act.

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) **ALTERNATIVE CONSUMER FINANCIAL PROD-**  
12 **UCT OR SERVICE.**—The term “alternative consumer  
13 financial product or service” means a consumer fi-  
14 nancial product or service that is of the same type  
15 or class as a standard consumer financial product or  
16 service, but that contains different or additional  
17 terms, fees, or features.

18 (4) **APPOINTED BOARD MEMBER.**—The term  
19 “appointed Board member” or “appointed Board  
20 members” means a member or members of the  
21 Board appointed by the President under section  
22 112(a)(1).

23 (5) **BOARD.**—The term “Board” means the  
24 Board of the Consumer Financial Protection Agen-  
25 cy.

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

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

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

12          (9) COVERED PERSON.—The term “covered  
13 person” means—

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

18           (B) any person who, in connection with the  
19 provision of a consumer financial product or  
20 service, provides a material service to, or proc-  
21 esses a transaction on behalf of, a person de-  
22 scribed in subparagraph (A).

23          (10) CREDIT.—The term “credit” means the  
24 right granted by a person to a consumer to defer  
25 payment of a debt, incur debt and defer its payment,

1 or purchase property or services and defer payment  
2 for such purchase.

3 (11) CREDIT UNION.—The term “credit union”  
4 means a Federal credit union, State credit union, or  
5 State-chartered credit union as defined in section  
6 101 of the Federal Credit Union Act (12 U.S.C.  
7 1752).

8 (12) 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 (13) DEPOSIT-TAKING ACTIVITY.—The term  
15 “deposit-taking activity” means—

16 (A) the acceptance of deposits, the provi-  
17 sion of other services related to the acceptance  
18 of deposits, or the maintenance of deposit ac-  
19 counts;

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

24 (C) the receipt of money or its equivalent,  
25 as the Agency may determine by regulation or

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

5 For the purposes of this title, the Agency may deter-  
6 mine that the term “deposit-taking activity” includes  
7 the receipt of money or its equivalent in connection  
8 with the sale or issuance of any payment instrument  
9 or stored value product or service.

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

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

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

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

20 (B) The Electronic Funds Transfer Act  
21 (15 U.S.C. 1693 et seq.)

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

1 (D) The Fair Credit Reporting Act (15  
2 U.S.C. 1681 et seq.), except with respect to sec-  
3 tions 615(e), 624, and 628.

4 (E) The Fair Debt Collection Practices Act  
5 (15 U.S.C. 1692 et seq.).

6 (F) Subsections (c), (d), (e), and (f) of sec-  
7 tion 43 of the Federal Deposit Insurance Act  
8 (12 U.S.C. 1831t).

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

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

14 (I) The Real Estate Settlement Procedures  
15 Act (12 U.S.C. 2601 et seq.).

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

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

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

23 (17) FEDERAL BANKING AGENCY.—The term  
24 “Federal banking agency” means the Board of Gov-  
25 ernors, the Comptroller of the Currency, the Direc-



1 tor of the Office of Thrift Supervision, the Federal  
2 Deposit Insurance Corporation, or the National  
3 Credit Union Administration and the term “Federal  
4 banking agencies” means all of those agencies.

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

7 (A) Deposit-taking activities.

8 (B) Extending credit and servicing loans,  
9 including—

10 (i) acquiring, brokering, or servicing  
11 loans or other extensions of credit;

12 (ii) engaging in any other activity  
13 usual in connection with extending credit  
14 or servicing loans, including performing  
15 appraisals of real estate and personal prop-  
16 erty and selling or servicing credit insur-  
17 ance or mortgage insurance.

18 (C) Check-guaranty services, including—

19 (i) authorizing a subscribing merchant  
20 to accept personal checks tendered by the  
21 merchant’s customers in payment for  
22 goods and services; and

23 (ii) purchasing from a subscribing  
24 merchant validly authorized checks that  
25 are subsequently dishonored.

1 (D) Collecting, analyzing, maintaining, and  
2 providing consumer report information or other  
3 account information by covered persons, includ-  
4 ing information relating to the credit history of  
5 consumers and providing the information to a  
6 credit grantor who is considering a consumer  
7 application for credit or who has extended cred-  
8 it to the borrower.

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

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

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

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

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

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

1           (H) Acting as an investment adviser to any  
2 person (not subject to regulation by or required  
3 to register with the Commodity Futures Trad-  
4 ing Commission or the Securities and Exchange  
5 Commission).

6           (I) 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; or

13                (iii) providing credit counseling, tax-  
14 planning or tax-preparation services to any  
15 person.

16           (J) Financial data processing, including  
17 providing data processing and data trans-  
18 mission services, facilities (including data proc-  
19 essing and data transmission hardware, soft-  
20 ware, documentation, or operating personnel),  
21 databases, advice, and access to such services,  
22 facilities, or databases by any technological  
23 means, if—

1 (i) the data to be processed or fur-  
2 nished are financial, banking, or economic;  
3 and

4 (ii) the hardware provided in connec-  
5 tion therewith is offered only in conjunc-  
6 tion with software designed and marketed  
7 for the processing and transmission of fi-  
8 nancial, banking, or economic data, and  
9 where the general purpose hardware does  
10 not constitute more than 30 percent of the  
11 cost of any packaged offering.

12 (K) Money transmitting.

13 (L) Sale or issuance of stored value.

14 (M) Acting as a money services business.

15 (N) Acting as a custodian of money or any  
16 financial instrument.

17 (O) Any other activity that the Agency de-  
18 fines, by regulation, as a financial activity for  
19 the purposes of this title, except that the Agen-  
20 cy shall not define engaging in the business of  
21 insurance as a financial activity (other than  
22 with respect to credit insurance, mortgage in-  
23 surance, or title insurance, as described in this  
24 section).

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

6           (20) FOREIGN EXCHANGE.—The term “foreign  
7 exchange” means the exchange, for compensation, of  
8 currency of the United States or of a foreign govern-  
9 ment for currency of another government.

10          (21) INSURED DEPOSITORY INSTITUTION.—The  
11 term “insured depository institution” has the same  
12 meaning as in section 3 of the Federal Deposit In-  
13 surance Act.

14          (22) MONEY SERVICES BUSINESS.—The term  
15 “money services business” means a covered person  
16 that—

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

1 (B) issues payment instruments or stored  
2 value.

3 (23) MONEY TRANSMITTING.—The term  
4 “money transmitting” means the receipt by a cov-  
5 ered person of currency, monetary value, or payment  
6 instruments for the purpose of transmitting the  
7 same to any third-party by any means, including  
8 transmission by wire, facsimile, electronic transfer,  
9 courier, the Internet, or through bill payment serv-  
10 ices.

11 (24) PAYMENT INSTRUMENT.—The term “pay-  
12 ment instrument” means a check, draft, warrant,  
13 money order, traveler’s check, electronic instrument,  
14 or other instrument, payment of money, or monetary  
15 value (other than currency).

16 (25) PERSON.—The term “person” means an  
17 individual, partnership, company, corporation, asso-  
18 ciation (incorporated or unincorporated), trust, es-  
19 tate, cooperative organization, or other entity.

20 (26) PERSON REGULATED BY THE COMMODITY  
21 FUTURES TRADING COMMISSION.—The term “person  
22 regulated by the Commodity Futures Trading Com-  
23 mission” means any futures commission merchant,  
24 commodity trading adviser, commodity pool oper-  
25 ator, or introducing broker that is subject to the ju-

1 jurisdiction of the Commodity Futures Trading Com-  
2 mission under the Commodity Exchange Act, but  
3 only to the extent that the person acts in such ca-  
4 pacity.

5 (27) PERSON REGULATED BY THE SECURITIES  
6 AND EXCHANGE COMMISSION.—The term “person  
7 regulated by the Securities and Exchange Commis-  
8 sion” means—

9 (A) a broker or dealer that is required to  
10 be registered under the Securities Exchange Act  
11 of 1934;

12 (B) an investment adviser that is required  
13 to be registered under the Investment Advisers  
14 Act of 1940; or

15 (C) an investment company that is re-  
16 quired to be registered under the Investment  
17 Company Act of 1940—

18 but only to the extent that the person acts in a reg-  
19 istered capacity.

20 (28) PROVISION OF A CONSUMER FINANCIAL  
21 PRODUCT OR SERVICE.—The term “provision of (or  
22 providing) a consumer financial product or service”  
23 means the advertisement, marketing, solicitation,  
24 sale, disclosure, delivery, or account maintenance or  
25 servicing of a consumer financial product or service.

1           (29) SECRETARY.—The term “Secretary”  
2 means the Secretary of the Treasury.

3           (30) STANDARD CONSUMER FINANCIAL PROD-  
4 UCT OR SERVICE.—The term “standard consumer fi-  
5 nancial product or service” means a consumer finan-  
6 cial product or service containing terms, conditions,  
7 and features defined by the Agency.

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

14           (32) STORED VALUE.—The term “stored value”  
15 means funds or monetary value represented in any  
16 electronic format, whether or not specially encrypted,  
17 and stored or capable of storage on electronic media  
18 in such a way as to be retrievable and transferred  
19 electronically, and includes a prepaid debit card or  
20 product, or any other similar product, regardless of  
21 whether the amount of the funds or monetary value  
22 may be increased or reloaded.



1     **Subtitle A—Establishment of the**  
2                             **Agency**

3     **SEC. 111. ESTABLISHMENT OF THE CONSUMER FINANCIAL**  
4                             **PROTECTION AGENCY.**

5             (a) AGENCY ESTABLISHED.—There is established the  
6     Consumer Financial Protection Agency as an independent  
7     agency in the executive branch to regulate the provision  
8     of consumer financial products or services under this title,  
9     the enumerated consumer laws, and the authorities trans-  
10    ferred under subtitles F and H.

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

14    **SEC. 112. BOARD.**

15            (a) COMPOSITION OF THE BOARD.—The Agency shall  
16    have a Board that is composed of 5 members as follows:

17                (1) 4 members of the Board who shall be ap-  
18                pointed by the President, by and with the advice and  
19                consent of the Senate—

20                        (A) from among individuals who are citi-  
21                        zens of the United States; and

22                        (B) who have a strong competencies and  
23                        experiences related to consumer financial prod-  
24                        ucts or services; and

1           (2) the head of the agency responsible for char-  
2           tering and regulating national banks.

3           (b) DIRECTOR OF THE AGENCY.—From among the  
4           appointed Board members, the President shall designate  
5           1 member of the Board to serve as the Director and the  
6           Director shall be the chief executive of the Agency.

7           (c) TERMS OF APPOINTED BOARD MEMBERS.—

8           (1) IN GENERAL.—An appointed Board mem-  
9           ber, including the Director of the Agency, shall serve  
10          for a term of 5 years.

11          (2) REMOVAL FOR CAUSE.—The President may  
12          remove any appointed Board member for ineffi-  
13          ciency, neglect of duty, or malfeasance in office.

14          (3) VACANCIES.—Any member of the Board ap-  
15          pointed to fill a vacancy occurring before the expira-  
16          tion of the term to which that member's predecessor  
17          was appointed (including the Director of the Agen-  
18          cy) shall be appointed only for the remainder of the  
19          term.

20          (4) CONTINUATION OF SERVICE.—Each ap-  
21          pointed Board member may continue to serve after  
22          the expiration of the term of office to which that  
23          member was appointed until a successor has been  
24          appointed by the President and confirmed by the  
25          Senate.

1           (5) INITIAL APPOINTMENTS STAGGERED.—The  
2 appointed Board members (including the Director of  
3 the Agency) shall serve staggered terms, which ini-  
4 tially shall be established by the President for terms  
5 of 2, 3, 4, and 5 years, respectively.

6           (d) COMPENSATION.—

7           (1) DIRECTOR.—The Director shall receive  
8 compensation at the rate prescribed for Level I of  
9 the Executive Schedule under section 5313 of title  
10 5, United States Code.

11           (2) OTHER APPOINTED BOARD MEMBERS.—The  
12 3 other appointed Board members shall each receive  
13 compensation at the rate prescribed for Level II of  
14 the Executive Schedule under section 5314 of title  
15 5, United States Code.

16 **SEC. 113. EXECUTIVE AND ADMINISTRATIVE POWERS.**

17           (a) POWERS.—The Board may exercise all executive  
18 and administrative functions of the Agency, including to—

19           (1) establish rules for conducting the Agency's  
20 general business in a manner not inconsistent with  
21 this title;

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

23           (3) direct the establishment of and maintain di-  
24 visions or other offices within the Agency in order to  
25 fulfill the responsibilities of this title, the enumer-

1       ated consumer laws, and the authorities transferred  
2       under subtitles F and H, and to satisfy the require-  
3       ments of other applicable law;

4               (4) coordinate and oversee the operation of all  
5       administrative, enforcement, and research activities  
6       of the Agency;

7               (5) adopt and use a seal;

8               (6) determine the character of and the necessity  
9       for the Agency's obligations and expenditures, and  
10       the manner in which they shall be incurred, allowed,  
11       and paid;

12              (7) delegate authority, at the Agency's lawful  
13       discretion, to the Director or to a member of the  
14       Board or to any officer or employee of the Agency  
15       to take action under any provision of this title or  
16       under other applicable law;

17              (8) to implement this title and the Agency's au-  
18       thorities under the enumerated consumer laws and  
19       under subtitles F and H through rules, orders, guid-  
20       ance, interpretations, statements of policy, examina-  
21       tions, and enforcement actions; and

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

24       (b) TRANACTING BUSINESS.—

1           (1) QUORUM.—3 members of the Board shall  
2           constitute a quorum for the transaction of business,  
3           except that if only 3 members of the Board are serv-  
4           ing because of vacancies, 2 members of the Board  
5           shall constitute a quorum for the transaction of  
6           business.

7           (2) VOTING.—Other than acts performed under  
8           delegated authority, the Board shall act through a  
9           majority vote of its members assembled.

10 **SEC. 114. ADMINISTRATION.**

11           (a) OFFICERS.—The Agency shall appoint the fol-  
12           lowing officials:

13           (1) A secretary, who shall be charged with  
14           maintaining the records of the Agency and per-  
15           forming such other activities as the Board directs.

16           (2) A general counsel, who shall be charged  
17           with overseeing the legal affairs of the Agency and  
18           performing such other activities as the Board di-  
19           rects.

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

24           (b) PERSONNEL.—

25           (1) APPOINTMENT.—

1           (A) IN GENERAL.—The Agency may fix  
2 the number of, and appoint and direct, all em-  
3 ployees of the Agency.

4           (B) EXPEDITED HIRING.—During the 2-  
5 year period beginning on the date of the enact-  
6 ment of this Act, the Agency may appoint,  
7 without regard to the provisions of sections  
8 3309 through 3318, of title 5, United States  
9 Code, candidates directly to positions for which  
10 public notice has been given.

11       (2) COMPENSATION.—

12           (A) PAY.—The Agency shall fix, adjust,  
13 and administer the pay for all employees of the  
14 Agency without regard to the provisions of  
15 chapter 51 or subchapter III of chapter 53 of  
16 title 5, United States Code.

17           (B) BENEFITS.—The Agency may provide  
18 additional benefits to Agency employees if the  
19 same type of benefits are then being provided  
20 by the Board of Governors or, if not then being  
21 provided, could be provided by the Board of  
22 Governors under applicable provisions of law,  
23 rule, or regulation.

24           (C) MINIMUM STANDARD.—The Agency  
25 shall at all times provide compensation and ben-

1           efits to classes of employees that, at a min-  
2           imum, are equivalent to the compensation and  
3           benefits provided by the Board of Governors for  
4           the corresponding class of employees in any fis-  
5           cal year.

6           (c) SPECIFIC FUNCTIONAL UNITS.—

7           (1) RESEARCH.—The Agency shall establish a  
8           unit whose functions shall include researching, ana-  
9           lyzing, and reporting on—

10                   (A) current and prospective developments  
11                   in markets for consumer financial products or  
12                   services, including market areas of alternative  
13                   consumer financial products or services with  
14                   high growth rates;

15                   (B) consumer awareness, understanding,  
16                   and use of disclosures and communications re-  
17                   garding consumer financial products or services;

18                   (C) consumer awareness and under-  
19                   standing of costs, risks, and benefits of con-  
20                   sumer financial products or services; and

21                   (D) consumer behavior with respect to con-  
22                   sumer financial products or services.

23           (2) COMMUNITY AFFAIRS.—The Agency 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.—The Agency  
5       shall establish a unit whose functions shall include—

6                       (A) establishing a central database for col-  
7       lecting and tracking information on consumer  
8       complaints about consumer financial products  
9       or services and resolution of complaints; and

10                      (B) sharing data and coordinating con-  
11       sumer complaints with Federal banking agen-  
12       cies, other Federal agencies, and State regu-  
13       lators.

14       **SEC. 115. CONSUMER ADVISORY BOARD.**

15               (a) ESTABLISHMENT REQUIRED.—The Agency shall  
16       establish a Consumer Advisory Board to advise and con-  
17       sult with the Agency in the exercise of its functions under  
18       this title, the enumerated consumer laws, and to provide  
19       information on emerging practices in the consumer finan-  
20       cial products or services industry.

21               (b) MEMBERSHIP.—In appointing the members of  
22       the Consumer Advisory Board, the Agency shall seek to  
23       assemble experts in financial services, community develop-  
24       ment, and consumer financial products or services and



1 seek representation of the interests of covered persons and  
2 consumers.

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

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

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

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

16 **SEC. 116. COORDINATION.**

17 (a) COORDINATION WITH OTHER FEDERAL AGEN-  
18 CIES AND STATE REGULATORS.—The Agency shall coordi-  
19 nate with the Securities and Exchange Commission, the  
20 Commodity Futures Trading Commission, and other Fed-  
21 eral agencies and State regulators, as appropriate, to pro-  
22 mote consistent regulatory treatment of consumer and in-  
23 vestment products and services.

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

1           (1) IN GENERAL.—The Agency shall coordinate  
2           with each agency that is a member of the Financial  
3           Literacy and Education Commission established by  
4           the Financial Literacy and Education Improvement  
5           Act (20 U.S.C. 9701 et seq.) to assist each agency  
6           in enhancing its existing financial literacy and edu-  
7           cation initiatives to better achieve the goals in para-  
8           graph (2) and to ensure the consistency of such ini-  
9           tiatives across Federal agencies.

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

17 **SEC. 117. REPORTS TO THE CONGRESS.**

18           (a) REPORTS REQUIRED.—The Agency shall prepare  
19           and submit to the President and the appropriate commit-  
20           tees of the Congress a report at the beginning of each reg-  
21           ular session of the Congress, beginning with the session  
22           following the designated transfer date.

23           (b) CONTENTS.—The reports required by subsection  
24           (a) shall include—

1           (1) a list of the significant rules and orders  
2           adopted by the Agency, as well as other significant  
3           initiatives conducted by the Agency, during the pre-  
4           ceding year and the Agency’s plan for rules, orders,  
5           or other initiatives to be undertaken during the up-  
6           coming period;

7           (2) an analysis of complaints about consumer  
8           financial products or services that the Agency has  
9           received and collected in its central database on  
10          complaints during the preceding year;

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

16          (4) an appraisal of significant actions, including  
17          actions under Federal or State law, by State attor-  
18          neys general or State regulators relating to this title,  
19          the authorities transferred under subtitles F and H,  
20          and the enumerated consumer laws.

21 **SEC. 118. FUNDING; FEES AND ASSESSMENTS; PENALTIES**  
22 **AND FINES.**

23          (a) **AUTHORIZATION OF APPROPRIATIONS.**—For the  
24 purposes of carrying out the authorities granted in this  
25 title and the enumerated consumer laws and transferred

1 under subtitles F and H, there are appropriated to the  
2 Agency such sums as are necessary. Notwithstanding any  
3 other provision of law, such amounts shall be subject to  
4 apportionment under section 1517 of title 31, United  
5 States Code, and restrictions that generally apply to the  
6 use of appropriated funds in title 31, United States Code,  
7 and other laws.

8 (b) FEES AND ASSESSMENTS ON COVERED PER-  
9 SONS.—

10 (1) RECOVERY OF EXPENDED FUNDS.—The  
11 Agency shall recover the amount of funds expended  
12 by the Agency under this title, through the collection  
13 of annual fees or assessments on covered persons.

14 (2) RULEMAKING.—The Agency shall prescribe  
15 regulations to govern the collection of fees and as-  
16 sements. Such regulations shall specify and define  
17 the basis of fees or assessments (such as the out-  
18 standing volume of consumer credit accounts, total  
19 assets under management, or consumer financial  
20 transactions), the amount and frequency of fees or  
21 assessments, and such other factors that the Agency  
22 deems appropriate.

23 (3) FEES AND ASSESSMENTS AS MISCELLA-  
24 NEOUS RECEIPTS.—All fees and assessments col-  
25 lected under this title, the authorities transferred

1 under subtitles F and H, or any enumerated con-  
2 sumer law shall be deposited into the Treasury as  
3 miscellaneous receipts.

4 (c) PENALTIES AND FINES.—

5 (1) ESTABLISHMENT OF VICTIMS RELIEF  
6 FUND.—There is established in the Treasury of the  
7 United States a fund to be known as the “Consumer  
8 Financial Protection Agency Civil Penalty Fund”  
9 (referred to in this section as the “Fund”). If the  
10 Agency obtains a civil penalty against any person in  
11 any judicial or administrative action under this title,  
12 the authorities transferred under subtitles F and H,  
13 or any enumerated consumer law, the Agency shall  
14 deposit into the Fund the amount of the penalty col-  
15 lected.

16 (2) PAYMENT TO VICTIMS.—Amounts in the  
17 Fund shall be available to the Agency, without fiscal  
18 year limitation, for payments to the victims of activi-  
19 ties for which civil penalties have been imposed  
20 under this title, the authorities transferred under  
21 subtitles F and H, or any enumerated consumer law.

22 **SEC. 119. EFFECTIVE DATE.**

23 This subtitle shall take effect on the date of the en-  
24 actment of this Act.

1    **Subtitle B—General Powers of the**  
2                                   **Agency**

3    **SEC. 121. MANDATE AND OBJECTIVES.**

4           (a) MANDATE.—The Agency shall seek to promote  
5 transparency, simplicity, fairness, accountability, and ac-  
6 cess in the market for consumer financial products or serv-  
7 ices.

8           (b) OBJECTIVES.—The Agency is authorized to exer-  
9 cise its authorities granted in this title, in the enumerated  
10 consumer laws, and transferred under subtitles F and H  
11 for the purposes of ensuring that—

12                 (1) consumers have, understand, and can use  
13 the information they need to make responsible deci-  
14 sions about consumer financial products or services;

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

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

20                 (4) traditionally underserved consumers and  
21 communities have access to financial services.

22    **SEC. 122. AUTHORITIES.**

23           (a) IN GENERAL.—The Agency is authorized to exer-  
24 cise its authorities granted in this title, in the enumerated  
25 consumer laws, and transferred under subtitles F and H,

1 to administer, enforce, and otherwise implement the provi-  
2 sions of this title, the authorities transferred in subtitles  
3 F and H, and the enumerated consumer laws.

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

5 (1) IN GENERAL.—The Agency may prescribe  
6 rules and issue orders and guidance as may be nec-  
7 essary or appropriate to enable it to administer and  
8 carry out the purposes and objectives of this title,  
9 the authorities transferred under subtitles F and H,  
10 and the enumerated consumer laws, and to prevent  
11 evasions thereof.

12 (2) STANDARDS FOR RULEMAKING.—In pre-  
13 scribing a rule under this title or pursuant to the  
14 authorities transferred under subtitles F and H or  
15 the enumerated consumer laws, the Agency shall—

16 (A) consider the potential benefits and  
17 costs to consumers and covered persons, includ-  
18 ing the potential reduction of consumers' access  
19 to consumer financial products or services, re-  
20 sulting from such rule; and

21 (B) consult with the Federal banking agen-  
22 cies, or other Federal agencies, as appropriate,  
23 regarding the consistency of a proposed rule  
24 with prudential, market, or systemic objectives  
25 administered by such agencies.

## 1 (3) EXEMPTIONS.—

2 (A) IN GENERAL.—The Agency, by rule or  
3 order, may conditionally or unconditionally ex-  
4 empt any covered person or any consumer fi-  
5 nancial product or service or any class of cov-  
6 ered persons or consumer financial products or  
7 services, from any provision of this title, any  
8 enumerated consumer law, or from any rule  
9 thereunder, as the Agency deems necessary or  
10 appropriate to carry out the purposes and ob-  
11 jectives of this title taking into consideration  
12 the factors in subparagraph (B).

13 (B) FACTORS.—In issuing an exemption  
14 by rule or order as permitted in subparagraph  
15 (A), the Agency shall as appropriate take into  
16 consideration the following—

17 (i) total assets of the covered person;

18 (ii) the volume of transactions involv-  
19 ing consumer financial products or services  
20 in which the covered person engages;

21 (iii) the extent to which the covered  
22 person engages in 1 or more financial ac-  
23 tivities; and

24 (iv) existing laws or regulations which  
25 are applicable to the consumer financial



1 product or service and the extent to which  
2 such laws or regulations provide consumers  
3 with adequate protections.

4 (c) EXAMINATIONS AND REPORTS.—

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

13 (2) CONTENT OF REPORTS.—The reports au-  
14 thorized in paragraph (1) may include such informa-  
15 tion as necessary to keep the Agency informed as  
16 to—

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

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

1           (3) USE OF EXISTING REPORTS.—In general,  
2           the Agency shall, to the fullest extent possible, use—

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

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

8           (4) REPORTS FROM NONDEPOSITORY COVERED  
9           PERSONS.—The Agency may require reports regard-  
10           ing financial condition from covered persons which  
11           are not subject to the jurisdiction of a Federal bank-  
12           ing agency or a comparable State regulator for the  
13           purpose of assessing the ability of such person to  
14           perform its obligations to consumers.

15           (5) ACCESS BY THE AGENCY TO REPORTS OF  
16           OTHER REGULATORS.—

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

1 (B) PROVISION OF OTHER REPORTS TO  
2 AGENCY.—In addition to the reports described  
3 in paragraph (a), a Federal banking agency  
4 may, in its discretion, furnish to the Agency  
5 any other report or other confidential super-  
6 visory information concerning any insured de-  
7 pository institution, any credit union, or other  
8 entity examined by such agency under authority  
9 of any Federal law.

10 (6) ACCESS BY OTHER REGULATORS TO RE-  
11 PORTS OF THE AGENCY.—Upon providing reasonable  
12 assurances of confidentiality, a Federal banking  
13 agency, a State regulator, or any other Federal  
14 agency having supervision of a covered person shall  
15 have access to any report of examination made by  
16 the Agency with respect to the covered person, and  
17 to all revisions made to any such report.

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

24 (d) EXCLUSIVE RULEMAKING AND EXAMINATION  
25 AUTHORITY.—Notwithstanding any other provision of

1 Federal law other than subsection (f), to the extent that  
2 a Federal law authorizes the Agency and another Federal  
3 agency to prescribe regulations, issue guidance, conduct  
4 examinations, or require reports under that law for pur-  
5 poses of assuring compliance with this title, any enumer-  
6 ated consumer law, the laws for which authorities were  
7 transferred under subtitles F and H, and any regulations  
8 prescribed under this title or pursuant to any such author-  
9 ity, the Agency shall have the exclusive authority to pre-  
10 scribe regulations, issue guidance, conduct examinations,  
11 require reports, or issue exemptions with regard to any  
12 person subject to that law.

13 (e) PRIMARY ENFORCEMENT AUTHORITY.—

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

21 (2) REFERRAL.—Any Federal agency author-  
22 ized to enforce a Federal law described in paragraph  
23 (1) may recommend in writing to the Agency that  
24 the Agency initiate an enforcement proceeding as  
25 the Agency is authorized by that Federal law or by

1 this title. The recommendation shall be accompanied  
2 by a written explanation of the concerns giving rise  
3 to the recommendation.

4 (3) BACKSTOP ENFORCEMENT AUTHORITY OF  
5 OTHER FEDERAL AGENCY.—If the Agency does not,  
6 before the end of the 120-day period beginning on  
7 the date on which the Agency receives a rec-  
8 ommendation under paragraph (2), initiate an en-  
9 forcement proceeding, the other agency may initiate  
10 an enforcement proceeding as permitted by that  
11 Federal law.

12 (f) EXCEPTIONS.—

13 (1) DEPARTMENT OF JUSTICE.—Nothing in  
14 this title shall affect the authorities of the Depart-  
15 ment of Justice.

16 (2) PERSONS REGULATED BY THE SECURITIES  
17 AND EXCHANGE COMMISSION.—

18 (A) IN GENERAL.—No provision of this  
19 title shall be construed as altering, amending,  
20 or affecting the authority of the Securities and  
21 Exchange Commission to adopt rules, initiate  
22 enforcement proceedings, or take any other ac-  
23 tion with respect to a person regulated by the  
24 Securities and Exchange Commission. The  
25 Agency shall have no authority to exercise any

1 power to enforce this title with respect to a per-  
2 son regulated by the Securities and Exchange  
3 Commission.

4 (B) CONSULTATION AND COORDINA-  
5 TION.—Notwithstanding subparagraph (A), the  
6 Securities and Exchange Commission shall con-  
7 sult and coordinate with the Agency with re-  
8 spect to any rule (including any advance notice  
9 of proposed rulemaking) regarding an invest-  
10 ment product or service that is the same type  
11 of product as, or that competes directly with, a  
12 consumer financial product or service that is  
13 subject to the jurisdiction of the Agency under  
14 this title or under any other law.

15 (3) PERSONS REGULATED BY THE COMMODITY  
16 FUTURES TRADING COMMISSION.—

17 (A) IN GENERAL.—No provision of this  
18 title shall be construed as altering, amending,  
19 or affecting the authority of the Commodity  
20 Futures Trading Commission to adopt rules,  
21 initiate enforcement proceedings, or take any  
22 other action with respect to a person regulated  
23 by the Commodity Futures Trading Commis-  
24 sion. The Agency shall have no authority to ex-  
25 ercise any power to enforce this title with re-

1           spect to a person regulated by the Commodity  
2           Futures Trading Commission.

3           (B) CONSULTATION AND COORDINA-  
4           TION.—Notwithstanding subparagraph (A), the  
5           Commodity Futures Trading Commission shall  
6           consult and coordinate with the Agency with re-  
7           spect to any rule (including any advance notice  
8           of proposed rulemaking) regarding a product or  
9           service that is the same type of product as, or  
10          that competes directly with, a consumer finan-  
11          cial product or service that is subject to the ju-  
12          risdiction of the Agency under this title or  
13          under any other law.

14          (g) NO AUTHORITY TO IMPOSE USURY LIMIT.—No  
15          provision of this title shall be construed as conferring au-  
16          thority on the Agency to establish a usury limit applicable  
17          to an extension of credit offered or made by a covered per-  
18          son to a consumer, unless explicitly authorized by law.

19       **SEC. 123. COLLECTION OF INFORMATION; CONFIDEN-**  
20                               **TIALITY RULES.**

21          (a) COLLECTION OF INFORMATION.—

22               (1) IN GENERAL.—In conducting research on  
23               the provision of consumer financial products or serv-  
24               ices, the Agency shall have the power to gather in-  
25               formation from time to time regarding the organiza-

1       tion, business conduct, and practices of covered per-  
2       sons.

3               (2) SPECIFIC AUTHORITY.—In order to gather  
4       such information, the Agency shall have the power—

5                       (A) to gather and compile information;

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

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

17      (b) CONFIDENTIALITY RULES.—The Agency shall  
18      prescribe regulations regarding the confidential treatment  
19      of information obtained from persons in connection with  
20      the exercise of its authorities under this title and the enu-  
21      merated consumer laws and the authorities transferred  
22      under subtitles F and H.

23      **SEC. 124. MONITORING; ASSESSMENTS OF SIGNIFICANT**  
24                                      **RULES; REPORTS.**

25      (a) MONITORING.—



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

5           (2) MEANS OF MONITORING.—Such monitoring  
6 may be conducted by examinations of covered per-  
7 sons, analysis of reports obtained from covered per-  
8 sons, assessment of consumer complaints, surveys  
9 and interviews of covered persons and consumers,  
10 and review of available databases.

11           (3) CONSIDERATIONS.—In allocating its re-  
12 sources to perform the monitoring required by this  
13 section, the Agency may consider, among other fac-  
14 tors—

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

18           (B) consumers' understanding of the risks  
19 of a type of consumer financial product or serv-  
20 ice;

21           (C) the state of the law that applies to the  
22 provision of a consumer financial product or  
23 service, including the extent to which the law is  
24 likely to adequately protect consumers;

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

3 (E) extent, if any, to which the risks of a  
4 consumer financial product or service may dis-  
5 proportionately affect traditionally underserved  
6 consumers, if any; or

7 (F) types, number, and other pertinent  
8 characteristics of covered persons that provide  
9 the product or service.

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

15 (b) ASSESSMENT OF SIGNIFICANT RULES.—

16 (1) IN GENERAL.—The Agency shall conduct an  
17 assessment of each significant regulation prescribed  
18 or order issued by the Agency under this title, under  
19 the authorities transferred under subtitles F and H  
20 or pursuant to any enumerated consumer law that  
21 addresses, among other relevant factors, the effec-  
22 tiveness of the regulation in meeting the purposes  
23 and objectives of this Act and the specific goals stat-  
24 ed by the Agency.

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

4           (3) REPORTS.—The Agency shall publish a re-  
5           port of its assessment not later than 3 years after  
6           the effective date of the regulation or order, unless  
7           the Agency determines that 3 years is not sufficient  
8           time to study or review the impact of the regulation,  
9           but in no event shall the Agency publish a report  
10          thereof more than 5 years after the effective date of  
11          the regulation or order.

12          (4) PUBLIC COMMENTED REQUIRED.—Before  
13          publishing a report of its assessment, the Agency  
14          shall invite public comment on recommendations for  
15          modifying, expanding, or eliminating the newly  
16          adopted significant regulation or order.

17          (c) INFORMATION GATHERING.—In conducting any  
18          monitoring or assessment required by this section, the  
19          Agency may gather information through a variety of meth-  
20          ods, including by conducting surveys or interviews of con-  
21          sumers.

22          **SEC. 125. AUTHORITY TO RESTRICT MANDATORY PRE-DIS-**  
23          **PUTE ARBITRATION.**

24          The Agency, by regulation, may prohibit or impose  
25          conditions or limitations on the use of agreements between

1 a covered person and a consumer that require the con-  
2 sumer to arbitrate any future dispute between the parties  
3 arising under this title or any enumerated consumer law  
4 if the Agency finds that such prohibition, imposition of  
5 conditions, or limitations are in the public interest and for  
6 the protection of consumers.

7 **SEC. 126. EFFECTIVE DATE.**

8 This subtitle shall take effect on the designated  
9 transfer date.

10 **Subtitle C—Specific Authorities**

11 **SEC. 131. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE**  
12 **ACTS OR PRACTICES.**

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

19 (b) RULEMAKING REQUIRED.—

20 (1) IN GENERAL.—The Agency may prescribe  
21 regulations identifying as unlawful unfair, deceptive,  
22 or abusive acts or practices in connection with any  
23 transaction with a consumer for a consumer finan-  
24 cial product or service.

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

5           (c) UNFAIRNESS.—

6           (1) IN GENERAL.—The Agency shall have no  
7           authority under this section to declare an act or  
8           practice in connection with a transaction with a con-  
9           sumer for a consumer financial product or service to  
10          be unlawful on the grounds that such act or practice  
11          is unfair unless the Agency has a reasonable basis  
12          to conclude that the act or practice causes or is like-  
13          ly to cause substantial injury to consumers which is  
14          not reasonably avoidable by consumers and such  
15          substantial injury is not outweighed by counter-  
16          vailing benefits to consumers 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 Agency shall consult with the Fed-  
24          eral banking agencies, or other Federal agencies, as appro-  
25          priate, concerning the consistency of the proposed regula-

1 tion with prudential, market, or systemic objectives admin-  
2 istered by such agencies.

3 **SEC. 132. DISCLOSURES AND COMMUNICATIONS.**

4 (a) IN GENERAL.—The Agency may prescribe regula-  
5 tions to ensure the appropriate and effective disclosure or  
6 communication to consumers of the costs, benefits, and  
7 risks associated with any consumer financial product or  
8 service.

9 (b) REASONABLE DISCLOSURES AND COMMUNICA-  
10 TIONS.—Subject to regulations prescribed by the Agency,  
11 a covered person shall, with respect to disclosures or com-  
12 munications regarding any consumer financial product or  
13 service, make or provide to a consumer disclosures and  
14 communications that—

15 (1) balance communication of the benefits of  
16 the product or service with communication of signifi-  
17 cant risks and costs;

18 (2) prominently disclose the significant risks  
19 and costs, in reasonable proportion to the disclosure  
20 of the benefits;

21 (3) communicate significant risks and costs in  
22 a clear, concise, and timely manner designed to pro-  
23 mote a consumer's awareness and understanding of  
24 the risks and costs, as well as to use the information  
25 to make financial decisions; and

1           (4) comply with standards prescribed by the  
2       Agency.

3       (c) BASIS FOR RULEMAKING.—In prescribing regula-  
4 tions under this section, the Agency shall consider avail-  
5 able evidence about consumer awareness, understanding  
6 of, and responses to disclosures or communications about  
7 the risks, costs, and benefits of consumer financial prod-  
8 ucts or services.

9       (d) COMBINED MORTGAGE LOAN DISCLOSURE.—  
10 Within 1 year after the designated transfer date, the  
11 Agency shall propose for public comment regulations and  
12 model disclosures that combine the disclosures required  
13 under the Truth in Lending Act and the Real Estate Set-  
14 tlement Procedures Act into a single, integrated disclosure  
15 for mortgage loan transactions covered by those laws, un-  
16 less the Agency determines that any proposal issued by  
17 the Board of Governors and the Department of Housing  
18 and Urban Development carries out the same purpose.

19 **SEC. 133. SALES PRACTICES.**

20       The Agency may prescribe regulations and issue or-  
21 ders and guidance regarding the manner, settings, and cir-  
22 cumstances for the provision of any consumer financial  
23 products or services to ensure that the risks, costs, and  
24 benefits of the products or services, both initially and over

1 the term of the products or services, are fully and accu-  
2 rately represented to consumers.

3 **SEC. 134. PILOT DISCLOSURES.**

4 (a) PILOT DISCLOSURES.—The Agency shall estab-  
5 lish standards and procedures for approval of pilot disclo-  
6 sures to be provided or made available by a covered person  
7 to consumers in connection with the provision of a con-  
8 sumer financial product or service.

9 (b) STANDARDS.—The procedures shall provide that  
10 a pilot disclosure must be limited in time and scope and  
11 reasonably designed to contribute materially to the under-  
12 standing of consumer awareness and understanding of,  
13 and responses to, disclosures or communications about the  
14 risks, costs, and benefits of consumer financial products  
15 or services.

16 (c) TRANSPARENCY.—The procedures shall provide  
17 for public disclosure of pilots, but the Agency may limit  
18 disclosure to the extent necessary to encourage covered  
19 persons to conduct effective pilots.

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

23 (a) AUTHORITY TO PRESCRIBE STANDARDS.—The  
24 States are encouraged to prescribe standards applicable  
25 to covered persons who are not insured depository institu-



1 tions or credit unions to deter and detect unfair, deceptive,  
2 abusive, fraudulent, or illegal transactions in the provision  
3 of consumer financial products or services, including  
4 standards for—

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

7 (2) registration, licensing, or certification;

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

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

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

18 (b) AGENCY AUTHORITY TO PRESCRIBE STAND-  
19 ARDS.—The Agency may prescribe regulations estab-  
20 lishing minimum standards under this section for any  
21 class of covered persons other than covered persons which  
22 are subject to the jurisdiction of a Federal banking agency  
23 or a comparable State regulator. The Agency may enforce  
24 under subtitle E compliance with standards adopted by

1 the Agency or a State pursuant to this section for covered  
2 persons operating in that State.

3 (c) CONSULTATION.—In prescribing minimum stand-  
4 ards under this section, the Agency shall consult with the  
5 State authorities, the Federal banking agencies, or other  
6 Federal agencies, as appropriate, concerning the consist-  
7 ency of the proposed regulation with prudential, market,  
8 or systemic objectives administered by such State authori-  
9 ties or such agencies.

10 **SEC. 136. STANDARD CONSUMER FINANCIAL PRODUCTS OR**  
11 **SERVICES.**

12 (a) CHARACTERISTICS OF STANDARD CONSUMER FI-  
13 NANCIAL PRODUCTS OR SERVICES.—Subject to regula-  
14 tions prescribed by the Agency under this section, a stand-  
15 ard consumer financial product or service is a consumer  
16 financial product or service that—

17 (1) is or can be readily offered by covered per-  
18 sons that offer or seek to offer alternative consumer  
19 financial products or services;

20 (2) is transparent to consumers in its terms  
21 and features;

22 (3) poses lower risks to consumers;

23 (4) facilitates comparisons with and assessment  
24 of the benefits and costs of alternative consumer fi-  
25 nancial products or services; and

1           (5) contains the features or terms defined by  
2           the Agency for the product or service.

3           (b) OFFERING STANDARD CONSUMER FINANCIAL  
4           PRODUCTS OR SERVICES.—

5           (1) IN GENERAL.—The Agency may prescribe  
6           regulations or issue guidance regarding the offer of  
7           a standard consumer financial product or service at  
8           or before the time an alternative consumer financial  
9           product or service is offered to a consumer, includ-  
10          ing—

11                   (A) warnings to consumers about the  
12                   heightened risks of alternative consumer finan-  
13                   cial products or services; or

14                   (B) providing the consumer with a mean-  
15                   ingful opportunity to decline to obtain the  
16                   standard consumer financial product or service.

17           (2) RULEMAKING REGARDING THE OFFERING  
18           OF STANDARD CONSUMER FINANCIAL PRODUCTS OR  
19           SERVICES.—The Agency may not require a covered  
20           person to offer a standard consumer financial prod-  
21           uct or service at or before the time an alternative  
22           consumer financial product or service is offered to a  
23           consumer unless the Agency prescribes regulations,  
24           after notice and comment, regarding the features or  
25           terms of the product or service.

1           (3) GENERAL APPLICABILITY.—Regulations  
2 prescribed by the Agency under this section shall  
3 apply only to any covered person who—

4           (A) voluntarily offers or provides a con-  
5 sumer financial product or service that is of the  
6 same type, or in the same class, as a standard  
7 consumer financial product or service; or

8           (B) maintains an account or has a rela-  
9 tionship with a consumer involving a product or  
10 service that is substantively similar to the  
11 standard product or service.

12 **SEC. 137. DUTIES.**

13       (a) IN GENERAL.—

14           (1) REGULATIONS ENSURING FAIR DEALING  
15 WITH CONSUMERS.—The Agency shall prescribe reg-  
16 ulations imposing duties on a covered person, or an  
17 employee of a covered person, or an agent or inde-  
18 pendent contractor for a covered person, who deals  
19 or communicates directly with consumers in the pro-  
20 vision of a consumer financial product or service, as  
21 the Agency deems appropriate or necessary to en-  
22 sure fair dealing with consumers.

23           (2) CONSIDERATIONS FOR DUTIES.—In pre-  
24 scribing such regulations, the Agency shall consider  
25 whether—

1 (A) the covered person, employee, agent, or  
2 independent contractor represents implicitly or  
3 explicitly that the person, employee, agent, or  
4 contractor is acting in the interest of the con-  
5 sumer with respect to any aspect of the trans-  
6 action;

7 (B) the covered person, employee, agent,  
8 or independent contractor provides the con-  
9 sumer with advice with respect to any aspect of  
10 the transaction;

11 (C) the consumer's reliance on any advice  
12 from the covered person, employee, agent, or  
13 independent contractor would be reasonable and  
14 justifiable under the circumstances;

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

17 (E) any other factors as the Agency con-  
18 siders appropriate.

19 (3) DUTIES RELATING TO COMPENSATION  
20 PRACTICES.—The Agency may prescribe regulations  
21 establishing duties regarding compensation practices  
22 applicable to a covered person, employee, agent, or  
23 independent contractor who deals or communicates  
24 directly with a consumer in the provision of a con-  
25 sumer financial product or service for the purpose of

1 promoting fair dealing with consumers. The Agency  
2 shall not prescribe a limit on the total dollar amount  
3 of compensation paid to any person.

4 (b) ADMINISTRATIVE PROCEEDINGS.—

5 (1) IN GENERAL.—Any regulation prescribed by  
6 the Agency under this section shall be enforceable  
7 only by the Agency through an adjudication pro-  
8 ceeding under subtitle E or by a State regulator  
9 through an appropriate administrative proceeding as  
10 permitted under State law.

11 (2) EXCLUSIVITY OF REMEDY.—No action may  
12 be commenced in any court to enforce any require-  
13 ment of a regulation prescribed under this section,  
14 and no court may exercise supplemental jurisdiction  
15 over a claim asserted under a regulation prescribed  
16 under this section based on allegations or evidence  
17 of conduct that otherwise may be subject to such  
18 regulation.

19 (3) RULE OF CONSTRUCTION.—The Agency,  
20 the Attorney General, and any State attorney gen-  
21 eral or State regulator shall not be precluded from  
22 enforcing any other Federal or State law against a  
23 person with respect to conduct that may be subject  
24 to a regulation prescribed by the Agency under this  
25 section.

1 (c) EXCLUSIONS.—This section shall not be con-  
2 strued as authorizing the Agency to prescribe regulations  
3 applicable to—

4 (1) an attorney licensed to practice law and in  
5 compliance with the applicable rules and standards  
6 of professional conduct, but only to the extent that  
7 the consumer financial product or service provided is  
8 within the attorney-client relationship with the con-  
9 sumer; or

10 (2) any trustee, custodian, or other person that  
11 holds a fiduciary duty in connection with a trust, in-  
12 cluding a fiduciary duty to a grantor or beneficiary  
13 of a trust, that is subject to and in compliance with  
14 the applicable law relating to such trust.

15 **SEC. 138. CONSUMER RIGHTS TO ACCESS INFORMATION.**

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

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

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

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

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

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

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

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



1 (e) CONSULTATION AND COORDINATION.—The Agen-  
2 cy shall, when prescribing any regulation under this sec-  
3 tion, consult and coordinate with the Federal banking  
4 agencies and the Federal Trade Commission to ensure  
5 that the regulations—

6 (1) impose substantively similar requirements  
7 on covered persons;

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

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

14 **SEC. 139. PROHIBITED ACTS.**

15 It shall be unlawful for any person to—

16 (1) advertise, market, offer, sell, enforce, or at-  
17 tempt to enforce, any term, agreement, change in  
18 terms, fee or charge in connection with a consumer  
19 financial product or service that is not in conformity  
20 with this title or applicable regulation prescribed or  
21 order issued by the Agency;

22 (2) fail or refuse to permit access to or copying  
23 of records, or fail or refuse to establish or maintain  
24 records, or fail or refuse to make reports or provide  
25 information to the Agency, as required by this title,

1 an enumerated consumer law, or pursuant to the au-  
2 thorities transferred by subtitles F and H, or any  
3 regulation prescribed or order issued by the Agency  
4 this title or pursuant to any such authority; or

5 (3) knowingly or recklessly provide substantial  
6 assistance to another person in violation of the pro-  
7 visions of section 131, or any regulation prescribed  
8 or order issued under such section, and any such  
9 person shall be deemed to be in violation of that sec-  
10 tion to the same extent as the person to whom such  
11 assistance is provided.

12 **SEC. 140. EFFECTIVE DATE.**

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

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

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

18 (a) IN GENERAL.—

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

1       visions of this title and then only to the extent of the  
2       inconsistency.

3           (2) GREATER PROTECTION UNDER STATE  
4       LAW.—For the purposes of this subsection, a State  
5       statute, regulation, order, or interpretation is not in-  
6       consistent with the provisions of this title if the pro-  
7       tection such statute, regulation, order, or interpreta-  
8       tion affords consumers is greater than the protection  
9       provided under this title, as determined by the Agen-  
10      cy. A determination regarding whether a State stat-  
11      ute, regulation, order, or interpretation is incon-  
12      sistent with the provisions of this title may be made  
13      by regulation, order or guidance adopted by the  
14      Agency on its own motion or in response to a non-  
15      frivolous petition initiated by any interested person.

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

23      **SEC. 142. PRESERVATION OF ENFORCEMENT POWERS OF**  
24                      **STATES.**

25      (a) IN GENERAL.—

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

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

15         (b) CONSULTATION REQUIRED.—

16                 (1) NOTICE.—

17                         (A) IN GENERAL.—Before initiating any  
18                         action in a court or other administrative or reg-  
19                         ulatory proceeding against any covered person  
20                         to enforce any provision of this title, including  
21                         any regulation prescribed by the Agency under  
22                         this title, a State attorney general or State reg-  
23                         ulator shall timely provide a copy of the com-  
24                         plete complaint to be filed and written notice

1 describing such action or proceeding to the  
2 Agency, or the Agency's designee.

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

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

12 (i) the identity of the parties;

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

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

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

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

23 (B) upon intervening—

24 (i) remove the action to the appro-  
25 priate United States district court, if the

1 action was not originally brought there;  
2 and

3 (ii) be heard on all matters arising in  
4 the action; and

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

8 (c) REGULATIONS.—The Agency shall prescribe regu-  
9 lations to implement the requirements of this section and,  
10 from time to time, provide guidance in order to further  
11 coordinate actions with the State attorneys general and  
12 other regulators.

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

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

21 (a) IN GENERAL.—Chapter one of title LXII of the  
22 Revised Statutes of the United States (12 U.S.C. 21 et  
23 seq.) is amended by inserting after section 5136B the fol-  
24 lowing new section:

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

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

6 “(1) NATIONAL BANK.—The term ‘national  
7 bank’ includes—

8 “(A) any bank organized under the laws of  
9 the United States;

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

11 “(C) any subsidiary of a national bank;

12 and

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

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

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

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

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

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

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

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

17                 “(2) was enacted pursuant to or in accordance  
18                 with, and is not inconsistent with, an Act of Con-  
19                 gress, including the Gramm-Leach-Bliley Act, the  
20                 Consumer Credit Protection Act, and the Real Es-  
21                 tate Settlement Procedures Act, that explicitly or by  
22                 implication, permits States to exceed or supplement  
23                 the requirements of any comparable Federal law,  
24          shall apply to any national bank.

25          “(d) EXCEPTIONS.—



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

4                   “(A) the State consumer law discriminates  
5 against national banks; or

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

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

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

22           “(f) EFFECT OF TRANSFER OF TRANSACTION.—  
23 State consumer law applicable to a transaction at the in-  
24 ception of the transaction may not be preempted under  
25 Federal law solely because a national bank subsequently

1 acquires the asset or instrument that is the subject of the  
2 transaction.

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

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

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

13 **SEC. 144. VISITORIAL STANDARDS.**

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

17 “(h) VISITORIAL POWERS.—

18 “(1) RULE OF CONSTRUCTION.—No provision  
19 of this title which relates to visitorial powers or oth-  
20 erwise limits or restricts the supervisory, examina-  
21 tion, or regulatory authority to which any national  
22 bank is subject shall be construed as limiting or re-  
23 stricting the authority of any attorney general (or  
24 other chief law enforcement officer) of any State to

1 bring any action in any court of appropriate jurisdic-  
2 tion—

3 “(A) to require a national bank to produce  
4 records relative to the investigation of violations  
5 of State consumer law, or Federal consumer  
6 laws;

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

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

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

20 “(i) ENFORCEMENT ACTIONS.—The ability of the  
21 head of the agency responsible for chartering and regu-  
22 lating national banks to bring an enforcement action  
23 under this title or section 5 of the Federal Trade Commis-  
24 sion Act shall not be construed as precluding private par-

1 ties from enforcing rights granted under Federal or State  
2 law in the courts.”.

3 **SEC. 145. CLARIFICATION OF LAW APPLICABLE TO NON-**  
4 **DEPOSITORY INSTITUTION SUBSIDIARIES.**

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

8 “(j) CLARIFICATION OF LAW APPLICABLE TO NON-  
9 DEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILI-  
10 ATES OF NATIONAL BANKS.—

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

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

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

21 “(2) IN GENERAL.—No provision of this title  
22 shall be construed as annulling, altering, or affecting  
23 the applicability of State law to any nondepository  
24 institution, subsidiary, other affiliate, or agent of a  
25 national bank.”.

1 **SEC. 146. STATE LAW PREEMPTION STANDARDS FOR FED-**  
2 **ERAL SAVINGS ASSOCIATIONS AND SUBSIDI-**  
3 **ARIES CLARIFIED.**

4 (a) IN GENERAL.—The Home Owners’ Loan Act (12  
5 U.S.C. 1461 et seq.) is amended by inserting after section  
6 5 the following new section:

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

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

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

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

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

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

23 “(b) STATE CONSUMER LAWS OF GENERAL APPLI-  
24 CATION.—Notwithstanding any other provision of Federal  
25 law and except as provided in subsection (c), any con-  
26 sumer protection provision in State consumer laws of gen-

1 eral application, including any law relating to unfair or  
2 deceptive acts or practices, any consumer fraud law and  
3 repossession, foreclosure, and collection law, shall apply to  
4 any Federal savings association.

5 “(c) EXCEPTIONS.—

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

8 “(A) the State law discriminates against  
9 Federal savings associations; or

10 “(B) the State consumer law is incon-  
11 sistent with provisions of Federal law other  
12 than this Act, 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 Agency.

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

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

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

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

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

15                 “(A) the State law discriminates against  
16                 Federal savings associations; or

17                 “(B) the State consumer law is incon-  
18                 sistent with provisions of Federal law other  
19                 than this Act, but only to the extent of the in-  
20                 consistency (as determined in accordance with  
21                 the provision of the other Federal law). For this  
22                 purpose, a State consumer law is not incon-  
23                 sistent with Federal law if the protection the  
24                 State consumer law affords consumers is great-

1           er than the protection provided under Federal  
2           law, as determined by the Agency.

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

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

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

20           (b) CLERICAL AMENDMENT.—The table of sections  
21 for the Home Owners’ Loan Act (12 U.S.C. 1461 et seq.)  
22 is amended by striking the item relating to section 6 and  
23 inserting the following new item:

“6. State law preemption standards for Federal savings associations and subsidi-  
aries clarified.”.



1 **SEC. 147. VISITORIAL STANDARDS.**

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

5 “(h) VISITORIAL POWERS.—

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

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

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

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

24 “(2) CONSULTATION.—The attorney general (or  
25 other chief law enforcement officer) of any State

1 shall consult with the Director or any successor  
2 agency before acting under paragraph (1).

3 “(i) ENFORCEMENT ACTIONS.—The ability of the Di-  
4 rector or any successor agency to bring an enforcement  
5 action under this Act or section 5 of the Federal Trade  
6 Commission Act shall not be construed as precluding pri-  
7 vate parties from enforcing rights granted under Federal  
8 or State law in the courts.”.

9 **SEC. 148. CLARIFICATION OF LAW APPLICABLE TO NON-**  
10 **DEPOSITORY INSTITUTION SUBSIDIARIES.**

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

14 “(j) CLARIFICATION OF LAW APPLICABLE TO NON-  
15 DEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILI-  
16 ATES OF FEDERAL SAVINGS ASSOCIATIONS.—

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

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

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

4           “(2) IN GENERAL.—No provision of this title  
5           shall be construed as preempting the applicability of  
6           State law to any nondepository institution, sub-  
7           sidiary, other affiliate, or agent of a Federal savings  
8           association.”.

9   **SEC. 149. EFFECTIVE DATE.**

10          This subtitle shall take effect on the designated  
11          transfer date.

12   **Subtitle E—Enforcement Powers**

13   **SEC. 151. DEFINITIONS.**

14          For purposes of this subtitle, the following definitions  
15          shall apply:

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

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

1 title or under the authorities transferred under sub-  
2 titles F and H.

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

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

15 (5) DOCUMENTARY MATERIAL.—The term  
16 “documentary material” includes the original or any  
17 copy of any book, record, report, memorandum,  
18 paper, communication, tabulation, chart, or other  
19 document.

20 (6) VIOLATION.—The term “violation” means  
21 any act or omission that, if proved, would constitute  
22 a violation of any provision of this title, any enumer-  
23 ated consumer law, any law for which authorities  
24 were transferred under subtitles F and H, or of any

1 regulation prescribed or order issued by the Agency  
2 under this title or pursuant to any such authority.

3 **SEC. 152. INVESTIGATIONS AND ADMINISTRATIVE DIS-**  
4 **COVERY.**

5 (a) SUBPOENAS.—

6 (1) IN GENERAL.—The Agency or an Agency  
7 investigator may issue subpoenas for the attendance  
8 and testimony of witnesses and the production of  
9 relevant papers, books, documents, or other material  
10 in connection with hearings under this title.

11 (2) FAILURE TO OBEY.—In case of contumacy  
12 or refusal to obey a subpoena issued pursuant to  
13 this paragraph and served upon any person, the dis-  
14 trict court of the United States for any district in  
15 which such person is found, resides, or transacts  
16 business, upon application by the Agency or an  
17 Agency investigator and after notice to such person,  
18 shall have jurisdiction to issue an order requiring  
19 such person to appear and give testimony or to ap-  
20 pear and produce documents or other material, or  
21 both.

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

25 (b) DEMANDS.—

1           (1) IN GENERAL.—Whenever the Agency has  
2           reason to believe that any person may be in posses-  
3           sion, custody, or control of any documentary mate-  
4           rial or tangible things, or may have any information,  
5           relevant to a violation, the Agency may, before the  
6           institution of any proceedings under this title or  
7           under any enumerated consumer law or pursuant to  
8           the authorities transferred under subtitles F and H,  
9           issue in writing, and cause to be served upon such  
10          person, a civil investigative demand requiring such  
11          person to—

12                   (A) produce such documentary material for  
13                   inspection and copying or reproduction;

14                   (B) submit such tangible things;

15                   (C) file written reports or answers to ques-  
16                   tions;

17                   (D) give oral testimony concerning docu-  
18                   mentary material or other information; or

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

21          (2) REQUIREMENTS.—Each civil investigative  
22          demand shall state the nature of the conduct consti-  
23          tuting the alleged violation which is under investiga-  
24          tion and the provision of law applicable to such vio-  
25          lation.

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

4                   (A) describe each class of documentary  
5                   material to be produced under the demand with  
6                   such definiteness and certainty as to permit  
7                   such material to be fairly identified;

8                   (B) prescribe a return date or dates which  
9                   will provide a reasonable period of time within  
10                  which the material so demanded may be assem-  
11                  bled and made available for inspection and  
12                  copying or reproduction; and

13                  (C) identify the custodian to whom such  
14                  material shall be made available.

15           (4) PRODUCTION OF THINGS.—Each civil inves-  
16           tigative demand for the submission of tangible  
17           things shall—

18                   (A) describe each class of tangible things  
19                   to be submitted under the demand with such  
20                   definiteness and certainty as to permit such  
21                   things to be fairly identified;

22                   (B) prescribe a return date or dates which  
23                   will provide a reasonable period of time within  
24                   which the things so demanded may be assem-  
25                   bled and submitted; and

1 (C) identify the custodian to whom such  
2 things shall be submitted.

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

6 (A) propound with definiteness and cer-  
7 tainty the reports to be produced or the ques-  
8 tions to be answered;

9 (B) prescribe a date or dates at which time  
10 written reports or answers to questions shall be  
11 submitted; and

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

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

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

18 (B) identify a Agency investigator who  
19 shall conduct the investigation and the custo-  
20 dian to whom the transcript of such investiga-  
21 tion shall be submitted.

22 (7) SERVICE.—

23 (A) Any civil investigative demand may be  
24 served by any Agency investigator at any place



1 within the territorial jurisdiction of any court of  
2 the United States.

3 (B) Any such demand or any enforcement  
4 petition filed under this section may be served  
5 upon any person who is not found within the  
6 territorial jurisdiction of any court of the  
7 United States, in such manner as the Federal  
8 Rules of Civil Procedure prescribe for service in  
9 a foreign nation.

10 (C) To the extent that the courts of the  
11 United States have authority to assert jurisdic-  
12 tion over such person consistent with due proc-  
13 ess, the United States District Court for the  
14 District of Columbia shall have the same juris-  
15 diction to take any action respecting compliance  
16 with this section by such person that such dis-  
17 trict court would have if such person were per-  
18 sonally within the jurisdiction of such district  
19 court.

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

24 (A) delivering a duly executed copy of such  
25 demand or petition to the individual or to any

1 partner, executive officer, managing agent, or  
2 general agent of such person, or to any agent  
3 of such person authorized by appointment or by  
4 law to receive service of process on behalf of  
5 such person;

6 (B) delivering a duly executed copy of such  
7 demand or petition to the principal office or  
8 place of business of the person to be served; or

9 (C) depositing a duly executed copy in the  
10 United States mails, by registered or certified  
11 mail, return receipt requested, duly addressed  
12 to such person at its principal office or place of  
13 business.

14 (9) PROOF OF SERVICE.—

15 (A) A verified return by the individual  
16 serving any civil investigative demand or any  
17 enforcement petition filed under this section  
18 setting forth the manner of such service shall  
19 be proof of such service.

20 (B) In the case of service by registered or  
21 certified mail, such return shall be accompanied  
22 by the return post office receipt of delivery of  
23 such demand or enforcement petition.

24 (10) PRODUCTION OF DOCUMENTARY MATE-  
25 RIAL.—The production of documentary material in

1 response to a civil investigative demand shall be  
2 made under a sworn certificate, in such form as the  
3 demand designates, by the person, if a natural per-  
4 son, to whom the demand is directed or, if not a  
5 natural person, by any person having knowledge of  
6 the facts and circumstances relating to such produc-  
7 tion, to the effect that all of the documentary mate-  
8 rial required by the demand and in the possession,  
9 custody, or control of the person to whom the de-  
10 mand is directed has been produced and made avail-  
11 able to the custodian.

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

24 (12) SEPARATE ANSWERS.—Each reporting re-  
25 quirement or question in a civil investigative demand

1 shall be answered separately and fully in writing  
2 under oath, unless it is objected to, in which event  
3 the reasons for the objection shall be stated in lieu  
4 of an answer, and it shall be submitted under a  
5 sworn certificate, in such form as the demand des-  
6 ignates, by the person, if a natural person, to whom  
7 the demand is directed or, if not a natural person,  
8 by any person responsible for answering each report-  
9 ing requirement or question, to the effect that all in-  
10 formation required by the demand and in the posses-  
11 sion, custody, control, or knowledge of the person to  
12 whom the demand is directed has been submitted.

13 (13) TESTIMONY.—

14 (A) PROCEDURE.—

15 (i) OATH AND RECORDATION.—Any  
16 Agency investigator before whom oral testi-  
17 mony is to be taken shall put the witness  
18 on oath or affirmation and shall person-  
19 ally, or by any individual acting under his  
20 direction and in his presence, record the  
21 testimony of the witness.

22 (ii) TRANSCRIPTIONS.—The testimony  
23 shall be taken stenographically and tran-  
24 scribed.

1 (iii) COPY TO CUSTODIAN.—After the  
2 testimony is fully transcribed, the Agency  
3 investigator before whom the testimony is  
4 taken shall promptly transmit a copy of  
5 the transcript of the testimony to the cus-  
6 todian.

7 (B) PARTIES PRESENT.—Any Agency in-  
8 vestigator before whom oral testimony is to be  
9 taken shall exclude from the place where the  
10 testimony is to be taken all other persons ex-  
11 cept the person giving the testimony, his or her  
12 attorney, the officer before whom the testimony  
13 is to be taken, and any stenographer taking  
14 such testimony.

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

23 (D) ATTORNEY REPRESENTATION.—

24 (i) IN GENERAL.—Any person com-  
25 pelled to appear under a civil investigative

1 demand for oral testimony pursuant to this  
2 section may be accompanied, represented,  
3 and advised by an attorney.

4 (ii) CONFIDENTIAL ADVICE.—The at-  
5 torney may advise the person summoned,  
6 in confidence, either upon the request of  
7 such person or upon the initiative of the  
8 attorney, with respect to any question  
9 asked of such person.

10 (iii) OBJECTIONS.—The person sum-  
11 moned or the attorney may object on the  
12 record to any question, in whole or in part,  
13 and shall briefly state for the record the  
14 reason for the objection.

15 (iv) REFUSAL TO ANSWER.—An objec-  
16 tion may properly be made, received, and  
17 entered upon the record when it is claimed  
18 that the person summoned is entitled to  
19 refuse to answer the question on grounds  
20 of any constitutional or other legal right or  
21 privilege, including the privilege against  
22 self-incrimination, but such person shall  
23 not otherwise object to or refuse to answer  
24 any question, and shall not otherwise inter-

1           rupt the oral examination, directly or  
2           through such person's attorney.

3           (v) PETITION FOR ORDER.—If such  
4           person refuses to answer any question, the  
5           Agency may petition the district court of  
6           the United States pursuant to this section  
7           for an order compelling such person to an-  
8           swer such question.

9           (vi) BASIS FOR COMPELLING TESTI-  
10          MONY.—If such person refuses to answer  
11          any question on grounds of the privilege  
12          against self-incrimination, the testimony of  
13          such person may be compelled in accord-  
14          ance with the provisions of section 6004 of  
15          title 18, United States Code.

16         (E) TRANSCRIPTS.—

17           (i) RIGHT TO EXAMINE.—After the  
18           testimony of any witness is fully tran-  
19           scribed, the Agency investigator shall af-  
20           ford the witness (who may be accompanied  
21           by an attorney) a reasonable opportunity  
22           to examine the transcript.

23           (ii) READING THE TRANSCRIPT.—The  
24           transcript shall be read to or by the wit-

1           ness, unless such examination and reading  
2           are waived by the witness.

3           (iii) REQUEST FOR CHANGES.—Any  
4           changes in form or substance which the  
5           witness desires to make shall be entered  
6           and identified upon the transcript by the  
7           Agency investigator with a statement of  
8           the reasons given by the witness for mak-  
9           ing such changes.

10          (iv) SIGNATURE.—The transcript  
11          shall be signed by the witness, unless the  
12          witness in writing waives the signing, is ill,  
13          cannot be found, or refuses to sign.

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



1 (F) CERTIFICATION BY INVESTIGATOR.—

2 The Agency investigator shall certify on the  
3 transcript that the witness was duly sworn by  
4 the investigator and that the transcript is a  
5 true record of the testimony given by the wit-  
6 ness, and the Agency investigator shall prompt-  
7 ly deliver the transcript or send it by registered  
8 or certified mail to the custodian.

9 (G) COPY OF TRANSCRIPT.—The Agency  
10 investigator shall furnish a copy of the tran-  
11 script (upon payment of reasonable charges for  
12 the transcript) to the witness only, except that  
13 the Agency may for good cause limit such wit-  
14 ness to inspection of the official transcript of  
15 his testimony.

16 (H) WITNESS FEES.—Any witness appear-  
17 ing for the taking of oral testimony pursuant to  
18 a civil investigative demand shall be entitled to  
19 the same fees and mileage which are paid to  
20 witnesses in the district courts of the United  
21 States.

22 (c) CONFIDENTIAL TREATMENT OF DEMAND MATE-  
23 RIAL.—

24 (1) IN GENERAL.—Materials received as a re-  
25 sult of a civil investigative demand shall be subject

1 to requirements and procedures regarding confiden-  
2 tiality, in accordance with regulations established by  
3 the Agency.

4 (2) DISCLOSURE TO CONGRESS.—No regulation  
5 established by the Agency regarding the confiden-  
6 tiality of materials submitted to, or otherwise ob-  
7 tained by, the Agency shall be intended to prevent  
8 disclosure to either House of Congress or to an ap-  
9 propriate committee of the Congress, except that the  
10 Agency may prescribe regulations allowing prior no-  
11 tice to any party that owns or otherwise provided  
12 the material to the Agency and has designated such  
13 material as confidential.

14 (d) PETITION FOR ENFORCEMENT.—

15 (1) IN GENERAL.—Whenever any person fails  
16 to comply with any civil investigative demand duly  
17 served upon such person under this section, or when-  
18 ever satisfactory copying or reproduction of material  
19 requested pursuant to the demand cannot be accom-  
20 plished and such person refuses to surrender such  
21 material, the Agency, through such officers or attor-  
22 neys as it may designate, may file, in the district  
23 court of the United States for any judicial district  
24 in which such person resides, is found, or transacts  
25 business, and serve upon such person, a petition for

1 an order of such court for the enforcement of this  
2 section.

3 (2) SERVICE OF PROCESS.—All process of any  
4 court to which application may be made as provided  
5 in this subsection may be served in any judicial dis-  
6 trict.

7 (e) PETITION FOR ORDER MODIFYING OR SETTING  
8 ASIDE DEMAND.—

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

20 (2) COMPLIANCE DURING PENDENCY.—The  
21 time permitted for compliance with the demand in  
22 whole or in part, as deemed proper and ordered by  
23 the Agency, shall not run during the pendency of  
24 such petition at the Agency, except that such person

1 shall comply with any portions of the demand not  
2 sought to be modified or set aside.

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

9 (f) CUSTODIAL CONTROL.—At any time during which  
10 any custodian is in custody or control of any documentary  
11 material, tangible things, reports, answers to questions, or  
12 transcripts of oral testimony given by any person in com-  
13 pliance with any civil investigative demand, such person  
14 may file, in the district court of the United States for the  
15 judicial district within which the office of such custodian  
16 is situated, and serve upon such custodian, a petition for  
17 an order of such court requiring the performance by such  
18 custodian of any duty imposed upon such custodian by  
19 this section or regulation prescribed by the Agency.

20 (g) JURISDICTION OF COURT.—

21 (1) IN GENERAL.—Whenever any petition is  
22 filed in any district court of the United States under  
23 this section, such court shall have jurisdiction to  
24 hear and determine the matter so presented, and to

1 enter such order or orders as may be required to  
2 carry into effect the provisions of this section.

3 (2) APPEAL.—Any final order so entered shall  
4 be subject to appeal pursuant to section 1291 of title  
5 28, United States Code.

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

7 (a) IN GENERAL.—The Agency may conduct hear-  
8 ings and adjudication proceedings with respect to any per-  
9 son in the manner prescribed by chapter 5 of title 5,  
10 United States Code in order to ensure or enforce compli-  
11 ance with—

12 (1) the provisions of this title, including any  
13 regulations prescribed by the Agency under this  
14 title; and

15 (2) any other Federal law that the Agency is  
16 authorized to enforce, including an enumerated con-  
17 sumer law, and any regulations or order prescribed  
18 thereunder, unless such Federal law specifically lim-  
19 its the Agency from conducting a hearing or adju-  
20 dication proceeding and only to the extent of such  
21 limitation.

22 (b) SPECIAL RULES FOR CEASE-AND-DESIST PRO-  
23 CEEDINGS.—

24 (1) ISSUANCE.—

1 (A) NOTICE OF CHARGES.—If, in the opin-  
2 ion of the Agency, any covered person is engag-  
3 ing or has engaged in an activity that violates  
4 a law, regulation, or any condition imposed in  
5 writing on the person by the Agency, the Agen-  
6 cy may issue and serve upon the person a no-  
7 tice of charges with respect to such violation.

8 (B) CONTENTS OF NOTICE.—The notice  
9 shall contain a statement of the facts consti-  
10 tuting any alleged violation and shall fix a time  
11 and place at which a hearing will be held to de-  
12 termine whether an order to cease-and-desist  
13 there from should issue against the person.

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

20 (D) NONAPPEARANCE DEEMED TO BE  
21 CONSENT TO ORDER.—Unless the party or par-  
22 ties so served shall appear at the hearing per-  
23 sonally or by a duly authorized representative,  
24 they shall be deemed to have consented to the  
25 issuance of the cease-and-desist order.

1           (E) ISSUANCE OF ORDER.—In the event of  
2           such consent, or if upon the record made at any  
3           such hearing, the Agency shall find that any  
4           violation specified in the notice of charges has  
5           been established, the Agency may issue and  
6           serve upon the person an order to cease-and-de-  
7           sist from any such violation or practice.

8           (F) INCLUDES REQUIREMENT FOR COR-  
9           RECTIVE ACTION.—Such order may, by provi-  
10          sions which may be mandatory or otherwise, re-  
11          quire the person to cease-and-desist from the  
12          same, and, further, to take affirmative action to  
13          correct the conditions resulting from any such  
14          violation.

15          (2) EFFECTIVENESS OF ORDER.—A cease-and-  
16          desist order shall take effect at the end of the 30-  
17          day period beginning on the date of the service of  
18          such order upon the covered person concerned (ex-  
19          cept in the case of a cease-and-desist order issued  
20          upon consent, which shall take effect at the time  
21          specified therein), and shall remain effective and en-  
22          forceable as provided therein, except to such extent  
23          as it is stayed, modified, terminated, or set aside by  
24          action of the Agency or a reviewing court.

25          (3) DECISION AND APPEAL.—

1 (A) PLACE OF AND PROCEDURES FOR  
2 HEARING.—Any hearing provided for in this  
3 subsection shall be held in the Federal judicial  
4 district or in the territory in which the resi-  
5 dence or home office of the person is located  
6 unless the person consents to another place,  
7 and shall be conducted in accordance with the  
8 provisions of chapter 5 of title 5 of the United  
9 States Code.

10 (B) TIME LIMIT FOR DECISION.—After  
11 such hearing, and within 90 days after the  
12 Agency has notified the parties that the case  
13 has been submitted to it for final decision, the  
14 Agency shall—

15 (i) render its decision (which shall in-  
16 clude findings of fact upon which its deci-  
17 sion is predicated) and shall issue; and

18 (ii) serve upon each party to the pro-  
19 ceeding an order or orders consistent with  
20 the provisions of this section. Judicial re-  
21 view of any such order shall be exclusively  
22 as provided in this subsection.

23 (C) MODIFICATION OF ORDER GEN-  
24 ERALLY.—Unless a petition for review is timely  
25 filed in a court of appeals of the United States,



1 as hereinafter provided in paragraph (4), and  
2 thereafter until the record in the proceeding has  
3 been filed as so provided, the Agency may at  
4 any time, upon such notice and in such manner  
5 as it shall deem proper, modify, terminate, or  
6 set aside any such order.

7 (D) MODIFICATION OF ORDER AFTER FIL-  
8 ING RECORD ON APPEAL.—Upon such filing of  
9 the record, the Agency may modify, terminate,  
10 or set aside any such order with permission of  
11 the court.

12 (4) APPEAL TO COURT OF APPEALS.—

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

1           (B) TRANSMITTAL OF COPY TO THE AGEN-  
2           CY.—A copy of such petition shall be forthwith  
3           transmitted by the clerk of the court to the  
4           Agency, and thereupon the Agency shall file in  
5           the court the record in the proceeding, as pro-  
6           vided in section 2112 of title 28 of the United  
7           States Code.

8           (C) JURISDICTION OF COURT.—Upon the  
9           filing of such petition, such court shall have ju-  
10          risdiction, which upon the filing of the record  
11          shall except as provided in the last sentence of  
12          paragraph (3) be exclusive, to affirm, modify,  
13          terminate, or set aside, in whole or in part, the  
14          order of the agency.

15          (D) SCOPE OF REVIEW.—Review of such  
16          proceedings shall be had as provided in chapter  
17          7 of title 5 of the United States Code.

18          (E) FINALITY.—The judgment and decree  
19          of the court shall be final, except that the same  
20          shall be subject to review by the Supreme Court  
21          upon certiorari, as provided in section 1254 of  
22          title 28 of the United States Code.

23          (5) NO STAY.—The commencement of pro-  
24          ceedings for judicial review under paragraph (4)

1 shall not, unless specifically ordered by the court,  
2 operate as a stay of any order issued by the agency.

3 (c) SPECIAL RULES FOR TEMPORARY CEASE-AND-  
4 DESIST PROCEEDINGS.—

5 (1) ISSUANCE.—

6 (A) IN GENERAL.—Whenever the Agency  
7 determines that the violation specified in the  
8 notice of charges served upon a person pursu-  
9 ant to subsection (b), or the continuation there-  
10 of, is likely to cause the person to be insolvent  
11 or otherwise prejudice the interests of con-  
12 sumers before the completion of the proceedings  
13 conducted pursuant to subsection (b), the Agen-  
14 cy may issue a temporary order requiring the  
15 covered person to cease-and-desist from any  
16 such violation or practice and to take affirma-  
17 tive action to prevent or remedy such insolvency  
18 or other condition pending completion of such  
19 proceedings.

20 (B) OTHER REQUIREMENTS.—Any tem-  
21 porary order issued under this paragraph may  
22 include any requirement authorized under this  
23 subtitle.

24 (C) EFFECT DATE OF ORDER.—Any tem-  
25 porary order issued under this paragraph shall

1 take effect upon service upon the person and,  
2 unless set aside, limited, or suspended by a  
3 court in proceedings authorized by paragraph  
4 (2) of this subsection, shall remain effective and  
5 enforceable pending the completion of the ad-  
6 ministrative proceedings pursuant to such no-  
7 tice and until such time as the Agency shall dis-  
8 miss the charges specified in such notice, or if  
9 a cease-and-desist order is issued against the  
10 person, until the effective date of such order.

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

24 (3) INCOMPLETE OR INACCURATE RECORDS.—

1 (A) TEMPORARY ORDER.—If a notice of  
2 charges served under subsection (b) specifies,  
3 on the basis of particular facts and cir-  
4 cumstances, that a person’s books and records  
5 are so incomplete or inaccurate that the Agency  
6 is unable to determine the financial condition of  
7 that person or the details or purpose of any  
8 transaction or transactions that may have a  
9 material effect on the financial condition of that  
10 person, the Agency may issue a temporary  
11 order requiring—

12 (i) the cessation of any activity or  
13 practice which gave rise, whether in whole  
14 or in part, to the incomplete or inaccurate  
15 state of the books or records; or

16 (ii) affirmative action to restore such  
17 books or records to a complete and accu-  
18 rate state, until the completion of the pro-  
19 ceedings under subsection (b)(1).

20 (B) EFFECTIVE PERIOD.—Any temporary  
21 order issued under subparagraph (A)—

22 (i) shall take effect upon service; and

23 (ii) unless set aside, limited, or sus-  
24 pended by a court in proceedings under

1 paragraph (2), shall remain in effect and  
2 enforceable until the earlier of—

3 (I) the completion of the pro-  
4 ceeding initiated under subsection (b)  
5 in connection with the notice of  
6 charges; or

7 (II) the date the Agency deter-  
8 mines, by examination or otherwise,  
9 that the person's books and records  
10 are accurate and reflect the financial  
11 condition of the person.

12 (d) SPECIAL RULES FOR ENFORCEMENT OF OR-  
13 DERS.—

14 (1) IN GENERAL.—The Agency may in its dis-  
15 cretion apply to the United States district court  
16 within the jurisdiction of which the principal office  
17 of the covered person is located, for the enforcement  
18 of any effective and outstanding notice or order  
19 issued under this section, and such court shall have  
20 jurisdiction and power to order and require compli-  
21 ance herewith.

22 (2) EXCEPTION.—Except as otherwise provided  
23 in this subsection, no court shall have jurisdiction to  
24 affect by injunction or otherwise the issuance or en-  
25 forcement of any notice or order or to review, mod-

1       ify, suspend, terminate, or set aside any such notice  
2       or order.

3       (e) REGULATIONS.—The Agency shall prescribe regu-  
4 lations establishing such procedures as may be necessary  
5 to carry out this section.

6 **SEC. 154. LITIGATION AUTHORITY.**

7       (a) IN GENERAL.—If any person violates a provision  
8 of this title, any enumerated consumer law, any law for  
9 which authorities were transferred under subtitles F and  
10 H, or any regulation prescribed or order issued by the  
11 Agency under this title or pursuant to any such authority,  
12 the Agency may commence a civil action against such per-  
13 son to impose a civil penalty or to seek all appropriate  
14 legal or equitable relief including a permanent or tem-  
15 porary injunction as permitted by law.

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

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

24       (d) NOTICE TO THE ATTORNEY GENERAL.—When  
25 commencing a civil action under this title, any enumerated

1 consumer law, any law for which authorities were trans-  
2 ferred under subtitles F and H, or any regulation there-  
3 under, the Agency shall notify the Attorney General.

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

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

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

15 (f) FORUM.—Any civil action brought under this title  
16 may be brought in a United States district court or in  
17 any court of competent jurisdiction of a state in a district  
18 in which the defendant is located or resides or is doing  
19 business, and such court shall have jurisdiction to enjoin  
20 such person and to require compliance with this title, any  
21 enumerated consumer law, any law for which authorities  
22 were transferred under subtitles F and H, or any regula-  
23 tion prescribed or order issued by the Agency under this  
24 title or pursuant to any such authority.

25 (g) TIME FOR BRINGING ACTION.—



1           (1) IN GENERAL.—Except as otherwise per-  
2           mitted by law, no action may be brought under this  
3           title more than 3 years after the violation to which  
4           an action relates.

5           (2) LIMITATIONS UNDER OTHER FEDERAL  
6           LAWS.—

7           (A) For purposes of this section, an action  
8           arising under this title shall not include claims  
9           arising solely under enumerated consumer laws.

10          (B) In any action arising solely under an  
11          enumerated consumer law, the Agency may  
12          commence, defend, or intervene in the action in  
13          accordance with the requirements of that law,  
14          as applicable.

15          (C) In any action arising solely under the  
16          laws for which authorities were transferred by  
17          subtitles F and H, the Agency may commence,  
18          defend, or intervene in the action in accordance  
19          with the requirements of that law, as applicable.

20 **SEC. 155. RELIEF AVAILABLE.**

21          (a) ADMINISTRATIVE PROCEEDINGS OR COURT AC-  
22          TIONS.—

23           (1) JURISDICTION.—The court (or Agency, as  
24           the case may be) in an action or adjudication pro-  
25           ceeding brought under this title, any enumerated

1 consumer law, or any law for which authorities were  
2 transferred by subtitles F and H, shall have jurisdic-  
3 tion to grant any appropriate legal or equitable relief  
4 with respect to a violation of this title, any enumer-  
5 ated consumer law, and any law for which authori-  
6 ties were transferred by subtitles F and H, including  
7 a violation of a regulation prescribed or order issued  
8 under this title, any enumerated consumer law and  
9 any law for which authorities were transferred by  
10 subtitles F and H.

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

12 (A) rescission or reformation of contracts;

13 (B) refund of moneys or return of real  
14 property;

15 (C) restitution;

16 (D) compensation for unjust enrichment;

17 (E) payment of damages;

18 (F) public notification regarding the viola-  
19 tion, including the costs of notification;

20 (G) limits on the activities or functions of  
21 the person; and

22 (H) civil money penalties, as set forth  
23 more fully in subsection (d).

24 (3) NO EXEMPLARY OR PUNITIVE DAMAGES.—

25 Nothing in this subsection shall be construed as au-

1       thorizing the imposition of exemplary or punitive  
2       damages.

3       (b) RECOVERY OF COSTS.—In any action brought by  
4 the Agency to enforce any provision of this title, any enu-  
5 merated consumer law, any law for which authorities were  
6 transferred by subtitles F and H, or any regulation pre-  
7 scribed or order issued by the Agency under this title or  
8 pursuant to any such authority, the Agency may recover  
9 its costs in connection with prosecuting such action if the  
10 Agency is the prevailing party in the action.

11       (c) CIVIL MONEY PENALTY IN COURT AND ADMINIS-  
12 TRATIVE ACTIONS.—

13           (1) Any person that violates any provision of  
14 this title, any enumerated consumer law, or any reg-  
15 ulation prescribed or order issued by the Agency  
16 under this title shall forfeit and pay a civil penalty  
17 pursuant to this subsection determined as follows:

18           (A) FIRST TIER.—For any violation of a  
19 final order or condition imposed in writing by  
20 the Agency, a civil penalty shall not exceed  
21 \$5,000 for each day during which such violation  
22 continues.

23           (B) SECOND TIER.—Notwithstanding  
24 paragraph (A), for any violation of a regulation  
25 prescribed under section 136 or for any person

1 that recklessly engages in a violation of this  
2 title, any enumerated consumer law, or any reg-  
3 ulation prescribed or order issued by the Agen-  
4 cy under this title, relating to the provision of  
5 an alternative consumer financial product or  
6 service, a civil penalty shall not exceed \$25,000  
7 for each day during which such violation con-  
8 tinues.

9 (C) THIRD TIER.—Notwithstanding sub-  
10 paragraphs (A) and (B), for any person that  
11 knowingly violates this title, any enumerated  
12 consumer law, or any regulation prescribed or  
13 order issued by the Agency under this title, a  
14 civil penalty shall not exceed \$1,000,000 for  
15 each day during which such violation continues.

16 (2) MITIGATING FACTORS.—In determining the  
17 amount of any penalty assessed under paragraph  
18 (1), the Agency or the court shall take into account  
19 the appropriateness of the penalty with respect to—

20 (A) the size of financial resources and good  
21 faith of the person charged;

22 (B) the gravity of the violation;

23 (C) the severity of the risks to or losses of  
24 the consumer, which may take into account the  
25 number of products or services sold or provided;

1 (D) the history of previous violations; and  
2 (E) such other matters as justice may re-  
3 quire.

4 (3) AUTHORITY TO MODIFY OR REMIT PEN-  
5 ALTY.—The Agency may compromise, modify, or  
6 remit any penalty which may be assessed or had al-  
7 ready been assessed under paragraph (1). The  
8 amount of such penalty, when finally determined,  
9 shall be exclusive of any sums owed by the person  
10 to the United States in connection with the costs of  
11 the proceeding, and may be deducted from any sums  
12 owing by the United States to the person charged.

13 (4) NOTICE AND HEARING.—No civil penalty  
14 may be assessed with respect to a violation of this  
15 title, any enumerated consumer law, or any regula-  
16 tion prescribed or order issued by the Agency, un-  
17 less—

18 (A) the Agency gives notice and an oppor-  
19 tunity for a hearing to the person accused of  
20 the violation; or

21 (B) the appropriate court has ordered such  
22 assessment and entered judgment in favor of  
23 the Agency.

1 **SEC. 156. REFERRALS FOR CRIMINAL PROCEEDINGS.**

2 Whenever the Agency obtains evidence that any per-  
3 son, either domestic or foreign, has engaged in conduct  
4 that may constitute a violation of Federal criminal law,  
5 the Agency shall have the power to transmit such evidence  
6 to the Attorney General, who may institute criminal pro-  
7 ceedings under appropriate law. Nothing in this section  
8 affects any other authority of the Agency to disclose infor-  
9 mation.

10 **SEC. 157. EMPLOYEE PROTECTION.**

11 (a) IN GENERAL.—No person shall terminate or in  
12 any other way discriminate against, or cause to be termi-  
13 nated or discriminated against, any employee or any au-  
14 thorized representative of employees by reason of the fact  
15 that such employee or representative has provided infor-  
16 mation to the Agency, filed, instituted or caused to be filed  
17 or instituted any proceeding under this title, any enumer-  
18 ated consumer law, or any law for which authorities were  
19 transferred by subtitles F and H, or has testified or is  
20 about to testify in any proceeding resulting from the ad-  
21 ministration or enforcement of the provisions of this title.

22 (b) AGENCY REVIEW OF TERMINATION.—

23 (1) APPLICATION FOR REVIEW.—Any employee  
24 or representative of employees who believes that he  
25 has been terminated or otherwise discriminated  
26 against by any person in violation of subsection (a)

1 may, within 45 days after such alleged violated oc-  
2 curs, apply to the Agency for review of such termi-  
3 nation or alleged discrimination.

4 (2) COPY TO RESPONDENT.—A copy of the ap-  
5 plication shall be sent to the person who is alleged  
6 to have terminated or otherwise discriminated  
7 against an employee, and such person shall be the  
8 respondent.

9 (3) INVESTIGATION.—Upon receipt of such ap-  
10 plication, the Agency shall cause such investigation  
11 to be made as the Agency deems appropriate.

12 (4) HEARING.—Any investigation under this  
13 subsection shall provide an opportunity for a public  
14 hearing at the request of any party to such review  
15 to enable the parties to present information relating  
16 to such alleged violation.

17 (5) NOTICE OF TIME AND PLACE FOR HEAR-  
18 ING.—The parties shall be given written notice of  
19 the time and place of the hearing at least 5 days  
20 prior to the hearing.

21 (6) PROCEDURE.—Any hearing under this sub-  
22 section shall be of record and shall be subject to sec-  
23 tion 554 of title 5, United States Code.

24 (7) DETERMINATION.—

1           (A) IN GENERAL.—Upon receiving the re-  
2           port of such investigation, the Agency shall  
3           make findings of fact.

4           (B) ISSUANCE OF DECISION.—If the Agen-  
5           cy finds that there is sufficient evidence in the  
6           record to conclude that such a violation did  
7           occur, the Agency shall issue a decision, incor-  
8           porating an order therein and the Agency’s  
9           findings, requiring the party committing such  
10          violation to take such affirmative action to  
11          abate the violation as the Agency deems appro-  
12          priate, including reinstating or rehiring the em-  
13          ployee or representative of employees to the  
14          former position with compensation.

15          (C) DENIAL OF APPLICATION.—If the  
16          Agency finds insufficient evidence to support  
17          the allegations made in the application, the  
18          Agency shall deny the application.

19          (8) JUDICIAL REVIEW.—An order issued by the  
20          Agency under this subsection (b) shall be subject to  
21          judicial review in the same manner as orders and de-  
22          cisions are subject to judicial review under this title  
23          or any enumerated consumer law.

24          (c) COSTS AND EXPENSES.—Whenever an order is  
25          issued under this section to abate such violation, at the



1 request of the applicant a sum equal to the aggregate  
2 amount of all costs and expenses (including attorney's  
3 fees) determined by the Agency to have been reasonably  
4 incurred by the applicant for, or in connection with, the  
5 application and prosecution of such proceedings shall be  
6 assessed against the person committing such violation.

7 (d) EXCEPTION.—This section shall not apply to any  
8 employee who acting without discretion from the employer  
9 of such employee (or the employer's agent) deliberately  
10 violates any requirement of this title or any enumerated  
11 consumer law.

12 **SEC. 158. EFFECTIVE DATE.**

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

15 **Subtitle F—Transfer of Functions**  
16 **and Personnel; Transitional**  
17 **Provisions**

18 **SEC. 161. TRANSFER OF CERTAIN FUNCTIONS.**

19 (a) IN GENERAL.—Except as provided in subsection  
20 (b), consumer financial protection functions are trans-  
21 ferred as follows:

22 (1) BOARD OF GOVERNORS.—

23 (A) TRANSFER OF FUNCTIONS.—All con-  
24 sumer financial protection functions of the

1 Board of Governors are transferred to the  
2 Agency.

3 (B) BOARD OF GOVERNORS' AUTHORITY.—

4 The Agency shall have all powers and duties  
5 that were vested in the Board of Governors, re-  
6 lating to consumer financial protection func-  
7 tions, on the day before the designated transfer  
8 date.

9 (2) COMPTROLLER OF THE CURRENCY.—

10 (A) TRANSFER OF FUNCTIONS.—All con-  
11 sumer financial protection functions of the  
12 Comptroller of the Currency are transferred to  
13 the Agency.

14 (B) COMPTROLLER'S AUTHORITY.—The  
15 Agency shall have all powers and duties that  
16 were vested in the Comptroller of the Currency,  
17 relating to consumer financial protection func-  
18 tions, on the day before the designated transfer  
19 date.

20 (3) DIRECTOR OF THE OFFICE OF THRIFT SU-  
21 PERVISION.—

22 (A) TRANSFER OF FUNCTIONS.—All con-  
23 sumer financial protection functions of the Di-  
24 rector of the Office of Thrift Supervision are  
25 transferred to the Agency.

1           (B) DIRECTOR'S AUTHORITY.—The Agen-  
2           cy shall have all powers and duties that were  
3           vested in the Director of the Office of Thrift  
4           Supervision, relating to consumer financial pro-  
5           tection functions, on the day before the des-  
6           ignated transfer date.

7           (4) FEDERAL DEPOSIT INSURANCE CORPORA-  
8           TION.—

9           (A) TRANSFER OF FUNCTIONS.—All con-  
10          sumer financial protection functions of the Fed-  
11          eral Deposit Insurance Corporation are trans-  
12          ferred to the Agency.

13          (B) CORPORATION'S AUTHORITY.—The  
14          Agency shall have all powers and duties that  
15          were vested in the Federal Deposit Insurance  
16          Corporation, relating to consumer financial pro-  
17          tection functions, on the day before the des-  
18          ignated transfer date.

19          (5) FEDERAL TRADE COMMISSION.—

20          (A) TRANSFER OF FUNCTIONS.—All con-  
21          sumer financial protection functions of the Fed-  
22          eral Trade Commission are transferred to the  
23          Agency.

24          (B) COMMISSION'S AUTHORITY.—The  
25          Agency shall have all powers and duties that

1           were vested in the Federal Trade Commission,  
2           relating to consumer financial protection func-  
3           tions, on the day before the designated transfer  
4           date.

5           (6) NATIONAL CREDIT UNION ADMINISTRA-  
6           TION.—

7                   (A) TRANSFER OF FUNCTIONS.—All con-  
8           sumer financial protection functions of the Na-  
9           tional Credit Union Administration are trans-  
10          ferred to the Agency.

11                   (B) NATIONAL CREDIT UNION ADMINIS-  
12          TRATION'S AUTHORITY.—The Agency shall have  
13          all powers and duties that were vested in the  
14          National Credit Union Administration, relating  
15          to consumer financial protection functions, on  
16          the day before the designated transfer date.

17          (b) TRANSFERS OF FUNCTIONS SUBJECT TO BACK-  
18          STOP ENFORCEMENT AUTHORITY REMAINING WITH  
19          TRANSFEROR AGENCIES.—The transfers of functions in  
20          subsection (a) shall not affect the authority of the agencies  
21          identified in subsection (a) from initiating enforcement  
22          proceedings under the circumstances described in section  
23          122(e)(3).

24                   (c) TERMINATION OF AUTHORITY OF TRANSFEROR  
25          AGENCIES TO COLLECT FEES FOR CONSUMER FINAN-

1 CIAL PROTECTION PURPOSES.—Authorities of the agen-  
2 cies identified in subsection (a) to assess and collect fees  
3 to cover the cost of conducting consumer financial protec-  
4 tion functions shall terminate on the day before the des-  
5 ignated transfer date.

6 (d) CONSUMER FINANCIAL PROTECTION FUNCTIONS  
7 DEFINED.—For purposes of this subtitle, the term “con-  
8 sumer financial protection functions” means research,  
9 rulemaking, issuance of orders or guidance, supervision,  
10 examination, and enforcement activities, powers, and du-  
11 ties relating to the provision of consumer financial prod-  
12 ucts or services, including the authority to assess and col-  
13 lect fees for those purposes, except that such term shall  
14 not include any such function relating to an agency’s re-  
15 sponsibilities under the Community Reinvestment Act of  
16 1977.

17 (e) EFFECTIVE DATE.—Subsections (a) and (b) shall  
18 take effect on the designated transfer date.

19 **SEC. 162. DESIGNATED TRANSFER DATE.**

20 (a) IN GENERAL.—Not later than 60 days after the  
21 date of the enactment of this Act, the Secretary—

22 (1) shall, in consultation with the Chairman of  
23 the Board of Governors, the Chairperson of the Fed-  
24 eral Deposit Insurance Corporation, the Chairman  
25 of the Federal Trade Commission, the Chairman of

1 the National Credit Union Administration Board,  
2 the Comptroller of the Currency, the Director of the  
3 Office of Thrift Supervision, 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 Agency 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, and the Director of the  
17 Office of Management and Budget, change the date  
18 designated under subsection (a); and

19 (2) shall publish notice of any changed designa-  
20 tion in the Federal Register.

21 (c) PERMISSIBLE DATES.—

22 (1) IN GENERAL.—Except as provided in para-  
23 graph (2), any date designated under this section  
24 shall be not earlier than 180 days nor later than 18  
25 months after the date of the enactment of this Act.

1           (2) EXTENSION OF TIME.—The Secretary may  
2 designate a date that is later than 18 months after  
3 the date of the enactment of this Act if the Sec-  
4 retary transmits to appropriate committees of Con-  
5 gress—

6           (A) a written determination that orderly  
7 implementation of this title is not feasible on  
8 the date that is 18 months after the date of the  
9 enactment of this Act;

10           (B) an explanation of why an extension is  
11 necessary for the orderly implementation of this  
12 title; and

13           (C) a description of the steps that will be  
14 taken to effect an orderly and timely implemen-  
15 tation of this title within the extended time pe-  
16 riod.

17           (3) EXTENSION LIMITED.—In no case shall any  
18 date designated under this section be later than 24  
19 months after the date of the enactment of this Act.

20 **SEC. 163. SAVINGS PROVISIONS.**

21           (a) BOARD OF GOVERNORS.—

22           (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
23 TIONS NOT AFFECTED.—Section 161(a)(1) shall not  
24 affect the validity of any right, duty, or obligation of

1 the United States, the Board of Governors (or any  
2 Federal reserve bank), 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 Board of Governors transferred to  
6 the Agency 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 Board of Governors (or any Federal reserve  
12 bank) before the designated transfer date with re-  
13 spect to any consumer financial protection function  
14 of the Board of Governors (or any Federal reserve  
15 bank) transferred to the Agency by this title, except  
16 that the Agency shall be substituted for the Board  
17 of Governors (or Federal reserve bank) as a party  
18 to any such proceeding as of the designated transfer  
19 date.

20 (b) FEDERAL DEPOSIT INSURANCE CORPORATION.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
22 TIONS NOT AFFECTED.—Section 161(a)(4) shall not  
23 affect the validity of any right, duty, or obligation of  
24 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 Agency 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 Deposit Insurance Corporation (or the  
12 Board of Directors of that Corporation) before the  
13 designated transfer date with respect to any con-  
14 sumer financial protection function of the Federal  
15 Deposit Insurance Corporation transferred to the  
16 Agency by this title, except that the Agency shall be  
17 substituted for the Federal Deposit Insurance Cor-  
18 poration (or Board of Directors) as a party to any  
19 such proceeding as of the designated transfer date.

20 (c) FEDERAL TRADE COMMISSION.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
22 TIONS NOT AFFECTED.—Section 161(a)(5) shall not  
23 affect the validity of any right, duty, or obligation of  
24 the United States, the Federal Trade Commission,  
25 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 Federal Trade Commission trans-  
4 ferred to the Agency by this title; and

5 (B) existed on the day before the des-  
6 ignated transfer date.

7 (2) CONTINUATION OF SUITS.—This Act shall  
8 not abate any proceeding commenced by or against  
9 the Federal Trade Commission before the designated  
10 transfer date with respect to any consumer financial  
11 protection function of the Federal Trade Commis-  
12 sion transferred to the Agency by this title, except  
13 that the Agency shall be substituted for the Federal  
14 Trade Commission as a party to any such pro-  
15 ceeding as of the designated transfer date.

16 (d) NATIONAL CREDIT UNION ADMINISTRATION.—

17 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
18 TIONS NOT AFFECTED.—Section 161(a)(6) shall not  
19 affect the validity of any right, duty, or obligation of  
20 the United States, the National Credit Union Ad-  
21 ministration, the National Credit Union Administra-  
22 tion Board, or any other person, that—

23 (A) arises under any provision of law relat-  
24 ing to any consumer financial protection func-

1           tion of the National Credit Union Administra-  
2           tion transferred to the Agency by this title; and

3                   (B) existed on the day before the des-  
4           ignated transfer date.

5           (2) CONTINUATION OF SUITS.—This Act shall  
6           not abate any proceeding commenced by or against  
7           the National Credit Union Administration (or the  
8           National Credit Union Administration Board) before  
9           the designated transfer date with respect to any con-  
10          sumer financial protection function of the National  
11          Credit Union Administration transferred to the  
12          Agency by this title, except that the Agency shall be  
13          substituted for the National Credit Union Adminis-  
14          tration (or National Credit Union Administration  
15          Board) as a party to any such proceeding as of the  
16          designated transfer date.

17          (e) COMPTROLLER OF THE CURRENCY.—

18                   (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
19           TIONS NOT AFFECTED.—Section 161(a)(2) shall not  
20           affect the validity of any right, duty, or obligation of  
21           the United States, the Comptroller of the Currency,  
22           the Office of the Comptroller of the Currency, or  
23           any other person, that—

24                           (A) arises under any provision of law relat-  
25           ing to any consumer financial protection func-

1           tion of the Comptroller of the Currency trans-  
2           ferred to the Agency by this title; and

3                   (B) existed on the day before the des-  
4           ignated transfer date.

5           (2) CONTINUATION OF SUITS.—This Act shall  
6           not abate any proceeding commenced by or against  
7           the Comptroller of the Currency (or the Office of the  
8           Comptroller of the Currency) with respect to any  
9           consumer financial protection function of the Comp-  
10          troller of the Currency transferred to the Agency by  
11          this title before the designated transfer date, except  
12          that the Agency shall be substituted for the Comp-  
13          troller of the Currency (or the Office of the Comp-  
14          troller of the Currency) as a party to any such pro-  
15          ceeding as of the designated transfer date.

16          (f) OFFICE OF THRIFT SUPERVISION.—

17                   (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-  
18           TIONS NOT AFFECTED.—Section 161(a)(3) shall not  
19           affect the validity of any right, duty, or obligation of  
20           the United States, the Director of the Office of  
21           Thrift Supervision, the Office of Thrift Supervision,  
22           or any other person, that—

23                           (A) arises under any provision of law relat-  
24           ing to any consumer financial protection func-  
25           tion of the Director of the Office of Thrift Su-

1           pervision transferred to the Agency by this title;  
2           and

3                   (B) that existed on the day before the des-  
4           ignated transfer date.

5           (2) CONTINUATION OF SUITS.—This Act shall  
6           not abate any proceeding commenced by or against  
7           the Director of the Office of Thrift Supervision (or  
8           the Office of Thrift Supervision) with respect to any  
9           consumer financial protection function of the Direc-  
10          tor of the Office of Thrift Supervision transferred to  
11          the Agency by this title before the designated trans-  
12          fer date, except that the Agency shall be substituted  
13          for the Director (or the Office of Thrift Supervision)  
14          as a party to any such proceeding as of the des-  
15          ignated transfer date.

16          (g) CONTINUATION OF EXISTING ORDERS, REGULA-  
17          TIONS, DETERMINATIONS, AGREEMENTS, AND RESOLU-  
18          TIONS.—All orders, resolutions, determinations, agree-  
19          ments, and regulations that have been issued, made, pre-  
20          scribed, or allowed to become effective by the Board of  
21          Governors (or any Federal reserve bank), the Federal De-  
22          posit Insurance Corporation, the Federal Trade Commis-  
23          sion, the National Credit Union Administration, the Office  
24          of the Comptroller of the Currency, or the Office of Thrift  
25          Supervision, or by a court of competent jurisdiction, in

1 the performance of consumer financial protection func-  
2 tions that are transferred by this title and that are in ef-  
3 fect on the day before the designated transfer date, shall  
4 continue in effect according to the terms of those orders,  
5 resolutions, determinations, agreements, and regulations,  
6 and shall be enforceable by or against the Agency until  
7 modified, terminated, set aside, or superseded in accord-  
8 ance with applicable law by the Agency, by any court of  
9 competent jurisdiction, or by operation of law.

10 (h) IDENTIFICATION OF REGULATIONS CONTIN-  
11 UED.—Not later than the designated transfer date, the  
12 Agency—

13 (1) shall, after consultation with the Chairman  
14 of the Board of Governors, the Chairperson of the  
15 Federal Deposit Insurance Corporation, the Chair-  
16 man of the Federal Trade Commission, the Chair-  
17 man of the National Credit Union Administration  
18 Board, the Comptroller of the Currency, and the Di-  
19 rector of the Office of Thrift Supervision, identify  
20 the regulations continued under subsection (g) that  
21 will be enforced by the Agency; and

22 (2) shall publish a list of such regulations in  
23 the Federal Register.

24 (i) STATUS OF REGULATIONS PROPOSED OR NOT  
25 YET EFFECTIVE.—

1           (1) PROPOSED REGULATIONS.—Any proposed  
2 regulation of the Board of Governors, the Federal  
3 Deposit Insurance Corporation, the Federal Trade  
4 Commission, the National Credit Union Administra-  
5 tion, the Office of the Comptroller of the Currency,  
6 or the Office of Thrift Supervision, which that agen-  
7 cy, in performing consumer financial protection  
8 functions transferred by this title, has proposed be-  
9 fore the designated transfer date but has not pub-  
10 lished as a final rule before that date, shall be  
11 deemed to be a proposed regulation of the Agency.

12           (2) REGULATIONS NOT YET EFFECTIVE.—Any  
13 interim or final regulation of Board of Governors,  
14 the Federal Deposit Insurance Corporation, the Fed-  
15 eral Trade Commission, the National Credit Union  
16 Administration, the Office of the Comptroller of the  
17 Currency, or the Office of Thrift Supervision, which  
18 that agency, in performing consumer financial pro-  
19 tection functions transferred by this title, has pub-  
20 lished before the designated transfer date but which  
21 has not become effective before that date, shall take  
22 effect as a regulation of the Agency according to its  
23 terms.

24 **SEC. 164. TRANSFER OF CERTAIN PERSONNEL.**

25           (a) IN GENERAL.—

1           (1) CERTAIN FEDERAL RESERVE SYSTEM EM-  
2           PLOYEES TRANSFERRED.—

3           (A) IDENTIFYING EMPLOYEES FOR TRANS-  
4           FER.—The Agency and the Board of Governors  
5           shall—

6                   (i) jointly determine the number of  
7                   employees of the Board necessary to per-  
8                   form or support the consumer financial  
9                   protection functions of the Board of Gov-  
10                  ernors that are transferred to the Agency  
11                  by this title; and

12                   (ii) consistent with the number deter-  
13                   mined under clause (i), jointly identify em-  
14                   ployees of the Board of Governors for  
15                   transfer to the Agency in a manner that  
16                   the Agency and the Board of Governors, in  
17                   their sole discretion, deem equitable.

18           (B) IDENTIFIED EMPLOYEES TRANS-  
19           FERRED.—All employees of the Board of Gov-  
20           ernors identified under subparagraph (A)(ii)  
21           shall be transferred to the Agency for employ-  
22           ment.

23           (C) FEDERAL RESERVE BANK EMPLOY-  
24           EES.—Employees of any Federal reserve bank  
25           who, on the day before the designated transfer



1 date, are performing consumer financial protec-  
2 tion functions on behalf of the Board of Gov-  
3 ernors shall be treated as employees of the  
4 Board of Governors for purposes of subpara-  
5 graphs (A) and (B).

6 (2) CERTAIN FDIC EMPLOYEES TRANS-  
7 FERRED.—

8 (A) IDENTIFYING EMPLOYEES FOR TRANS-  
9 FER.—The Agency and the Board of Directors  
10 of the Federal Deposit Insurance Corporation  
11 shall—

12 (i) jointly determine the number of  
13 employees of that Corporation necessary to  
14 perform or support the consumer financial  
15 protection functions of the Corporation  
16 that are transferred to the Agency by this  
17 title; and

18 (ii) consistent with the number deter-  
19 mined under clause (i), jointly identify em-  
20 ployees of the Corporation for transfer to  
21 the Agency in a manner that the Agency  
22 and the Board of Directors of the Corpora-  
23 tion, in their sole discretion, deem equi-  
24 table.

1 (B) IDENTIFIED EMPLOYEES TRANS-  
2 FERRED.—All employees of the Corporation  
3 identified under subparagraph (A)(ii) shall be  
4 transferred to the Agency for employment.

5 (3) CERTAIN NCUA EMPLOYEES TRANS-  
6 FERRED.—

7 (A) IDENTIFYING EMPLOYEES FOR TRANS-  
8 FER.—The Agency and the National Credit  
9 Union Administration Board shall—

10 (i) jointly determine the number of  
11 employees of the National Credit Union  
12 Administration necessary to perform or  
13 support the consumer financial protection  
14 functions of the National Credit Union Ad-  
15 ministration that are transferred to the  
16 Agency by this title; and

17 (ii) consistent with the number deter-  
18 mined under clause (i), jointly identify em-  
19 ployees of the National Credit Union Ad-  
20 ministration for transfer to the Agency in  
21 a manner that the Agency and the Na-  
22 tional Credit Union Administration Board,  
23 in their sole discretion, deem equitable.

24 (B) IDENTIFIED EMPLOYEES TRANS-  
25 FERRED.—All employees of the National Credit

1 Union Administration identified under subpara-  
2 graph (A)(ii) shall be transferred to the Agency  
3 for employment.

4 (4) APPOINTMENT AUTHORITY FOR EXCEPTED  
5 SERVICE AND SENIOR EXECUTIVE SERVICE TRANS-  
6 FERRED.—

7 (A) IN GENERAL.—In the case of employ-  
8 ees occupying positions in the excepted service  
9 or the Senior Executive Service, any appoint-  
10 ment authority established pursuant to law or  
11 regulations of the Office of Personnel Manage-  
12 ment for filling such positions shall be trans-  
13 ferred, subject to subparagraph (B).

14 (B) DECLINING TRANSFERS ALLOWED.—  
15 An agency or entity may decline to make a  
16 transfer of authority under subparagraph (A)  
17 (and the employees appointed pursuant thereto)  
18 to the extent that such authority relates to posi-  
19 tions excepted from the competitive service be-  
20 cause of their confidential, policy-making, pol-  
21 icy-determining, or policy-advocating character,  
22 and non-career positions in the Senior Execu-  
23 tive Service (within the meaning of section  
24 3132(a)(7) of title 5, United States Code).

1 (b) TIMING OF TRANSFERS AND POSITION ASSIGN-  
2 MENTS.—Each employee to be transferred under this sec-  
3 tion shall—

4 (1) be transferred not later than 90 days after  
5 the designated transfer date; and

6 (2) receive notice of his or her position assign-  
7 ment not later than 120 days after the effective date  
8 of his or her transfer.

9 (c) TRANSFER OF FUNCTION.—

10 (1) IN GENERAL.—Notwithstanding any other  
11 provision of law, the transfer of employees shall be  
12 deemed a transfer of functions for the purpose of  
13 section 3503 of title 5, United States Code.

14 (2) PRIORITY OF THIS TITLE.—If any provi-  
15 sions of this title conflict with any protection pro-  
16 vided to transferred employees under section 3503 of  
17 title 5, United States Code, the provisions of this  
18 title shall control.

19 (d) EQUAL STATUS AND TENURE POSITIONS.—

20 (1) EMPLOYEES TRANSFERRED FROM FDIC,  
21 FTC, NCUA, OCC, AND OTS.—Each employee trans-  
22 ferred from the Federal Deposit Insurance Corpora-  
23 tion, the Federal Trade Commission, the National  
24 Credit Union Administration, the Office of the  
25 Comptroller of the Currency, or the Office of Thrift

1 Supervision shall be placed in a position at the  
2 Agency with the same status and tenure as he or she  
3 held on the day before the designated transfer date.

4 (2) EMPLOYEES TRANSFERRED FROM THE  
5 FEDERAL RESERVE SYSTEM.—

6 (A) COMPARABILITY.—Each employee  
7 transferred from the Board of Governors or  
8 from a Federal reserve bank shall be placed in  
9 a position with the same status and tenure as  
10 that of employees transferring to the Agency  
11 from the Office of the Comptroller of the Cur-  
12 rency who perform similar functions and have  
13 similar periods of service.

14 (B) SERVICE PERIODS CREDITED.—For  
15 purposes of this paragraph, periods of service  
16 with the Board of Governors or a Federal re-  
17 serve bank shall be credited as periods of serv-  
18 ice with a Federal agency.

19 (e) ADDITIONAL CERTIFICATION REQUIREMENTS  
20 LIMITED.—Examiners transferred to the Agency shall not  
21 be subject to any additional certification requirements be-  
22 fore being placed in a comparable examiner's position at  
23 the Agency examining the same types of institutions as  
24 they examined before they were transferred.

25 (f) PERSONNEL ACTIONS LIMITED.—

1           (1) 1-YEAR PROTECTION.—Except as provided  
2           in paragraph (2), each transferred employee holding  
3           a permanent position on the day before the des-  
4           ignated transfer date shall not, during the 1-year pe-  
5           riod beginning on the designated transfer date, be  
6           involuntarily separated, or involuntarily reassigned  
7           outside his or her local locality pay area as defined  
8           by the Office of Personnel Management.

9           (2) EXCEPTIONS.—Paragraph (1) shall not be  
10          construed as limiting the right of the Agency to—

11                 (A) separate an employee for cause or for  
12                 unacceptable performance;

13                 (B) terminate an appointment to a position  
14                 excepted from the competitive service because of  
15                 its confidential policy-making, policy-deter-  
16                 mining, or policy-advocating character; or

17                 (C) reassign a supervisory employee out-  
18                 side his or her locality pay area as defined by  
19                 the Office of Personnel Management when the  
20                 Agency determines that the reassignment is  
21                 necessary for the efficient operation of the  
22                 Agency.

23          (g) PAY.—

24           (1) 1-YEAR PROTECTION.—Except as provided  
25           in paragraph (2), each transferred employee shall,

1 during the 1-year period beginning on the des-  
2 ignated transfer date, receive pay at a rate not less  
3 than the basic rate of pay (including any geographic  
4 differential) that the employee received during the 1-  
5 year period immediately before the transfer.

6 (2) EXCEPTIONS.—Paragraph (1) shall not be  
7 construed as limiting the right of the Agency to re-  
8 duce the rate of basic pay of a transferred em-  
9 ployee—

10 (A) for cause;

11 (B) for unacceptable performance; or

12 (C) with the employee’s consent.

13 (3) PROTECTION ONLY WHILE EMPLOYED.—  
14 Paragraph (1) applies to a transferred employee  
15 only while that employee remains employed by the  
16 Agency.

17 (4) PAY INCREASES PERMITTED.—Paragraph  
18 (1) shall not be construed as limiting the authority  
19 of the Agency to increase a transferred employee’s  
20 pay.

21 (h) REORGANIZATION.—

22 (1) BETWEEN 1ST AND 3RD YEAR.—

23 (A) IN GENERAL.—If the Agency deter-  
24 mines, during the period beginning 1 year after  
25 the designated transfer date and ending 3 years

1 after the designated transfer date, that a reor-  
2 ganization of the staff of the Agency is re-  
3 quired—

4 (i) that reorganization shall be  
5 deemed a “major reorganization” for pur-  
6 poses of affording affected employees re-  
7 tirement under section 8336(d)(2) or  
8 8414(b)(1)(B) of title 5, United States  
9 Code;

10 (ii) before the reorganization occurs,  
11 all employees in the same locality pay area  
12 as defined by the Office of Personnel Man-  
13 agement shall be placed in a uniform posi-  
14 tion classification system; and

15 (iii) any resulting reduction in force  
16 shall be governed by the provisions of  
17 chapter 35 of title 5, United States Code,  
18 except that the Agency shall—

19 (I) establish competitive areas  
20 (as that term is defined in regulations  
21 issued by the Office of Personnel  
22 Management) to include at a min-  
23 imum all employees in the same local-  
24 ity pay area as defined by the Office  
25 of Personnel Management;



1 (II) establish competitive levels  
2 (as that term is defined in regulations  
3 issued by the Office of Personnel  
4 Management) without regard to  
5 whether the particular employees have  
6 been appointed to positions in the  
7 competitive service or the excepted  
8 service; and

9 (III) afford employees appointed  
10 to positions in the excepted service  
11 (other than to a position excepted  
12 from the competitive service because  
13 of its confidential policy-making, pol-  
14 icy-determining, or policy-advocating  
15 character) the same assignment rights  
16 to positions within the Agency as em-  
17 ployees appointed to positions in the  
18 competitive service.

19 (B) SERVICE CREDIT FOR REDUCTIONS IN  
20 FORCE.—For purposes of this paragraph, peri-  
21 ods of service with a Federal home loan bank,  
22 a joint office of the Federal home loan banks,  
23 the Board of Governors, a Federal reserve  
24 bank, the Federal Deposit Insurance Corpora-  
25 tion, or the National Credit Union Administra-

1           tion shall be credited as periods of service with  
2           a Federal agency.

3           (2) AFTER 3RD YEAR.—

4                   (A) IN GENERAL.—If the Agency deter-  
5                   mines, at any time after the 3-year period be-  
6                   ginning on the designated transfer date, that a  
7                   reorganization of the staff of the Agency is re-  
8                   quired, any resulting reduction in force shall be  
9                   governed by the provisions of chapter 35 of title  
10                  5, United States Code, except that the Agency  
11                  shall establish competitive levels (as that term  
12                  is defined in regulations issued by the Office of  
13                  Personnel Management) without regard to  
14                  types of appointment held by particular employ-  
15                  ees transferred under this section.

16                   (B) SERVICE CREDIT FOR REDUCTIONS IN  
17                   FORCE.—For purposes of this paragraph, peri-  
18                   ods of service with a Federal home loan bank,  
19                   a joint office of the Federal home loan banks,  
20                   the Board of Governors, a Federal reserve  
21                   bank, the Federal Deposit Insurance Corpora-  
22                   tion, or the National Credit Union Administra-  
23                   tion shall be credited as periods of service with  
24                   a Federal agency.

25           (i) BENEFITS.—

1           (1) RETIREMENT BENEFITS FOR TRANSFERRED  
2 EMPLOYEES.—

3           (A) IN GENERAL.—

4           (i) CONTINUATION OF EXISTING RE-  
5 TIREMENT PLAN.—Except as provided in  
6 subparagraph (B), each transferred em-  
7 ployee shall remain enrolled in his or her  
8 existing retirement plan as long as he or  
9 she remains employed by the Agency.

10          (ii) EMPLOYER'S CONTRIBUTION.—  
11 The Agency shall pay any employer con-  
12 tributions to the existing retirement plan  
13 of each transferred employee as required  
14 under that plan.

15          (B) OPTION FOR EMPLOYEES TRANS-  
16 FERRED FROM FEDERAL RESERVE SYSTEM TO  
17 BE SUBJECT TO FEDERAL EMPLOYEE RETIRE-  
18 MENT PROGRAM.—

19          (i) ELECTION.—Any transferred em-  
20 ployee who was enrolled in a Federal Re-  
21 serve System retirement plan on the day  
22 before his or her transfer to the Agency  
23 may, during the period beginning 6 months  
24 after the designated transfer date and end-  
25 ing 1 year after the designated transfer

1 date, elect to be subject to the Federal em-  
2 ployee retirement program.

3 (ii) EFFECTIVE DATE OF COV-  
4 ERAGE.—For any employee making an  
5 election under clause (i), coverage by the  
6 Federal employee retirement program shall  
7 begin 1 year after the designated transfer  
8 date.

9 (C) AGENCY PARTICIPATION IN FEDERAL  
10 RESERVE SYSTEM RETIREMENT PLAN.—

11 (i) SEPARATE ACCOUNT IN FEDERAL  
12 RESERVE SYSTEM RETIREMENT PLAN ES-  
13 TABLISHED.—A separate account in the  
14 Federal Reserve System retirement plan  
15 shall be established for Agency employees  
16 who do not make the election under sub-  
17 paragraph (B).

18 (ii) FUNDS ATTRIBUTABLE TO TRANS-  
19 FERRED EMPLOYEES REMAINING IN FED-  
20 ERAL RESERVE SYSTEM RETIREMENT  
21 PLAN TRANSFERRED.—The proportionate  
22 share of funds in the Federal Reserve Sys-  
23 tem retirement plan, including the propor-  
24 tionate share of any funding surplus in  
25 that plan, attributable to a transferred em-

1            ployee who does not make the election  
2            under subparagraph (B), shall be trans-  
3            ferred to the account established under  
4            clause (i).

5            (iii) EMPLOYER CONTRIBUTIONS DE-  
6            POSITED.—The Agency shall deposit into  
7            the account established under clause (i)  
8            the employer contributions that the Agency  
9            makes on behalf of employees who do not  
10           make the election under subparagraph (B).

11           (iv) ACCOUNT ADMINISTRATION.—The  
12           Agency shall administer the account estab-  
13           lished under clause (i) as a participating  
14           employer in the Federal Reserve System  
15           retirement plan.

16           (D) DEFINITIONS.—For purposes of this  
17           paragraph, the following definitions shall apply:

18           (i) EXISTING RETIREMENT PLAN.—  
19           The term “existing retirement plan”  
20           means, with respect to any employee trans-  
21           ferred under this section, the particular re-  
22           tirement plan (including the Financial In-  
23           stitutions Retirement Fund) and any asso-  
24           ciated thrift savings plan of the agency or  
25           Federal reserve bank from which the em-

1            ployee was transferred, which the employee  
2            was enrolled in on the day before the des-  
3            ignated transfer date.

4            (ii) FEDERAL EMPLOYEE RETIRE-  
5            MENT PLAN.—The term “Federal employee  
6            retirement program” means the retirement  
7            program for Federal employees established  
8            by chapters 83 and 84 of title 5, United  
9            States Code.

10            (2) BENEFITS OTHER THAN RETIREMENT BEN-  
11            EFITS FOR TRANSFERRED EMPLOYEES.—

12            (A) DURING 1ST YEAR.—

13            (i) EXISTING PLANS CONTINUE.—  
14            Each transferred employee may, for 1 year  
15            after the designated transfer date, retain  
16            membership in any other employee benefit  
17            program of the agency or bank from which  
18            the employee transferred, including a den-  
19            tal, vision, long-term care, or life insurance  
20            program, to which the employee belonged  
21            on the day before the designated transfer  
22            date.

23            (ii) EMPLOYER’S CONTRIBUTION.—  
24            The Agency shall reimburse the agency or  
25            bank from which an employee was trans-

1           ferred for any cost incurred by that agency  
2           or bank in continuing to extend coverage  
3           in the benefit program to the employee as  
4           required under that program or negotiated  
5           agreements.

6           (B) DENTAL, VISION, OR LIFE INSURANCE  
7           AFTER 1ST YEAR.—If, after the 1-year period  
8           beginning on the designated transfer date, the  
9           Agency decides not to continue participation in  
10          any dental, vision, or life insurance program of  
11          an agency or bank from which employees trans-  
12          ferred, a transferred employee who is a member  
13          of such a program may, before the Agency’s de-  
14          cision takes effect, elect to enroll, without re-  
15          gard to any regularly scheduled open season,  
16          in—

17                   (i) the enhanced dental benefits estab-  
18                   lished by chapter 89A of title 5, United  
19                   States Code;

20                   (ii) the enhanced vision benefits estab-  
21                   lished by chapter 89B of title 5, United  
22                   States Code; and

23                   (iii) the Federal Employees Group  
24                   Life Insurance Program established by  
25                   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 Agen-  
6           cy 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 Agency’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 Agency  
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           Agency and the Office of Management and  
4           Budget, to be necessary to reimburse the Fund  
5           for the cost to the Fund of providing benefits  
6           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 Office of the  
11          Comptroller of the Currency, the Office of  
12          Thrift Supervision, the Federal Deposit Insur-  
13          ance Corporation, the National Credit Union  
14          Administration, the Board of Governors, or a  
15          Federal reserve bank, immediately before enroll-  
16          ment in a health benefits plan under chapter 89  
17          of title 5, United States Code, shall be consid-  
18          ered as enrollment in a health benefits plan  
19          under that chapter for purposes of section  
20          8905(b)(1)(A) of title 5, United States Code.

21          (E) SPECIAL PROVISIONS TO ENSURE CON-  
22          TINUATION OF LIFE INSURANCE BENEFITS.—

23                 (i) IN GENERAL.—An annuitant (as  
24                 defined in section 8901(3) of title 5,  
25                 United States Code) who is enrolled in a

1 life insurance plan administered by the  
2 Board of Governors of the Federal Reserve  
3 System, the Federal Deposit Insurance  
4 Corporation, the Federal Trade Commis-  
5 sion, the National Credit Union Adminis-  
6 tration, the Office of the Comptroller of  
7 the Currency, or the Office of Thrift Su-  
8 pervision on the day before the designated  
9 transfer date shall be eligible for coverage  
10 by a life insurance plan under sections  
11 8706(b), 8714a, 8714b, and 8714c of title  
12 5, United States Code, or in a life insur-  
13 ance plan established by the Agency, with-  
14 out regard to any regularly scheduled open  
15 season and requirement of insurability.

16 (ii) EMPLOYEE'S CONTRIBUTION.—An  
17 individual enrolled in a life insurance plan  
18 under this clause shall pay any employee  
19 contribution required by the plan.

20 (iii) ADDITIONAL FUNDING.—The  
21 Agency shall transfer to the Employees'  
22 Life Insurance Fund established under sec-  
23 tion 8714 of title 5, United States Code,  
24 an amount determined by the Director of  
25 the Office of Personnel Management, after

1 consultation with the Agency and the Of-  
2 fice of Management and Budget, to be nec-  
3 essary to reimburse the Fund for the cost  
4 to the Fund of providing benefits under  
5 this subparagraph not otherwise paid for  
6 by the employee under clause (ii).

7 (iv) CREDIT FOR TIME ENROLLED IN  
8 OTHER PLANS.—For employees transferred  
9 under this section, enrollment in a life in-  
10 surance plan administered by the Board of  
11 Governors, the Federal Deposit Insurance  
12 Corporation, the Federal Trade Commis-  
13 sion, the National Credit Union Adminis-  
14 tration, the Office of the Comptroller of  
15 the Currency, the Office of Thrift Super-  
16 vision, or a Federal reserve bank imme-  
17 diately before enrollment in a life insur-  
18 ance plan under chapter 87 of title 5,  
19 United States Code, shall be considered as  
20 enrollment in a life insurance plan under  
21 that chapter for purposes of section  
22 8706(b)(1)(A) of title 5, United States  
23 Code.

24 (j) IMPLEMENTATION OF UNIFORM PAY AND CLASSI-  
25 FICATION SYSTEM.—Not later than 2 years after the des-

1 ignated transfer date, the Agency shall implement a uni-  
2 form pay and classification system for all transferred em-  
3 ployees.

4 (k) **EQUITABLE TREATMENT.**—In administering the  
5 provisions of this section, the Agency—

6 (1) shall take no action that would unfairly dis-  
7 advantage transferred employees relative to each  
8 other based on their prior employment by the Board  
9 of Governors, the Federal Deposit Insurance Cor-  
10 poration, the Federal Trade Commission, the Na-  
11 tional Credit Union Administration, the Office of the  
12 Comptroller of the Currency, the Office of Thrift  
13 Supervision, a Federal reserve bank, a Federal home  
14 loan bank, or a joint office of the Federal home loan  
15 banks; and

16 (2) may take such action as is appropriate in  
17 individual cases so that employees transferred under  
18 this section receive equitable treatment, with respect  
19 to those employees' status, tenure, pay, benefits  
20 (other than benefits under programs administered by  
21 the Office of Personnel Management), and accrued  
22 leave or vacation time, for prior periods of service  
23 with any Federal agency, including the Board of  
24 Governors of the Federal Reserve System, the Fed-  
25 eral Deposit Insurance Corporation, the Federal

1 Trade Commission, the National Credit Union Ad-  
2 ministration, the Office of the Comptroller of the  
3 Currency, the Office of Thrift Supervision, a Federal  
4 reserve bank, a Federal home loan bank, or a joint  
5 office of the Federal home loan banks.

6 (l) NO PRIVATE RIGHT OF ACTION.—This section  
7 shall not be construed as providing any transferred em-  
8 ployee with any right of action to require the Agency or  
9 any officer or employee of the Agency to take any action  
10 under this section.

11 (m) IMPLEMENTATION.—In implementing the provi-  
12 sions of this section, the Agency shall work with the Office  
13 of Personnel Management and other entities with exper-  
14 tise in matters related to employment to ensure a fair and  
15 orderly transition for affected employees.

16 **SEC. 165. INCIDENTAL TRANSFERS.**

17 (a) INCIDENTAL TRANSFERS AUTHORIZED.—The Di-  
18 rector of the Office of Management and Budget, in con-  
19 sultation with the Secretary, shall make such additional  
20 incidental transfers and dispositions of assets and liabil-  
21 ities held, used, arising from, available, or to be made  
22 available, in connection with the functions transferred by  
23 this title, as the Director may determine necessary to ac-  
24 complish the purposes of this title.

1 (b) SUNSET.—The authority provided in this section  
2 shall terminate 5 years after the date of the enactment  
3 of this Act.

4 **SEC. 166. INTERIM AUTHORITY OF THE SECRETARY.**

5 (a) IN GENERAL.—The Secretary is authorized to  
6 perform the functions of the Agency under this subtitle  
7 until 3 of the appointed Board members are confirmed  
8 by the Senate in accordance with section 112.

9 (b) INTERIM ADMINISTRATIVE SERVICES BY THE  
10 DEPARTMENT OF THE TREASURY.—The Department of  
11 the Treasury may provide administrative services nec-  
12 essary to support the Agency before the designated trans-  
13 fer date.

14 (c) INTERIM FUNDING FOR THE DEPARTMENT OF  
15 THE TREASURY.—For the purposes of carrying out the  
16 authorities granted in this section, there are appropriated  
17 to the Department of the Treasury such sums as are nec-  
18 essary. Notwithstanding any other provision of law, such  
19 amounts shall be subject to apportionment under section  
20 1517 of title 31, United States Code, and restrictions that  
21 generally apply to the use of appropriated funds in title  
22 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 (B) PROTECTION OF IDENTITY.—In the  
18 publicly available data, any personally identifi-  
19 able data element shall be removed so as to pro-  
20 tect the identities of the commercial and resi-  
21 dential customers.

22 (c) AVAILABILITY OF INFORMATION.—

23 (1) SUBMISSION TO AGENCIES.—The data re-  
24 quired to be compiled and maintained under this  
25 section by any financial institution shall be sub-



1       mitted annually to the Agency, or to a Federal bank-  
2       ing agency, in accordance with rules prescribed by  
3       the Agency.

4           (2) AVAILABILITY OF INFORMATION.—Informa-  
5       tion compiled and maintained under this section  
6       shall be retained for not less than 3 years after the  
7       date of preparation and shall be made available to  
8       the public, upon request, in the form required under  
9       rules prescribed by the Agency.

10       (d) AGENCY USE.—The Agency—

11           (1) shall assess the distribution of residential  
12       and commercial accounts at such financial institu-  
13       tion across income and minority level of census  
14       tracts; and

15           (2) may use the data for any other purpose as  
16       permitted by law.

17       (e) REGULATIONS AND GUIDANCE.—

18           (1) IN GENERAL.—The Agency shall prescribe  
19       such regulations and issue guidance as may be nec-  
20       essary to carry out, enforce, and compile data pursu-  
21       ant to this section.

22           (2) DATA COMPILATION REGULATIONS.—The  
23       Agency shall prescribe regulations regarding the pro-  
24       vision of data compiled under this section to the  
25       Federal banking agencies to carry out the purposes

1 of this section and shall issue guidance to financial  
2 institutions regarding measures to facilitate compli-  
3 ance with the this section and the requirements of  
4 regulations prescribed under this section.

5 (f) DEFINITIONS.—For purposes of this section, the  
6 following definitions shall apply:

7 (1) AGENCY.—The term “Agency” means the  
8 Consumer Financial Protection Agency.

9 (2) CREDIT UNION.—The term “credit union”  
10 means a Federal credit union or a State-chartered  
11 credit union (as such terms are defined in section  
12 101 of the Federal Credit Union Act).

13 (3) DEPOSIT ACCOUNT.—The term “deposit ac-  
14 count” includes any checking account, savings ac-  
15 count, credit union share account, and other type of  
16 account as defined by the Agency.

17 (4) FEDERAL BANKING AGENCY.—The term  
18 “Federal banking agency” means the Board of Gov-  
19 ernors of the Federal Reserve System, the head of  
20 the agency responsible for chartering and regulating  
21 national banks, the Director of the Office of Thrift  
22 Supervision, the Federal Deposit Insurance Corpora-  
23 tion, and the National Credit Union Administration;  
24 and the term “Federal banking agencies” means all  
25 of those agencies.

1           (5) FINANCIAL INSTITUTION.—The term “fi-  
2           nancial institution”—

3                   (A) has the meaning given to the term “in-  
4                   sured depository institution” in section 3(e)(2)  
5                   of the Federal Deposit Insurance Act; and

6                   (B) includes any credit union.

7           (g) EFFECTIVE DATE.—This section shall take effect  
8           on the designated transfer date.

9   **SEC. 172. SMALL BUSINESS DATA COLLECTION.**

10          (a) IN GENERAL.—The Equal Credit Opportunity  
11          Act (15 U.S.C. 1691 et seq.) is amended by inserting after  
12          section 704A the following new section:

13   **“§ 704B. Small business loan data collection**

14          “(a) PURPOSE.—The purpose of this section is to fa-  
15          cilitate enforcement of fair lending laws and enable com-  
16          munities, governmental entities, and creditors to identify  
17          business and community development needs and opportu-  
18          nities of women- and minority-owned small businesses.

19          “(b) IN GENERAL.—Subject to the requirements of  
20          this section, in the case of any application to a financial  
21          institution for credit for a small business, the financial in-  
22          stitution shall—

23                   “(1) inquire whether the business is a women-  
24                   or minority-owned business, without regard to  
25                   whether such application is received in person, by

1 mail, by telephone, by electronic mail or other form  
2 of electronic transmission, or by any other means  
3 and whether or not such application is in response  
4 to a solicitation by the financial institution; and

5 “(2) maintain a record of the responses to such  
6 inquiry separate from the application and accom-  
7 panying information.

8 “(c) RIGHT TO REFUSE.—Any applicant for credit  
9 may refuse to provide any information requested pursuant  
10 to subsection (b) in connection with any application for  
11 credit.

12 “(d) NO ACCESS BY UNDERWRITERS.—

13 “(1) IN GENERAL.—Where feasible, no loan un-  
14 derwriter or other officer or employee of a financial  
15 institution, or any affiliate of a financial institution,  
16 involved in making any determination concerning an  
17 application for credit shall have access to any infor-  
18 mation provided by the applicant pursuant to a re-  
19 quest under subsection (b) in connection with such  
20 application.

21 “(2) EXCEPTION.—If a financial institution de-  
22 termines that loan underwriter or other officer or  
23 employee of a financial institution, or any affiliate of  
24 a financial institution, involved in making any deter-  
25 mination concerning an application for credit should

1 have access to any information provided by the ap-  
2 plicant pursuant to a request under subsection (b),  
3 the financial institution will provide notice to the ap-  
4 plicant of the access of the underwriter to this infor-  
5 mation, along with notice that the financial institu-  
6 tion may not discriminate on this basis of this infor-  
7 mation.

8 “(e) FORM AND MANNER OF INFORMATION.—

9 “(1) IN GENERAL.—Each financial institution  
10 shall compile and maintain, in accordance with regu-  
11 lations of the Agency, a record of the information  
12 provided by any loan applicant pursuant to a request  
13 under subsection (b).

14 “(2) ITEMIZATION.—Information compiled and  
15 maintained under paragraph (1) shall also be  
16 itemized in order to clearly and conspicuously dis-  
17 close the following:

18 “(A) The number of the application and  
19 the date the application was received.

20 “(B) The type and purpose of the loan or  
21 other credit being applied for.

22 “(C) The amount of the credit or credit  
23 limit applied for and the amount of the credit  
24 transaction or the credit limit approved for such  
25 applicant.

1           “(D) The type of action taken with respect  
2 to such application and the date of such action.

3           “(E) The census tract in which is located  
4 the principal place of business of the small busi-  
5 ness loan applicant.

6           “(F) The gross annual revenue of the busi-  
7 ness in the last fiscal year of the small business  
8 loan applicant preceding the date of the appli-  
9 cation.

10          “(G) The race and ethnicity of the prin-  
11 cipal owners of the business.

12          “(H) Any additional data the Agency de-  
13 termines would aid in fulfilling the purposes of  
14 this section.

15          “(3) INCLUSION OF PERSONALLY IDENTIFIABLE  
16 INFORMATION PROHIBITED.—In compiling and  
17 maintaining any record of information under this  
18 section, a financial institution may not include in  
19 such record the name, specific address (other than  
20 the census tract required under paragraph (1)(E)),  
21 telephone number, electronic mail address, and any  
22 other personally identifiable information concerning  
23 any individual who is, or is connected with, the small  
24 business loan applicant.

1           “(4) DISCRETION TO DELETE OR MODIFY PUB-  
2           LICLY AVAILABLE DATA.—The Agency may, in the  
3           discretion of the Agency, delete or modify data col-  
4           lected under this section which is or will be available  
5           to the public if the Agency determines that the dele-  
6           tion or modification of the data would advance a  
7           compelling privacy interest.

8           “(f) AVAILABILITY OF INFORMATION.—

9           “(1) SUBMISSION TO AGENCY.—The data re-  
10          quired to be compiled and maintained under this  
11          section by any financial institution shall be sub-  
12          mitted annually to the Agency.

13          “(2) AVAILABILITY OF INFORMATION.—

14                 “(A) IN GENERAL.—Information compiled  
15                 and maintained under this section shall be re-  
16                 tained for not less than 3 years after the date  
17                 of preparation and shall be made available to  
18                 the public, upon request, in the form required  
19                 under regulations prescribed by the Agency.

20                 “(B) ANNUAL DISCLOSURE TO THE PUB-  
21                 LIC.—In addition to the availability by request  
22                 under subparagraph (A) of data compiled and  
23                 maintained under this section, the Agency shall  
24                 annually provide such data to the public.

1           “(C) PROCEDURES.—The procedures for  
2 disclosing data compiled and maintained under  
3 this section to the public shall be determined by  
4 the Agency by regulation.

5           “(3) COMPILATION OF AGGREGATE DATA.—

6           “(A) IN GENERAL.—The Agency may, in  
7 the discretion of the Agency, compile for the  
8 Agency’s own use compilations of aggregate  
9 data.

10           “(B) PUBLIC AVAILABILITY OF AGGRE-  
11 GATE DATA.—The Agency may, in the discre-  
12 tion of the Agency, make public compilations of  
13 aggregate data in such manner as the Agency  
14 may determine to be appropriate.

15           “(g) DEFINITIONS.—For purposes of this section, the  
16 following definitions shall apply:

17           “(1) FINANCIAL INSTITUTION.—The term ‘fi-  
18 nancial institution’ means any partnership, com-  
19 pany, corporation, association (incorporated or unin-  
20 corporated), trust, estate, cooperative organization,  
21 or other entity that engages in any financial activity.

22           “(2) MINORITY-OWNED BUSINESS.—The term  
23 ‘minority-owned business’ means a business—



1           “(A) more than 50 percent of the owner-  
2           ship or control of which is held by 1 or more  
3           minority individuals; and

4           “(B) more than 50 percent of the net prof-  
5           it or loss of which accrues to 1 or more minor-  
6           ity individuals.

7           “(3) WOMEN-OWNED BUSINESS.—The term  
8           ‘women-owned business’ means a business—

9           “(A) more than 50 percent of the owner-  
10          ship or control of which is held by 1 or more  
11          women; and

12          “(B) more than 50 percent of the net prof-  
13          it or loss of which accrues to 1 or more women.

14          “(4) MINORITY.—The term ‘minority’ has the  
15          meaning given to such term by section 1204(c)(3) of  
16          the Financial Institutions Reform, Recovery, and  
17          Enforcement Act of 1989.

18          “(5) SMALL BUSINESS LOAN.—The term ‘small  
19          business loan’ shall be defined by the Agency, which  
20          may take into account—

21                 “(A) the gross revenues of the borrower;

22                 “(B) the total number of employees of the  
23          borrower;

24                 “(C) the industry in which the borrower  
25          has its primary operations; and

1                   “(D) the size of the loan.

2                   “(h) AGENCY ACTION.—

3                   “(1) IN GENERAL.—The Agency shall prescribe  
4 such regulations and issue such guidance as may be  
5 necessary to carry out, enforce, and compile data  
6 pursuant to this section.

7                   “(2) EXCEPTIONS.—The Agency, by regulation  
8 or order, may adopt exceptions to any requirement  
9 of this section and may, conditionally or uncondi-  
10 tionally, exempt any financial institution or class of  
11 institutions from the requirements of this section as  
12 the Agency determines to be necessary or appro-  
13 priate to carry out the purposes and objectives of  
14 this section.

15                   “(3) GUIDANCE.—The Agency shall issue guid-  
16 ance designed to facilitate compliance with the re-  
17 quirements of this section, including assisting finan-  
18 cial institutions in working with applicants to deter-  
19 mine whether the applicants are women- or minor-  
20 ity-owned for the purposes of this section.’”.

21                   (b) TECHNICAL AND CONFORMING AMENDMENT.—  
22 Section 701(b) of the Equal Credit Opportunity Act (15  
23 U.S.C. 1691(b)) is amended—

24                   (1) by striking “or” after the semicolon at the  
25 end of paragraph (3);

1           (2) by striking the period at the end of para-  
2           graph (4) and inserting “; or”; and

3           (3) by inserting after paragraph (4), the fol-  
4           lowing new paragraph:

5           “(5) to make an inquiry under section 704B in  
6           accordance with the requirements of such section.”.

7           (c) CLERICAL AMENDMENT.—The table of sections  
8           for title VII of the Consumer Credit Protection Act is  
9           amended by inserting after the item relating to section  
10          704A the following new item:

          “704B. Small business loan data collection.”.

11          (d) EFFECTIVE DATE.—This section shall take effect  
12          on the designated transfer date.

## 13                   **Subtitle H—Conforming** 14                   **Amendments**

### 15   **SEC. 181. AMENDMENTS TO THE INSPECTOR GENERAL ACT** 16                   **OF 1978.**

17          (a) ESTABLISHMENT.—Section 8G(a)(2) of the In-  
18          specter General Act of 1978 (5 U.S.C. App. 3, 8G(a)(2))  
19          is amended by inserting “the Consumer Financial Protec-  
20          tion Agency,” before “the Consumer Product Safety Com-  
21          mission,”.

22          (b) EFFECTIVE DATE.—This section shall take effect  
23          on the date of the enactment of this Act.

1 **SEC. 182. AMENDMENTS TO THE PRIVACY ACT OF 1974.**

2 (a) **APPLICABILITY.**—Section 552a of title 5, United  
3 States Code, is amended by adding at the end the fol-  
4 lowing new subsection:

5 “(w) **APPLICABILITY TO CONSUMER FINANCIAL PRO-**  
6 **TECTION AGENCY.**—Except as provided in the Consumer  
7 Financial Protection Agency Act of 2009, this section  
8 shall apply with respect to the Consumer Financial Protec-  
9 tion Agency.”.

10 (b) **EFFECTIVE DATE.**—This section shall take effect  
11 on the date of the enactment of this Act.

12 **SEC. 183. AMENDMENTS TO THE ALTERNATIVE MORTGAGE**

13 **TRANSACTION PARITY ACT OF 1982.**

14 (a) **SECTION 803(1).**—Section 803(1) of the Alter-  
15 native Mortgage Transaction Parity Act of 1982 (12  
16 U.S.C. 3802(1)) is amended by striking paragraphs (B)  
17 and (C).

18 (b) **SECTION 804(a).**—Section 804(a) of the Alter-  
19 native Mortgage Transaction Parity Act of 1982 (12  
20 U.S.C. 3803(a)) is amended—

21 (1) in paragraphs (1), (2), and (3), by inserting  
22 “on or before the designated transfer date, as deter-  
23 mined in section 1062 of the Consumer Financial  
24 Protection Agency Act of 2009” after “transactions  
25 made” each place such term appears;

1           (2) in paragraph (2), by striking “and” at the  
2 end;

3           (3) in paragraph (3), by striking the period at  
4 the end and inserting “; and”; and

5           (4) by adding at the end the following new  
6 paragraph:

7           “(4) with respect to transactions made after the  
8 designated transfer date, as determined in section  
9 1062 of the Consumer Financial Protection Agency  
10 Act of 2009, only in accordance with regulations  
11 governing alternative mortgage transactions as  
12 issued by the Consumer Financial Protection Agency  
13 for federally chartered housing creditors, in accord-  
14 ance with the rulemaking authority granted to the  
15 Consumer Financial Protection Agency with regard  
16 to federally chartered housing creditors under laws  
17 other than this section.”.

18           (c) SECTION 804.—Section 804 of the Alternative  
19 Mortgage Transaction Parity Act of 1982 (12 U.S.C.  
20 3803) is amended—

21           (1) by striking subsection (c) and inserting the  
22 following new subsection:

23           “(c) EFFECT OF STATE LAW.—

24           “(1) IN GENERAL.—An alternative mortgage  
25 transaction may be made by a housing creditor in

1 accordance with this section, notwithstanding any  
2 State Constitution, law, or regulation that prohibits  
3 an alternative mortgage transaction.

4 “(2) RULE OF CONSTRUCTION.—For purposes  
5 of this subsection, a State Constitution, law, or reg-  
6 ulation that prohibits an alternative mortgage trans-  
7 action does not include any State Constitution, law,  
8 or regulation that regulates mortgage transactions  
9 generally, including any restriction on prepayment  
10 penalties or late charges.”; and

11 (2) by adding at the end the following new sub-  
12 section:

13 “(d) DUTIES OF CONSUMER FINANCIAL PROTECTION  
14 AGENCY.—The Consumer Financial Protection Agency  
15 shall—

16 “(1) review the regulations identified by the  
17 Comptroller of the Currency, the National Credit  
18 Union Administration, and the Director of the Office  
19 of Thrift Supervision (as those regulations exist on  
20 the designated transfer date, as determined in sec-  
21 tion 1062 of the Consumer Financial Protection  
22 Agency Act of 2009) as applicable under paragraphs  
23 (1), (2), and (3) of subsection (a);

24 “(2) determine whether such regulations are  
25 fair and not deceptive and otherwise meet the objec-

1 tives of title I of the Consumer Financial Protection  
2 Agency Act of 2009; and

3 “(3) prescribe regulations under subsection  
4 (a)(4) after the designated transfer date, as deter-  
5 mined under such Act.”.

6 (d) EFFECTIVE DATE AND SCOPE OF APPLICA-  
7 TION.—

8 (1) EFFECTIVE DATE.—This section shall take  
9 effect on the designated transfer date.

10 (2) SCOPE OF APPLICATION.—The amendments  
11 made by subsection (a) shall not affect any trans-  
12 action covered by the Alternative Mortgage Trans-  
13 action Parity Act of 1982 which is entered into on  
14 or before the designated transfer date.

15 **SEC. 184. AMENDMENTS TO THE CONSUMER CREDIT PRO-**  
16 **TECTION ACT.**

17 (a) TRUTH IN LENDING ACT.—

18 (1) SECTION 103.—Section 103 of the Truth in  
19 Lending Act (15 U.S.C. 1602) is amended by strik-  
20 ing subsection (b) and inserting the following new  
21 subsection:

22 “(b) AGENCY DEFINITIONS.—

23 “(1) BOARD.—The term ‘Board’ means the  
24 ‘Board of Governors of the Federal Reserve System’.

1           “(2) AGENCY.—The term ‘Agency’ means the  
2           Consumer Financial Protection Agency.”.

3           (2) UNIVERSAL AMENDMENT RELATING TO  
4           BOARD OF GOVERNORS OF THE FEDERAL RESERVE  
5           SYSTEM.—

6           (A) IN GENERAL.—Except as provided in  
7           subparagraph (B), the Truth in Lending Act  
8           (15 U.S.C. 1601 et seq.) is amended by striking  
9           “Board” each place such term appears, includ-  
10          ing in chapters 4 and 5 relating to credit billing  
11          and consumer leases, and inserting “Agency”.

12          (B) EXCEPTIONS.—The amendment de-  
13          scribed in subparagraph (A) shall not apply to  
14          sections 108(a) (as amended by paragraph (4))  
15          and 140(d)) or any reference in either such sec-  
16          tion to the term “Board”.

17          (3) SECTION 105.—Section 105(b) of the Truth  
18          in Lending Act (15 U.S.C. 1604(b)) is amended by  
19          striking the first sentence and inserting the fol-  
20          lowing: “The Agency shall publish a single, inte-  
21          grated disclosure for mortgage loan transactions, in-  
22          cluding real estate settlement cost statements, which  
23          include the disclosure requirements of this title, in  
24          conjunction with the disclosure requirements of the  
25          Real Estate Settlement Procedures Act that, taken



1 together, may apply to transactions subject to both  
2 or either law. The purpose of such model disclosure  
3 shall be to facilitate compliance with the disclosure  
4 requirements of those titles, and to aid the borrower  
5 or lessee in understanding the transaction by uti-  
6 lizing readily understandable language to simplify  
7 the technical nature of the disclosures.”.

8 (4) SECTION 108.—Section 108 of the Truth in  
9 Lending Act (15 U.S.C. 1607) is amended—

10 (A) by striking subsection (a) and insert-  
11 ing the following new subsection:

12 “(a) ENFORCING AGENCIES.—Subject to section  
13 1022 of the Consumer Financial Protection Agency Act  
14 of 2009, compliance with the requirements imposed under  
15 this title shall be enforced as follows:

16 “(1) Under section 8 of the Federal Deposit In-  
17 surance Act, in the case of—

18 “(A) national banks, and Federal branches  
19 and Federal agencies of foreign banks, by the  
20 head of the agency responsible for chartering  
21 and regulating national banks;

22 “(B) member banks of the Federal Reserve  
23 System (other than national banks), branches  
24 and agencies of foreign banks (other than Fed-  
25 eral branches, Federal agencies, and insured

1 State branches of foreign banks), commercial  
2 lending companies owned or controlled by for-  
3 eign banks, and organizations operating under  
4 section 25 or 25(a) of the Federal Reserve Act,  
5 by the Board;

6 “(C) depository institution insured by the  
7 Federal Deposit Insurance Corporation (other  
8 than members of the Federal Reserve System,  
9 Federal savings associations, and savings and  
10 loan holding companies) and insured State  
11 branches of foreign banks, by the Board of Di-  
12 rectors of the Federal Deposit Insurance Cor-  
13 poration; and

14 “(D) Federal savings associations and sav-  
15 ings and loan holding companies, by the Direc-  
16 tor of the Office of Thrift Supervision.

17 “(2) Under subtitle E of the Consumer Finan-  
18 cial Protection Agency Act of 2009, by the Agency  
19 in the case of a covered person under that Act.

20 “(3) Under the Federal Credit Union Act, by  
21 the head of the agency responsible for chartering  
22 and regulating Federal credit unions.

23 “(4) Under the Federal Aviation Act of 1958,  
24 by the Secretary of Transportation with respect to

1 any air carrier or foreign air carrier subject to that  
2 Act.

3 “(5) Under the Packers and Stockyards Act,  
4 1921 (except as provided in section 406 of that Act),  
5 by the Secretary of Agriculture with respect to any  
6 activities subject to that Act.

7 “(6) Under the Farm Credit Act of 1971, by  
8 the Farm Credit Administration with respect to any  
9 Federal land bank, Federal land bank association,  
10 Federal intermediate credit bank, or production  
11 credit association.”; and

12 (B) by striking subsection (c) and insert-  
13 ing the following new subsection:

14 “(c) OVERALL ENFORCEMENT AUTHORITY OF THE  
15 FEDERAL TRADE COMMISSION.—Except to the extent  
16 that enforcement of the requirements imposed under this  
17 title is specifically committed to some other Government  
18 agency under subsection (a) and subject to section 1022  
19 of the Consumer Financial Protection Agency Act of 2009,  
20 the Federal Trade Commission shall enforce such require-  
21 ments. For the purpose of the exercise by the Federal  
22 Trade Commission of its functions and powers under the  
23 Federal Trade Commission Act, a violation of any require-  
24 ment imposed under this title shall be deemed a violation  
25 of a requirement imposed under that Act. All of the func-

1 tions and powers of the Federal Trade Commission under  
2 the Federal Trade Commission Act are available to the  
3 Commission to enforce compliance by any person with the  
4 requirements under this title, irrespective of whether that  
5 person is engaged in commerce or meets any other jurisdic-  
6 tional tests in the Federal Trade Commission Act.”.

7 (5) UNIVERSAL AMENDMENT RELATING TO THE  
8 FEDERAL TRADE COMMISSION.—

9 (A) IN GENERAL.—Except as provided in  
10 subparagraph (B), the Truth in Lending Act  
11 (15 U.S.C. 1601 et seq.) is amended by striking  
12 “Federal Trade Commission” each place such  
13 term appears and inserting “Agency”.

14 (B) EXCEPTIONS.—The amendment de-  
15 scribed in subparagraph (A) shall not apply to  
16 sections 108(c) (as amended by paragraph (4))  
17 and 129(m) (as amended by paragraph (7)) or  
18 any reference in either such section to the term  
19 “Federal Trade Commission”.

20 (6) SECTION 127.—Subparagraph (C) of section  
21 127(b)(11) of the Truth in Lending Act (15 U.S.C.  
22 1637(b)(11)) is amended to read as follows:

23 “(C) Notwithstanding subparagraphs (A)  
24 and (B), in the case of a creditor with respect  
25 to which compliance with this title is enforced

1 by the Agency, the following statement, in a  
 2 prominent location on the front of the billing  
 3 statement, disclosed clearly and conspicuously:  
 4 ‘Minimum Payment Warning: Making only the  
 5 required minimum payment will increase the in-  
 6 terest you pay and the time it takes to repay  
 7 your balance. For example, making only the  
 8 typical 5 percent minimum monthly payment on  
 9 a balance of \$300 at an interest rate of 17 per-  
 10 cent would take 24 months to repay the balance  
 11 in full. For an estimate of the time it would  
 12 take to repay your balance, making only min-  
 13 imum monthly payments, call the Consumer Fi-  
 14 nancial Protection Agency at this toll-free num-  
 15 ber: \_\_\_\_\_ [the blank space to  
 16 be filled in by the creditor].’ A creditor who is  
 17 subject to this subparagraph shall not be sub-  
 18 ject to subparagraph (A) or (B).”.

19 (7) SECTION 129.—Section 129(m) of the Truth  
 20 in Lending Act (15 U.S.C. 1639(m)) is amended to  
 21 read as follows:

22 “(m) CIVIL PENALTIES IN FEDERAL TRADE COM-  
 23 MISSION ENFORCEMENT ACTIONS.—For purposes of en-  
 24 forcement by the Federal Trade Commission, any violation  
 25 of a regulation issued by the Agency pursuant to sub-

1 section (1)(2) of this section shall be treated as a violation  
2 of a rule promulgated under section 18 of the Federal  
3 Trade Commission Act (15 U.S.C. 57a) regarding unfair  
4 or deceptive acts or practices.”.

5 (b) FAIR CREDIT REPORTING ACT.—

6 (1) SECTION 603.—Section 603 of the Fair  
7 Credit Reporting Act (15 U.S.C. 1681a) is amend-  
8 ed—

9 (A) by redesignating subsections (w) and  
10 (x) as subsections (x) and (y), respectively; and

11 (B) by inserting after subsection (v) the  
12 following new subsection:

13 “(w) AGENCY.—The term ‘Agency’ means the Con-  
14 sumer Financial Protection Agency.”.

15 (2) UNIVERSAL AMENDMENTS RELATING TO  
16 THE FEDERAL TRADE COMMISSION.—Other than in  
17 connection with the amendment made by paragraph  
18 (7)(A), the Fair Credit Reporting Act (15 U.S.C.  
19 1681a) is amended—

20 (A) by striking “Federal Trade Commis-  
21 sion” each place such term appears and insert-  
22 ing “Agency”;

23 (B) by striking “Commission” each place  
24 such term appears (other than in connection

1 with the term amended in subparagraph (A))  
2 and inserting “Agency”; and

3 (C) by striking “Federal banking agencies,  
4 the National Credit Union Administration, and  
5 the Commission shall jointly” each place such  
6 term appears in sections 605(h)(2), 615(e)(1),  
7 623(a)(8)(A), 623(e)(1), 628(a)(1), and  
8 628(a)(3) and inserting “Agency shall”.

9 (3) SECTION 603.—Section 603(k)(2) of the  
10 Fair Credit Reporting Act (15 U.S.C. 1681a(k)(2))  
11 is amended by striking “Board of Governors of the  
12 Federal Reserve System” and inserting “Agency”.

13 (4) SECTION 604.—Subsection 604(g) of the  
14 Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is  
15 amended—

16 (A) by striking subparagraph (C) of para-  
17 graph (3) and inserting the following new sub-  
18 sections:

19 “(C) as otherwise determined to be nec-  
20 essary and appropriate, by regulation or order  
21 and subject to paragraph (6), by the Agency  
22 (with respect to any covered person subject to  
23 the jurisdiction of such agency under paragraph  
24 (2) of section 621(b)), or the applicable State

1 insurance authority (with respect to any person  
2 engaged in providing insurance or annuities).”;

3 (B) by striking paragraph (5) and insert-  
4 ing the following new paragraph:

5 “(5) REGULATIONS AND EFFECTIVE DATE FOR  
6 PARAGRAPH (2).—

7 “(A) REGULATIONS REQUIRED.—The  
8 Agency may, after notice and opportunity for  
9 comment, prescribe regulations that permit  
10 transactions under paragraph (2) that are de-  
11 termined to be necessary and appropriate to  
12 protect legitimate operational, transactional,  
13 risk, consumer, and other needs (and which  
14 shall include permitting actions necessary for  
15 administrative verification purposes), consistent  
16 with the intent of paragraph (2) to restrict the  
17 use of medical information for inappropriate  
18 purposes.”; and

19 (C) by striking paragraph (6).

20 (5) SECTION 611.—Subsection 611(e)(2) of the  
21 Fair Credit Reporting Act (15 U.S.C.1681i(e)(2)) is  
22 amended to read as follows:

23 “(2) EXCLUSION.—Complaints received or ob-  
24 tained by the Agency pursuant to its investigative  
25 authority under the Consumer Financial Protection



1 Agency Act of 2009 shall not be subject to para-  
2 graph (1).”.

3 (6) SECTION 615.—Subparagraph 615(h)(6)(A)  
4 of the Fair Credit Reporting Act (15 U.S.C.  
5 1681m(h)(6)(A)) is amended to read as follows:

6 “(A) RULES REQUIRED.—The Agency  
7 shall prescribe rules.”.

8 (7) SECTION 621.—Section 621 of the Fair  
9 Credit Reporting Act (15 U.S.C. 1681s) is amend-  
10 ed—

11 (A) by striking subsection (a) and insert-  
12 ing the following new subsection:

13 “(a) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
14 SION.—

15 “(1) IN GENERAL.—Subject to section 1022 of  
16 the Consumer Financial Protection Agency Act of  
17 2009, compliance with the requirements imposed  
18 under this title shall be enforced under the Federal  
19 Trade Commission Act by the Federal Trade Com-  
20 mission with respect to consumer reporting agencies  
21 and all other persons subject thereto, except to the  
22 extent that enforcement of the requirements imposed  
23 under this title is specifically committed to some  
24 other government agency under subsection (b) here-  
25 of. For the purpose of the exercise by the Federal

1 Trade Commission of its functions and powers under  
2 the Federal Trade Commission Act, a violation of  
3 any requirement or prohibition imposed under this  
4 title shall constitute an unfair or deceptive act or  
5 practice in commerce in violation of section 5(a) of  
6 the Federal Trade Commission Act and shall be sub-  
7 ject to enforcement by the Federal Trade Commis-  
8 sion under section 5(b) of such Act with respect to  
9 any consumer reporting agency or person subject to  
10 enforcement by the Federal Trade Commission pur-  
11 suant to this subsection, irrespective of whether that  
12 person is engaged in commerce or meets any other  
13 jurisdictional tests in the Federal Trade Commission  
14 Act. The Federal Trade Commission shall have such  
15 procedural, investigative, and enforcement powers  
16 (subject to section 1022 of the Consumer Financial  
17 Protection Agency Act of 2009), including the power  
18 to issue procedural rules in enforcing compliance  
19 with the requirements imposed under this title and  
20 to require the filing of reports, the production of  
21 documents, and the appearance of witnesses as  
22 though the applicable terms and conditions of the  
23 Federal Trade Commission Act were part of this  
24 title. Any person violating any of the provisions of  
25 this title shall be subject to the penalties and enti-

1 tled to the privileges and immunities provided in the  
2 Federal Trade Commission Act as though the appli-  
3 cable terms and provisions thereof were part of this  
4 title.

5 “(2) CIVIL MONEY PENALTIES.—

6 “(A) IN GENERAL.—Subject to section  
7 1022 of the Consumer Financial Protection  
8 Agency Act of 2009, in the event of a knowing  
9 violation, which constitutes a pattern or prac-  
10 tice of violations of this title, the Commission  
11 may commence a civil action to recover a civil  
12 penalty in a district court of the United States  
13 against any person that violates this title. In  
14 such action, such person shall be liable for a  
15 civil penalty of not more than \$2,500 per viola-  
16 tion.

17 “(B) FACTORS IN DETERMINING  
18 AMOUNT.—In determining the amount of a civil  
19 penalty under subparagraph (A), the court shall  
20 take into account the degree of culpability, any  
21 history of prior such conduct, ability to pay, ef-  
22 fect on ability to continue to do business, and  
23 such other matters as justice may require.

24 “(3) EXCEPTION.—Notwithstanding paragraph  
25 (2), a court may not impose any civil penalty on a

1 person for a violation of section 623(a)(1) unless the  
2 person has been enjoined from committing the viola-  
3 tion, or ordered not to commit the violation, in an  
4 action or proceeding brought by or on behalf of the  
5 Federal Trade Commission, and has violated the in-  
6 junction or order, and the court may not impose any  
7 civil penalty for any violation occurring before the  
8 date of the violation of the injunction or order.”;

9 (B) by striking subsection (b) and insert-  
10 ing the following new subsection:

11 “(b) ENFORCEMENT BY OTHER AGENCIES.—Subject  
12 to section 1022 of the Consumer Financial Protection  
13 Agency Act of 2009, compliance with the requirements im-  
14 posed under this title with respect to consumer reporting  
15 agencies, persons who use consumer reports from such  
16 agencies, persons who furnish information to such agen-  
17 cies, and users of information that are subject to sub-  
18 section (d) of section 615 shall be enforced as follows:

19 “(1) Under section 8 of the Federal Deposit In-  
20 surance Act, in the case of—

21 “(A) national banks, and Federal branches  
22 and Federal agencies of foreign banks, by the  
23 head of the agency responsible for chartering  
24 and regulating national banks;

1           “(B) member banks of the Federal Reserve  
2           System (other than national banks), branches  
3           and agencies of foreign banks (other than Fed-  
4           eral branches, Federal agencies, and insured  
5           State branches of foreign banks), commercial  
6           lending companies owned or controlled by for-  
7           eign banks, and organizations operating under  
8           section 25 or 25A of the Federal Reserve Act,  
9           by the Board of Governors of the Federal Re-  
10          serve System;

11           “(C) banks insured by the Federal Deposit  
12          Insurance Corporation (other than members of  
13          the Federal Reserve System, Federal savings  
14          associations, and savings and loan holding com-  
15          panies) and insured State branches of foreign  
16          banks, by the Board of Directors of the Federal  
17          Deposit Insurance Corporation; and

18           “(D) Federal savings associations and sav-  
19          ings and loan holding companies, by the Direc-  
20          tor of the Office of Thrift Supervision.

21           “(2) Under subtitle E of the Consumer Finan-  
22          cial Protection Agency Act of 2009, by the Agency  
23          in the case of a covered person under that Act.

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 Any term used in paragraph (1) that is not defined in  
17 this title or otherwise defined in section 3(s) of the Federal  
18 Deposit Insurance Act shall have the meaning given to  
19 such term in section 1(b) of the International Banking Act  
20 of 1978.”;

21                   (C) by striking subsection (e) and inserting  
22                   the following new subsection:

23           “(e) REGULATORY AUTHORITY.—The Agency shall  
24           prescribe such regulations as necessary to carry out the

1 purposes of this Act with respect to a covered person de-  
2 scribed in subsection (b)”; and

3 (D) in the heading of subsection (g) by  
4 striking “FTC”.

5 (8) SECTION 623.—Section 623 of the Fair  
6 Credit Reporting Act (15 U.S.C. 1681s–2) is  
7 amended—

8 (A) by amending subparagraph (a)(7)(D)  
9 to read as follows:

10 “(D) MODEL DISCLOSURE.—

11 “(i) DUTY OF AGENCY TO PRE-  
12 PARE.—The Agency shall prescribe a brief  
13 model disclosure a financial institution  
14 may use to comply with subparagraph (A),  
15 which shall not exceed 30 words.

16 “(ii) USE OF MODEL NOT RE-  
17 QUIRED.—No provision of this paragraph  
18 shall be construed as requiring a financial  
19 institution to use any such model form pre-  
20 scribed by the Agency.

21 “(iii) COMPLIANCE USING MODEL.—A  
22 financial institution shall be deemed to be  
23 in compliance with subparagraph (A) if the  
24 financial institution uses any such model  
25 form prescribed by the Agency, or the fi-

1           nancial institution uses any such model  
2           form and rearranges its format.”.

3           (B) by amending subsection (e) to read as  
4           follows:

5           “(e) ACCURACY GUIDELINES AND REGULATIONS RE-  
6           QUIRED.—

7           “(1) GUIDELINES.—The Agency shall, with re-  
8           spect to the entities that are subject to its enforce-  
9           ment authority under section 621—

10           “(A) establish and maintain guidelines for  
11           use by each person that furnishes information  
12           to a consumer reporting agency regarding the  
13           accuracy and integrity of the information relat-  
14           ing to consumers that such entities furnish to  
15           consumer reporting agencies, and update such  
16           guidelines as often as necessary; and

17           “(B) prescribe regulations requiring each  
18           person that furnishes information to a con-  
19           sumer reporting agency to establish reasonable  
20           policies and procedures or implementing the  
21           guidelines established pursuant to subpara-  
22           graph (A).

23           “(2) CRITERIA.—In developing the guidelines  
24           required by paragraph (1)(A), the Agency shall—



1           “(A) identify patterns, practices, and spe-  
2           cific forms of activity that can compromise the  
3           accuracy and integrity of information furnished  
4           to consumer reporting agencies;

5           “(B) review the methods (including techno-  
6           logical means) used to furnish information re-  
7           lating to consumers to consumer reporting  
8           agencies;

9           “(C) determine whether persons that fur-  
10          nish information to consumer reporting agen-  
11          cies maintain and enforce policies to ensure the  
12          accuracy and integrity of information furnished  
13          to consumer reporting agencies; and

14          “(D) examine the policies and processes  
15          that persons that furnish information to con-  
16          sumer reporting agencies employ to conduct re-  
17          investigations and correct inaccurate informa-  
18          tion relating to consumers that has been fur-  
19          nished to consumer reporting agencies.”

20          (c) EQUAL CREDIT OPPORTUNITY ACT.—

21                 (1) SECTION 701.—Section 701 of the Equal  
22          Credit Opportunity Act (15 U.S.C. 1691) is amend-  
23          ed by striking “Board” each place such term ap-  
24          pears and inserting “Agency”.

1           (2) SECTION 702.—Section 702(c) of the Equal  
2           Credit Opportunity Act (15 U.S.C. 1691a) is  
3           amended to read as follows:

4           “(c) The term ‘Agency’ means the Consumer Finan-  
5           cial Protection Agency.”.

6           (3) SECTION 703.—Section 703 of the Equal  
7           Credit Opportunity Act (15 U.S.C. 1691b) is  
8           amended—

9                   (A) by striking subsection (b);

10                   (B) by redesignating paragraphs (1), (2),  
11                   (3), (4), and (5) of subsection (a) as sub-  
12                   sections (a), (b), (c), (d), and (e), respectively;

13                   (C) in subsection (c) (as so redesign-  
14                   nated)—

15                           (i) by striking “paragraph (2)” and  
16                           inserting “subsection (b)”; and

17                           (ii) by striking “such paragraph” and  
18                           inserting “such subsection;”

19                   (D) in subsection (d) (as so redesign-  
20                   nated)—

21                           (i) by striking “subsection” and in-  
22                           serting “section’”

23                           (ii) by striking “Act” and inserting  
24                           “title”; and

1 (iii) by striking “this paragraph” and  
2 inserting “this subsection”; and

3 (E) by striking “Board” each place such  
4 term appears in such section and inserting  
5 “Agency”.

6 (4) SECTION 704.—Section 704 of the Equal  
7 Credit Opportunity Act (15 U.S.C. 1691c) is amend-  
8 ed—

9 (A) in subsection (a)—

10 (i) in the matter preceding paragraph  
11 (1), by striking “Compliance” and insert-  
12 ing “Subject to section 1022 of the Con-  
13 sumer Financial Protection Agency Act of  
14 2009, compliance”;

15 (ii) in paragraph (1)(A), by striking  
16 “Office of the Comptroller of the Cur-  
17 rency” and inserting “head of the agency  
18 responsible for chartering and regulating  
19 national banks”;

20 (iii) in paragraph (1)(B), by striking  
21 “and” after the semicolon;

22 (iv) in paragraph (1)(C), by inserting  
23 “and” after the semicolon;

1 (v) by inserting after subparagraph  
2 (C) of paragraph (1) the following new  
3 subparagraph:

4 “(D) savings associations and savings and  
5 loan holding companies by the Director of the  
6 Office of Thrift Supervision;” and

7 (vi) by amending paragraph (2) to  
8 read as follows:

9 “(2) Subtitle E of the Consumer Financial Pro-  
10 tection Agency Act of 2009, by the Agency in case  
11 of a covered person under that Act.”;

12 (B) by striking subsection (c) and insert-  
13 ing the following new subsection:

14 “(c) OVERALL ENFORCEMENT AUTHORITY OF FED-  
15 ERAL TRADE COMMISSION.—Except to the extent that en-  
16 forcement of the requirements imposed under this title is  
17 specifically committed to some other Government agency  
18 under subsection (a) and subject to section 1022 of the  
19 Consumer Financial Protection Agency Act of 2009, the  
20 Federal Trade Commission shall enforce such require-  
21 ments. For the purpose of the exercise by the Federal  
22 Trade Commission of its functions and powers under the  
23 Federal Trade Commission Act, a violation of any require-  
24 ment imposed under this title shall be deemed a violation  
25 of a requirement imposed under that Act. All of the func-

1 tions and powers of the Federal Trade Commission under  
2 the Federal Trade Commission Act are available to the  
3 Commission to enforce compliance by any person with the  
4 requirements imposed under this title, irrespective of  
5 whether that person is engaged in commerce or meets any  
6 other jurisdictional tests in the Federal Trade Commission  
7 Act, including the power to enforce any rule prescribed  
8 by the Agency under this title in the same manner as if  
9 the violation had been a violation of a Federal Trade Com-  
10 mission trade regulation rule.”; and

11 (C) in subsection (d), by striking “Board”  
12 and inserting “Agency”.

13 (5) SECTION 704a.—Section 704A(a)(1) of the  
14 Equal Credit Opportunity Act (15 U.S.C. 1691c–  
15 1(a)(1)) is amended in by striking “Board” and in-  
16 serting “Agency”.

17 (6) SECTION 705.—Section 705 of the Equal  
18 Credit Opportunity Act (15 U.S.C. 1691d) is  
19 amended—

20 (A) in subsection (f), by striking “Board”  
21 each place such term appears and inserting  
22 “Agency”; and

23 (B) in subsection (g), by striking “Board”  
24 and inserting “Agency”.

1           (7) SECTION 706.—Section 706(e) of the Equal  
2     Credit Opportunity Act (15 U.S.C. 1691e(e)) 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           (8) SECTION 707.—Section 707 of the Equal  
10    Credit Opportunity Act (15 U.S.C. 1691f) is amend-  
11    ed by striking “Board” each place such term ap-  
12    pears and inserting “Agency”.

13    (d) FAIR DEBT COLLECTION PRACTICES ACT.—

14           (1) SECTION 803.—Section 803 of the Fair  
15    Debt Collection Practices Act (15 U.S.C. 1692a) is  
16    amended—

17           (A) by redesignating paragraphs (1), (2),  
18     (3), (4), (5), (6), (7), and (8) as paragraphs  
19     (2), (3), (4), (5), (6), (7), (8), and (9), respec-  
20     tively; and

21           (B) by inserting before paragraph (2) (as  
22     so redesignated) the following new paragraph:

23           “(1) The term ‘Agency’ means the Consumer  
24     Financial Protection Agency.”.

1           (2) SECTION 813.—Section 813(e) of the Fair  
2           Debt Collection Practices Act (15 U.S.C. 1692k(e))  
3           is amended by striking “Commission” and inserting  
4           “Agency”.

5           (3) SECTION 814.—Section 814 of the Fair  
6           Debt Collection Practices Act (15 U.S.C. 1692l) is  
7           amended—

8                   (A) by striking subsection (a) and insert-  
9                   ing the following new subsection:

10           “(a) FEDERAL TRADE COMMISSION.—Subject to sec-  
11           tion 1022 of the Consumer Financial Protection Agency  
12           Act of 2009, compliance with this title shall be enforced  
13           by the Commission, except to the extent that enforcement  
14           of the requirements imposed under this title is specifically  
15           committed to another agency under subsection (b). For  
16           purpose of the exercise by the Commission of its functions  
17           and powers under the Federal Trade Commission Act, a  
18           violation of this title shall be deemed an unfair or decep-  
19           tive act or practice in violation of that Act. All of the func-  
20           tions and powers of the Commission under the Federal  
21           Trade Commission Act are available to the Commission  
22           to enforce compliance by any person with this title, irre-  
23           spective of whether that person is engaged in commerce  
24           or meets any other jurisdictional tests in the Federal  
25           Trade Commission Act, including the power to enforce the

1 provisions of this title in the same manner as if the viola-  
2 tion had been a violation of a Federal Trade Commission  
3 trade regulation rule.”;

4 (B) in subsection (b)—

5 (i) in the matter preceding paragraph  
6 (1), by striking “Compliance” and insert-  
7 ing “Subject to section 1022 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 striking paragraph (2) and in-  
2 serting the following new paragraph:

3 “(2) subtitle E of the Consumer Financial Pro-  
4 tection Agency Act of 2009 by the Agency in the  
5 case of a covered person under the Act”; and

6 (C) in subsection (d), by striking “Com-  
7 mission” and inserting “Agency”.

8 (4) SECTION 815.—Section 815 (15 U.S.C.  
9 1692m) is amended by striking “Commission” each  
10 place such term appears and inserting “Agency”.

11 (5) SECTION 817.—Section 817 (15 U.S.C.  
12 1692o) is amended by striking “Commission” each  
13 place such term appears and inserting “Agency”.

14 (e) ELECTRONIC FUND TRANSFER ACT.—

15 (1) SECTION 903.—Section 903 of the Elec-  
16 tronic Fund Transfer Act (15 U.S.C. 1693a) is  
17 amended—

18 (A) by striking paragraph (3) and insert-  
19 ing the following new paragraph:

20 “(3) the term ‘Agency’ means the Consumer Fi-  
21 nancial Protection Agency;”; and

22 (B) in paragraph (6), by striking “Board”  
23 and inserting “Agency”.

24 (2) SECTION 904.—Section 904 of the Elec-  
25 tronic Fund Transfer Act (15 U.S.C. 1693b) is

1 amended by striking “Board” each place such term  
2 appears and inserting “Agency”.

3 (3) SECTION 905.—Section 905 of the Elec-  
4 tronic Fund Transfer Act (15 U.S.C. 1693c) is  
5 amended by striking “Board” each place such term  
6 appears and inserting “Agency”.

7 (4) SECTION 906.—Section 906(b) of the Elec-  
8 tronic Fund Transfer Act (15 U.S.C. 1693d(b)) is  
9 amended by striking “Board” and inserting “Agen-  
10 cy”.

11 (5) SECTION 907.—Section 907(b) of the Elec-  
12 tronic Fund Transfer Act (15 U.S.C. 1693e(b)) is  
13 amended by striking “Board” and inserting “Agen-  
14 cy”.

15 (6) SECTION 908.—Section 908(f)(7) of the  
16 Electronic Fund Transfer Act (15 U.S.C.  
17 1693f(f)(7)) is amended by striking “Board” and in-  
18 serting “Agency”.

19 (7) SECTION 910.—Section 910(a)(1)(E) of the  
20 Electronic Fund Transfer Act (15 U.S.C.  
21 1693h(a)(1)(E)) is amended by striking “Board”  
22 and inserting “Agency”.

23 (8) SECTION 911.—Section 911(b)(3) of the  
24 Electronic Fund Transfer Act (15 U.S.C.

1 1693i(b)(3) is amended by striking “Board” and in-  
2 sserting “Agency”.

3 (9) SECTION 915.—Section 915(d) of the Elec-  
4 tronic Fund Transfer Act (15 U.S.C. 1693m(d)) is  
5 amended—

6 (A) by striking “Board” each place such  
7 term appears and inserting “Agency”; and

8 (B) by striking “Federal Reserve System”  
9 and inserting “Consumer Financial Protection  
10 Agency”.

11 (10) SECTION 917.—Section 917 of the Elec-  
12 tronic Fund Transfer Act (15 U.S.C. 1693o) is  
13 amended—

14 (A) in subsection (a)—

15 (i) by striking “Compliance” and in-  
16 sserting “Subject to section 1022 of the  
17 Consumer Financial Protection Agency Act  
18 of 2009, compliance”;

19 (ii) in paragraph (1)(A), by striking  
20 “Office of the Comptroller of the Cur-  
21 rency” and inserting “head of the agency  
22 responsible for chartering and regulating  
23 national banks”; and

24 (iii) by striking paragraph (2) and in-  
25 sserting:

1           “(2) subtitle E of the Consumer Financial Pro-  
2           tection Agency Act of 2009, by the Agency in the  
3           case of a covered person under that Act.”; and

4                       (B) by striking subsection (c) and insert-  
5           ing the following new subsection:

6           “(c) OVERALL ENFORCEMENT AUTHORITY OF THE  
7 FEDERAL TRADE COMMISSION.—Except to the extent  
8 that enforcement of the requirements imposed under this  
9 title is specifically committed to some other Government  
10 agency under subsection (a) and subject to section 1022  
11 of the Consumer Financial Protection Agency Act of 2009,  
12 the Federal Trade Commission shall enforce such require-  
13 ments. For the purpose of the exercise by the Federal  
14 Trade Commission of its functions and powers under the  
15 Federal Trade Commission Act, a violation of any require-  
16 ment imposed under this title shall be deemed a violation  
17 of a requirement imposed under that Act. All of the func-  
18 tions and powers of the Federal Trade Commission under  
19 the Federal Trade Commission Act are available to the  
20 Commission to enforce compliance by any person subject  
21 to the jurisdiction of the Commission with the require-  
22 ments imposed under this title, irrespective of whether  
23 that person is engaged in commerce or meets any other  
24 jurisdictional tests in the Federal Trade Commission  
25 Act.”.

1           (11) SECTION 918.—Section 918 of the Elec-  
2           tronic Fund Transfer Act (15 U.S.C. 1693p) is  
3           amended by striking “Board” each place such term  
4           appears and inserting “Agency”.

5           (12) SECTION 919.—Section 919 of the Elec-  
6           tronic Fund Transfer Act (15 U.S.C. 1693q) is  
7           amended by striking “Board” each place such term  
8           appears and inserting “Agency”.

9           (13) SECTION 920.—Section 920 of the Elec-  
10          tronic Fund Transfer Act (15 U.S.C. 1693r) is  
11          amended by striking “Board” each place such term  
12          appears and inserting “Agency”.

13          (f) AMENDMENTS TO HOEPA RELATING TO THE  
14          TRUTH IN LENDING ACT.—Section 158 of the Home  
15          Ownership and Equity Protection Act of 1994 (15 U.S.C.  
16          1601 nt.) (relating to hearings on home equity lending)  
17          is amended—

18                 (1) in subsection (a), by striking “Board of  
19                 Governors of the Federal Reserve System, in con-  
20                 sultation with the Consumer Advisory Council of the  
21                 Board,” and inserting “Consumer Financial Protec-  
22                 tion Agency, in consultation with the Advisory  
23                 Board to the Agency”; and

1           (2) in subsection (b), by striking “Board of  
2           Governors of the Federal Reserve System” and in-  
3           serting “Consumer Financial Protection Agency”.

4           (g) AMENDMENT TO THE FAIR AND ACCURATE  
5 CREDIT TRANSACTIONS ACT OF 2003 RELATING TO THE  
6 FAIR CREDIT REPORTING ACT.—Section 214(b)(1) of the  
7 Fair and Accurate Credit Transactions Act of 2003 (15  
8 U.S.C. 1681s–3 nt.) is amended by striking “The Federal  
9 banking agencies, the National Credit Union Administra-  
10 tion, and the Commission, with respect to the entities that  
11 are subject to their respective enforcement authority under  
12 section 621 of the Fair Credit Reporting Act and” and  
13 inserting “The Consumer Financial Protection Agency,  
14 with respect to a person subject to the enforcement au-  
15 thority of the Agency, and”.

16 **SEC. 185. AMENDMENTS TO THE EXPEDITED FUNDS AVAIL-**  
17 **ABILITY ACT.**

18           (a) SECTION 605.—Section 605(f)(1) of the Expe-  
19 dited Funds Availability Act (12 U.S.C. 4004(f)(1)) is  
20 amended by inserting “, in consultation with the Director  
21 of the Consumer Financial Protection Agency,” after  
22 “Board”.

23           (b) SECTION 609.—Section 609(a) of the Expedited  
24 Funds Availability Act (12 U.S.C. 4008(a)) is amended

1 by inserting “, in consultation with the Director of the  
2 Consumer Financial Protection Agency,” after “Board”.

3 **SEC. 186. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**  
4 **ANCE ACT.**

5 (a) SECTION 8.—Section 8(t) the Federal Deposit In-  
6 surance Act (12 U.S.C. 1818(t)) is amended by adding  
7 at the end the following new paragraph:

8 “(6) REFERRAL TO CONSUMER FINANCIAL PRO-  
9 TECTION COMMISSION.—Each appropriate Federal  
10 banking agency shall make a referral to the Con-  
11 sumer Financial Protection Agency when the Fed-  
12 eral banking agency has a reasonable belief that a  
13 violation of an enumerated consumer law, as defined  
14 in section 1022(e)(2) of the Consumer Financial  
15 Protection Agency Act of 2009, by any insured de-  
16 pository institution or institution-affiliated party  
17 within the jurisdiction of that appropriate Federal  
18 banking agency.”.

19 (b) SECTION 43.—Section 43 of the Federal Deposit  
20 Insurance Act (12 U.S.C. 1831t) is amended—

21 (1) in subsection (c), by striking “Federal  
22 Trade Commission” and inserting “Agency”;

23 (2) in subsection (d), by striking “Federal  
24 Trade Commission” and inserting “Agency”;

25 (3) in subsection (e)—

1 (A) in paragraph (1), by striking “Federal  
2 Trade Commission” and inserting “Agency”;  
3 and

4 (B) by adding at the end the following new  
5 paragraph:

6 “(5) AGENCY.—The term ‘Agency’ means the  
7 Consumer Financial Protection Agency.”.

8 (e) SECTION 43(f).—Section 43(f) of the Federal De-  
9 posit Insurance Act (12 U.S.C. 1831t(f)) is amended—

10 (1) by striking paragraph (1) and inserting the  
11 following new paragraph:

12 “(1) LIMITED ENFORCEMENT AUTHORITY.—  
13 Compliance with the requirements of subsections (b),  
14 (c) and (e), and any regulation prescribed or order  
15 issued under such subsection, shall be enforced  
16 under the Consumer Financial Protection Agency  
17 Act of 2009 by the Agency.”; and

18 (2) in paragraph (2), by striking subparagraph  
19 (C) and inserting the following new subparagraph:

20 “(C) LIMITATION ON STATE ACTION  
21 WHILE FEDERAL ACTION PENDING.—If the  
22 Agency has instituted an enforcement action for  
23 a violation of this section, no appropriate State  
24 supervisory may, during the pendency of such  
25 action, bring an action under this section



1           against any defendant named in the complaint  
2           of the Agency for any violation of this section  
3           that is alleged in that complaint.”.

4 **SEC. 187. AMENDMENTS TO THE GRAMM-LEACH-BLILEY**  
5           **ACT.**

6           (a) SECTION 504.—Section 504(a)(1) of the Gramm-  
7 Leach-Bliley Act (15 U.S.C. 6804(a)(1)) is amended—

8           (1) by striking “The Federal banking agencies,  
9           the National Credit Union Administration, the Sec-  
10          retary of the Treasury,” and inserting “The Con-  
11          sumer Financial Protection Agency and”; and

12          (2) by striking “, and the Federal Trade Com-  
13          mission”.

14          (b) SECTION 505.—

15          (1) Section 505(a) of the Gramm-Leach-Bliley  
16          Act (15 U.S.C. 6805(a)) is amended—

17                (A) in the matter preceding paragraph (1),  
18                by striking “This subtitle and the regulations  
19                prescribed thereunder shall be enforced by” and  
20                inserting “Subject to section 1022 of the Con-  
21                sumer Financial Protection Agency Act of  
22                2009, this subtitle and the regulations pre-  
23                scribed under this title shall be enforced by the  
24                Consumer Financial Protection Agency,”; and

1 (B) by inserting after paragraph (7) the  
2 following new paragraph:

3 “(8) Under the Consumer Financial Protection  
4 Agency Act of 2009, by the Consumer Financial  
5 Protection Agency in the case of financial institu-  
6 tions and other covered persons subject to the juris-  
7 diction of the Agency under that Act, but not with  
8 respect to the standards under section 501.”.

9 (2) Section 505(b)(1) of the Gramm-Leach-Bliley  
10 Act (15 U.S.C. 6805(b)(1)) is amended by in-  
11 sserting “, other than the Consumer Financial Pro-  
12 tection Agency,” after “described in subsection (a)”.

13 **SEC. 188. AMENDMENTS TO THE HOME MORTGAGE DISCLO-**  
14 **SURE ACT OF 1975.**

15 (a) SECTION 303.—Section 303 of the Home Mort-  
16 gage Disclosure Act of 1975 (12 U.S.C. 2802) is amend-  
17 ed—

18 (1) by redesignating paragraphs (1), (2), (3),  
19 (4), (5), and (6) as paragraphs (2), (3), (4), (5),  
20 (6), and (7), respectively; and

21 (2) by inserting before paragraph (2) (as so re-  
22 designated) the following new paragraph:

23 “(1) The term ‘Agency’ means the Consumer  
24 Financial Protection Agency.”.

1           (b) UNIVERSAL AMENDMENT RELATING TO AGEN-  
2 CY.—Except as provided in subsections (c), (d), (e), and  
3 (f), the Home Mortgage Disclosure Act of 1975 (12  
4 U.S.C. 2801–11) is amended by striking “Board” each  
5 place such term appears and inserting “Agency”.

6           (c) SECTION 304.—Section 304 of the Home Mort-  
7 gage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is  
8 amended—

9           (1) in subsection (b)—

10                   (A) by striking “and” after the semicolon  
11                   at the end of paragraph (3);

12                   (B) by striking “and gender” in paragraph  
13                   (4), and inserting “age, and gender”;

14                   (C) by striking the period at the end of  
15                   paragraph (4) and inserting a semicolon; and

16                   (D) by inserting after paragraph (4) the  
17                   following new paragraphs:

18                   “(5) the number and dollar amount of mort-  
19                   gage loans grouped according to the following meas-  
20                   urements:

21                           “(A) the total points and fees payable at  
22                           origination in connection with the mortgage as  
23                           determined by the Agency, taking into account  
24                           15 U.S.C. 1602(aa)(4);

1           “(B) the difference between the annual  
2 percentage rate associated with the loan and a  
3 benchmark rate or rates for all loans;

4           “(C) the term in months of any prepay-  
5 ment penalty or other fee or charge payable on  
6 repayment of some portion of principal or the  
7 entire principal in advance of scheduled pay-  
8 ments; and

9           “(D) such other information as the Agency  
10 may require; and

11          “(6) the number and dollar amount of mort-  
12 gage loans and completed applications grouped ac-  
13 cording to the following measurements:

14           “(A) the value of the real property pledged  
15 or proposed to be pledged as collateral;

16           “(B) the actual or proposed term in  
17 months of any introductory period after which  
18 the rate of interest may change;

19           “(C) the presence of contractual terms or  
20 proposed contractual terms that would allow the  
21 mortgagor or applicant to make payments other  
22 than fully-amortizing payments during any por-  
23 tion of the loan term;

24           “(D) the actual or proposed term in  
25 months of the mortgage loan;

1           “(E) the channel through which applica-  
2           tion was made, including retail, broker, and  
3           other relevant categories;

4           “(F) as the Agency may determine to be  
5           appropriate, a unique identifier that identifies  
6           the loan originator as set forth in Section 1503  
7           of the Secure and Fair Enforcement for Mort-  
8           gage Licensing Act of 2008;

9           “(G) as the Agency may determine to be  
10          appropriate, a universal loan identifier that cor-  
11          responds to the real property pledged or pro-  
12          posed to be pledged as collateral;

13          “(H) as the Agency may determine to be  
14          appropriate, the parcel number that cor-  
15          responds to the real property pledged or pro-  
16          posed to be pledged as collateral;

17          “(I) the credit score of mortgage appli-  
18          cants and mortgagors in such form as the  
19          Agency may proscribe; and

20          “(J) such other information as the Agency  
21          may require.”;

22          (2) by striking subsection (h) and inserting the  
23          following new subsection:

24          “(h) SUBMISSION TO AGENCIES.—The data required  
25          to be disclosed under subsection (b) shall be submitted to

1 the Agency and to the appropriate agency for each institu-  
2 tion reporting under this title. Notwithstanding the re-  
3 quirement of section 304(a)(2)(A) for disclosure by census  
4 tract, the Agency, in cooperation with other appropriate  
5 regulators, including—

6           “(1) the head of the agency responsible for  
7 chartering and regulating national banks for na-  
8 tional banks and Federal branches, Federal agencies  
9 of foreign banks, and savings associations;

10           “(2) the Federal Deposit Insurance Corporation  
11 for depository institutions insured by the Federal  
12 Deposit Insurance Corporation (other than members  
13 of the Federal Reserve System, Federal savings as-  
14 sociations, and savings and loan holding companies)  
15 and insured State branches of foreign banks;

16           “(3) the Director of the Office of Thrift Super-  
17 vision for Federal savings associations and savings  
18 and loan holding companies;

19           “(4) the National Credit Union Administration  
20 Board for credit unions; and

21           “(5) the Secretary of Housing and Urban De-  
22 velopment for other lending institutions not regu-  
23 lated by the agencies referred to in paragraphs (1)  
24 through (4), shall develop regulations prescribing the  
25 format for such disclosures, the method for submis-

1 sion of the data to the appropriate regulatory agen-  
2 cy, and the procedures for disclosing the information  
3 to the public. These regulations shall also require  
4 the collection of data required to be disclosed under  
5 subsection (b) with respect to loans sold by each in-  
6 stitution reporting under this title, and, in addition,  
7 shall require disclosure of the class of the purchaser  
8 of such loans. Any reporting institution may submit  
9 in writing to the Agency or to the appropriate agen-  
10 cy such additional data or explanations as it deems  
11 relevant to the decision to originate or purchase  
12 mortgage loans.”;

13 (3) in subsection (i), by striking “subsection  
14 (b)(4)” and inserting “paragraphs (4), (5), and (6)  
15 of subsections (b)”;

16 (4) in subsection (j)—

17 (A) by striking “(as” where such term ap-  
18 pears in paragraph (1) and inserting “(con-  
19 taining loan-level and application-level informa-  
20 tion relating to disclosures required under sub-  
21 sections (a) and (b) and as otherwise”;

22 (B) by striking “in the format in which  
23 such information is maintained by the institu-  
24 tion” where such term appears in paragraph

1           (2)(A), and inserting “in such formats as the  
2           Agency may require”;

3           (C) by inserting “credit score or similar  
4           measurement,” after “number,” where such  
5           term appears in paragraph (2)(B)(i); and

6           (D) by striking paragraph (3) and insert-  
7           ing the following new paragraph:

8           “(3) CHANGE OF FORM NOT REQUIRED.—A de-  
9           pository institution meets the disclosure requirement  
10          of paragraph (1) if the institution provides the infor-  
11          mation required under such paragraph in such for-  
12          mats as the Agency may require.”; and

13          (5) by striking paragraph (2) of subsection (m)  
14          and inserting the following new paragraph:

15          “(2) FORM OF INFORMATION.—In complying  
16          with paragraph (1), a depository institution shall  
17          provide the person requesting the information with  
18          a copy of the information requested in such formats  
19          as the Agency may require.”.

20          (d) SECTION 305.—Section 305 of the Home Mort-  
21          gage Disclosure Act of 1975 (12 U.S.C. 2804) is amend-  
22          ed—

23                 (1) by striking subsection (b) and inserting the  
24                 following new subsection:



1       “(b) POWERS OF CERTAIN OTHER AGENCIES.—Com-  
2 pliance with the requirements imposed under this title  
3 shall be enforced under—

4               “(1) section 8 of the Federal Deposit Insurance  
5 Act, in the case of—

6                       “(A) national banks, and Federal branches  
7 and Federal agencies of foreign banks, by the  
8 head of the agency responsible for chartering  
9 and regulating national banks;

10                      “(B) member banks of the Federal Reserve  
11 System (other than national banks), branches  
12 and agencies of foreign banks (other than Fed-  
13 eral branches, Federal agencies, and insured  
14 State branches of foreign banks), commercial  
15 lending companies owned or controlled by for-  
16 eign banks, and organizations operating under  
17 section 25 or 25(a) of the Federal Reserve Act,  
18 by the Board;

19                      “(C) depository institutions insured by the  
20 Federal Deposit Insurance Corporation (other  
21 than members of the Federal Reserve System,  
22 Federal savings associations, and savings and  
23 loan holding companies) and insured State  
24 branches of foreign banks, by the Board of Di-

1           rectors of the Federal Deposit Insurance Cor-  
2           poration; and

3           “(D) Federal savings associations, and  
4           savings and loan holding companies, by the Di-  
5           rector of the Office of Thrift Supervision;

6           “(2) subtitle E of the Consumer Financial Pro-  
7           tection Agency Act of 2009, by the Agency in the  
8           case of a covered person under that Act;

9           “(3) the Federal Credit Union Act, by the Ad-  
10          ministrator of the National Credit Union Adminis-  
11          tration with respect to any credit union; and

12          “(4) other lending institutions, by the Secretary  
13          of Housing and Urban Development. The terms  
14          used in paragraph (1) that are not defined in this  
15          title or otherwise defined in section 3(s) of the Fed-  
16          eral Deposit Insurance Act (12 U.S.C. 1813(s))  
17          shall have the meaning given to them in section 1(b)  
18          of the International Banking Act of 1978 (12 U.S.C.  
19          3101).

20         The terms used in paragraph (1) that are not defined in  
21         this title or otherwise defined in section 3(s) of the Federal  
22         Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the  
23         meaning given to them in section 1(b) of the International  
24         Banking Act of 1978”; and

1           (2) by inserting at the end of section 305 the  
2 following new subsection:

3           “(d) OVERALL ENFORCEMENT AUTHORITY OF THE  
4 CONSUMER FINANCIAL PROTECTION AGENCY.—Subject  
5 to section 1022 of the Consumer Financial Protection  
6 Agency Act of 2009, enforcement of the requirements im-  
7 posed under this title is committed to each of the agencies  
8 under subsection (b). The Agency may exercise its authori-  
9 ties under the Consumer Financial Protection Agency Act  
10 of 2009 to exercise principal authority to examine and en-  
11 force compliance by any person with the requirements  
12 under this title.”.

13           (e) SECTION 306.—Subsection 306(b) of the Home  
14 Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)) is  
15 amended to read as follows:

16           “(b) The Agency may, by regulation, exempt from the  
17 requirements of this title any State chartered depository  
18 institution within any State or subdivision of any state if  
19 the Agency determines that, under the law of such State  
20 or subdivision, that institution is subject to requirements  
21 substantially similar to those imposed under this title, and  
22 that such law contains adequate provisions for enforce-  
23 ment. Notwithstanding any other provision of this sub-  
24 section, compliance with the requirements imposed under  
25 this subsection shall be enforced by the head of the agency

1 responsible for chartering and regulating national banks  
2 under section 8 of the Federal Deposit Insurance Act in  
3 the case of national banks and savings association the de-  
4 posits of which are insured by the Federal Deposit Insur-  
5 ance Corporation.”.

6 (f) SECTION 307.—Section 307 of the Home Mort-  
7 gage Disclosure Act of 1975 (12 U.S.C. 2806) is amended  
8 to read as follows:

9 **“SEC. 307. RESEARCH AND IMPROVED METHODS.**

10 “(a) ENHANCED COMPLIANCE IN ECONOMICAL MAN-  
11 NER.—

12 “(1) IN GENERAL.—The Director of the Con-  
13 sumer Financial Protection Agency, with the assist-  
14 ance of the Secretary, the Director of the Bureau of  
15 the Census, the Board of Governors of the Federal  
16 Reserve System, the Federal Deposit Insurance Cor-  
17 poration, and such other persons as the Consumer  
18 Financial Protection Agency deems appropriate,  
19 shall develop or assist in the improvement of, meth-  
20 ods of matching addresses and census tracts to fa-  
21 cilitate compliance by depository institutions in as  
22 economical a manner as possible with the require-  
23 ments of this title.



1           “(1) The Consumer Financial Protection Agen-  
2           cy shall have authority to prescribe rules with re-  
3           spect to mortgage loans in accordance with section  
4           553 of title 5, United States Code. Such rulemaking  
5           shall relate to unfair or deceptive acts or practices  
6           regarding mortgage loans, which may include unfair  
7           or deceptive acts or practices involving loan modi-  
8           fication and foreclosure rescue services. Any viola-  
9           tion of a rule prescribed under this subsection shall  
10          be treated as a violation of a rule prohibiting unfair,  
11          deceptive, or abusive acts or practices under the  
12          Consumer Financial Protection Agency Act of  
13          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 Consumer Financial Protection Agen-  
19           cy shall enforce the rules issued under paragraph (1)  
20           in the same manner, by the same means, and with  
21           the same jurisdiction, powers, and duties as though  
22           all applicable terms and provisions of the Consumer  
23           Financial Protection Agency Act of 2009 were incor-  
24           porated into and 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 REAL ESTATE SETTLE-**  
13 **MENT PROCEDURES ACT OF 1974.**

14 (a) SECTION 3.—Section 3 of the Real Estate Settle-  
15 ment Procedures Act of 1974 (12 U.S.C. 2602) is amend-  
16 ed by adding at the end the following new paragraph—

17 “(9) the term ‘Agency’ means the Consumer Fi-  
18 nancial Protection Agency.”.

19 (b) SECTION 4.—Section 4 of the Real Estate Settle-  
20 ment Procedures Act of 1974 (12 U.S.C. 2603) is amend-  
21 ed—

22 (1) in subsection (a), by striking the first sen-  
23 tence and inserting the following: “The Agency shall  
24 publish a single, integrated disclosure for mortgage  
25 loan transactions, including real estate settlement

1 cost statements, which include the disclosure re-  
2 quirements of this title, in conjunction with the dis-  
3 closure requirements of the Truth in Lending Act  
4 (15 U.S.C. 1601 note et seq.) that, taken together,  
5 may apply to transactions subject to both or either  
6 law. The purpose of such model disclosure shall be  
7 to facilitate compliance with the disclosure require-  
8 ments of those titles, and to aid the borrower or les-  
9 see in understanding the transaction by utilizing  
10 readily understandable language to simplify the tech-  
11 nical nature of the disclosures.”;

12 (2) by striking “Secretary” each place it ap-  
13 pears and inserting “Agency”; and

14 (3) by striking “form” each place it appears  
15 and inserting “forms”.

16 (c) SECTION 5.—Section 5 of the Real Estate Settle-  
17 ment Procedures Act of 1974 (12 U.S.C. 2604) is amend-  
18 ed—

19 (1) by striking “Secretary” each place such  
20 term appears, and inserting “Agency”; and

21 (2) by striking the first sentence of subsection  
22 (a), and inserting “The Agency shall prepare and  
23 distribute booklets jointly complying with the re-  
24 quirements of the Truth in Lending Act (15 U.S.C.  
25 1601 note et seq.) and the provisions of this title,



1 in order to help persons borrowing money to finance  
2 the purchase of residential real estate better to un-  
3 derstand the nature and costs of real estate settle-  
4 ment services.”.

5 (d) SECTION 6.—Section 6 of the Real Estate Settle-  
6 ment Procedures Act of 1974 (12 U.S.C. 2605) is amend-  
7 ed by striking “Secretary” and inserting “Agency”; and  
8 by striking “by regulations that shall take effect not later  
9 than April 20, 1991,”.

10 (e) SECTION 7.—Section 7 of the Real Estate Settle-  
11 ment Procedures Act of 1974 (12 U.S.C. 2606) is amend-  
12 ed by striking “Secretary” and inserting “Agency”.

13 (f) SECTION 8.—Section 8(d)(4) of the Real Estate  
14 Settlement Procedures Act of 1974 (12 U.S.C.  
15 2607(d)(4)) is amended—

16 (1) by striking “The Secretary,” and inserting  
17 “The Agency, the Secretary,”; and

18 (2) by adding at the end the following new sen-  
19 tence: “However, to the extent that a Federal law  
20 authorizes the Agency and other Federal and State  
21 agencies to enforce or administer the law, the Agen-  
22 cy shall have primary authority to enforce or admin-  
23 ister that Federal law in accordance with section  
24 1022 of the Consumer Financial Protection Agency  
25 Act of 2009.”.

1 (g) SECTION 10.—Section 10(d) of the Real Estate  
2 Settlement Procedures Act of 1974 (12 U.S.C. 2609(d))  
3 is amended by striking “Secretary” and inserting “Agen-  
4 cy”.

5 (h) SECTION 16.—Section 16 of the Real Estate Set-  
6 tlement Procedures Act of 1974 (12 U.S.C. 2614) is  
7 amended by inserting “the Agency,” before “the Sec-  
8 retary”.

9 (i) SECTION 18.—Section 18 of the Real Estate Set-  
10 tlement Procedures Act of 1974 (12 U.S.C. 2616) is  
11 amended by striking “Secretary” and inserting “Agency”.

12 (j) SECTION 19.—Section 19 of the Real Estate Set-  
13 tlement Procedures Act of 1974 (12 U.S.C. 2617) is  
14 amended by striking “Secretary” each place where it ap-  
15 pears and inserting “Agency”.

16 **SEC. 191. AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-**  
17 **VACY ACT OF 1978.**

18 (a) AMENDMENTS TO SECTION 1101.—Section 1101  
19 of the Right to Financial Privacy Act of 1978 (12 U.S.C.  
20 3401) is amended—

21 (1) by striking paragraph (1) and inserting the  
22 following new paragraph:

23 “(1) ‘financial institution’ means any bank, sav-  
24 ings association, card issuer as defined in section  
25 103(n) of the Truth in Lending Act, credit union, or

1 consumer finance institution located in any State or  
2 territory of the United States, the District of Colum-  
3 bia, Puerto Rico, Guam, American Samoa, or the  
4 Virgin Islands;” and

5 (2) in paragraph (7)—

6 (A) by redesignating subparagraphs (F),  
7 (G), (H), and (I) as subparagraphs (G), (H),  
8 (I), and (J), respectively; and

9 (B) by inserting after subparagraph (E)  
10 the following new subparagraph:

11 “(F) the Consumer Financial Protection  
12 Agency;”.

13 (b) AMENDMENTS TO SECTION 1112.—Section  
14 1112(e) of the Right to Financial Privacy Act (12 U.S.C.  
15 3412) is amended by striking “and the Commodity Fu-  
16 tures Trading Commission is permitted” and inserting  
17 “the Commodity Futures Trading Commission, and the  
18 Consumer Financial Protection Agency is permitted”.

19 (c) AMENDMENTS TO SECTION 1113.—Section 1113  
20 of the Right to Financial Privacy Act (12 U.S.C. 3413)  
21 is amended by adding at the end the following new sub-  
22 section—

23 “(r) DISCLOSURE TO THE CONSUMER FINANCIAL  
24 PROTECTION AGENCY.—Nothing in this chapter shall  
25 apply to the examination by or disclosure to the Consumer

1 Financial Protection Agency of financial records or infor-  
2 mation in the exercise of its authority with respect to a  
3 financial institution.”.

4 **SEC. 192. AMENDMENTS TO THE SECURE AND FAIR EN-**  
5 **FORCEMENT FOR MORTGAGE LICENSING ACT**  
6 **OF 2008.**

7 (a) SECTION 1503.—Section 1503 of the Secure and  
8 Fair Enforcement for Mortgage Licensing Act of 2008 (12  
9 U.S.C. 5102) is amended—

10 (1) by striking paragraph (1) and inserting the  
11 following new paragraph:

12 “(1) AGENCY.—The term ‘Agency’ means the  
13 Consumer Financial Protection Agency.”; and

14 (2) by striking paragraph (9) and inserting the  
15 following new paragraph:

16 “(9) DIRECTOR.—The term ‘Director’ means  
17 the Director of the Consumer Financial Protection  
18 Agency.”.

19 (b) UNIVERSAL AMENDMENTS RELATING TO AGEN-  
20 CY.—The Secure and Fair Enforcement for Mortgage Li-  
21 censing Act of 2008 (12 U.S.C. 5101 et seq.) is amend-  
22 ed—

23 (1) by striking “a Federal banking agency”  
24 each place such term appears and inserting “the  
25 Agency”;

1           (2) by striking “Federal banking agencies”  
2 each place such term appears and inserting “Agen-  
3 cy”; and

4           (3) by striking “Secretary” each place such  
5 term appears and inserting “Director”.

6           (c) SECTION 1507.—Section 1507 of the Secure and  
7 Fair Enforcement for Mortgage Licensing Act of 2008 (12  
8 U.S.C. 5106) is amended—

9           (1) in subsection (a)—

10           (A) by striking paragraph (1) and insert-  
11 ing the following new paragraph:

12           “(1) IN GENERAL.—The Agency shall develop  
13 and maintain a system for registering employees of  
14 a subsidiary that is owned and controlled by a de-  
15 pository institution, and regulated by the Agency as  
16 a registered loan originator with the Nationwide  
17 Mortgage Licensing System and Registry. The sys-  
18 tem shall be implemented before the end of a the 1-  
19 year period beginning July 30, 2009.”; and

20           (B) by striking “appropriate Federal bank-  
21 ing agency and the Farm Credit Administra-  
22 tion” where such term appears in paragraph  
23 (2) and inserting “Agency”;

24           (2) in subsection (b), by striking “Federal  
25 banking agencies, through the Financial Institutions

1 Examination Council and the Farm Credit Adminis-  
2 tration”, and inserting “Agency”; and

3 (3) in subsection (c), by striking “Federal  
4 banking agencies”, and inserting “Agency”.

5 (d) SECTION 1508.—

6 (1) IN GENERAL.—Section 1508 of the Secure  
7 and Fair Enforcement for Mortgage Licensing Act  
8 of 2008 (12 U.S.C. 5107) is amended by adding at  
9 the end the following new subsection—

10 “(f) REGULATIONS.—

11 “(1) IN GENERAL.—The Agency may prescribe  
12 regulations setting minimum net worth or surety  
13 bond requirements for residential mortgage loan  
14 originators and minimum requirements for recovery  
15 funds paid into by loan originators.

16 “(2) FACTORS TAKEN INTO ACCOUNT.—Such  
17 regulations shall take into account the need to pro-  
18 vide originators adequate incentives to originate af-  
19 fordable and sustainable mortgage loans as well as  
20 the need to ensure a competitive origination market  
21 that maximizes consumers’ access to affordable and  
22 sustainable mortgage loans.”.

23 (2) CLERICAL AMENDMENT.—The heading for  
24 section 1508 of the Secure and Fair Enforcement  
25 for Mortgage Licensing Act of 2008 is amended by

1 striking “**SECRETARY OF HOUSING AND URBAN**  
2 **DEVELOPMENT**” and inserting “**CONSUMER FI-**  
3 **NANCIAL PROTECTION AGENCY**”.

4 (e) SECTION 1510.—Section 1510 of the Secure and  
5 Fair Enforcement for Mortgage Licensing Act of 2008 (12  
6 U.S.C. 5109) is amended to read as follows:

7 **“SEC. 1510. FEES.**

8 “The Agency, the Farm Credit Administration, and  
9 the Nationwide Mortgage Licensing System and Registry  
10 may charge reasonable fees to cover the costs of maintain-  
11 ing and providing access to information from the Nation-  
12 wide Mortgage Licensing System and Registry, to the ex-  
13 tent that such fees are not charged to consumers for ac-  
14 cess to such system and registry.”.

15 (f) SECTION 1513.—Section 1513 of the Secure and  
16 Fair Enforcement for Mortgage Licensing Act of 2008 (12  
17 U.S.C. 5112) is amended to read as follows:

18 **“SEC. 1513. LIABILITY PROVISIONS.**

19 “The Agency, any State official or agency, or any or-  
20 ganization serving as the administrator of the Nationwide  
21 Mortgage Licensing System and Registry or a system es-  
22 tablished by the Director under section 5108 of this title,  
23 or any officer or employee of any such entity, shall not  
24 be subject to any civil action or proceeding for monetary  
25 damages by reason of the good faith action or omission

1 of any officer or employee of any such entity, while acting  
2 within the scope of office or employment, relating to the  
3 collection, furnishing, or dissemination of information con-  
4 cerning persons who are loan originators or are applying  
5 for licensing or registration as loan originators.”.

6 (g) SECTION 1514.—The heading for section 1514  
7 of the Secure and Fair Enforcement for Mortgage Licens-  
8 ing Act of 2008 (12 U.S.C. 5113) is amended by striking  
9 “**UNDER HUD BACKUP LICENSING SYSTEM**” and in-  
10 serting “**BY THE AGENCY**”.

11 **SEC. 193. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.**

12 (a) SECTION 263.—Section 263 of the Truth in Sav-  
13 ings Act (12 U.S.C. 4302) is amended in subsection (b)  
14 by striking “Board” each place such term appears and  
15 inserting “Agency”.

16 (b) SECTION 265.—Section 265 of the Truth in Sav-  
17 ings Act (12 U.S.C. 4304) is amended by striking  
18 “Board” each place such term appears and inserting  
19 “Agency”.

20 (c) SECTION 266.—Section 266(e) of the Truth in  
21 Savings Act is amended (12 U.S.C. 4305) by striking  
22 “Board” and inserting “Agency”.

23 (d) SECTION 269.—Section 269 of the Truth in Sav-  
24 ings Act (12 U.S.C. 4308) is amended by striking



1 “Board” each place such term appears and inserting  
2 “Agency”.

3 (e) SECTION 270.—Section 270 of the Truth in Sav-  
4 ings Act (12 U.S.C. 4309) is amended—

5 (1) in subsection (a)—

6 (A) by striking “Compliance” and insert-  
7 ing “Subject to section 1022 of the Consumer  
8 Financial Protection Agency Act of 2009, com-  
9 pliance”;

10 (B) by striking subparagraph (A) of para-  
11 graph (1) and inserting the following new sub-  
12 paragraph:

13 “(A) by the head of the agency responsible  
14 for chartering and regulating national banks for  
15 national banks, and Federal branches and Fed-  
16 eral agencies of foreign banks;”; and

17 (C) by adding at the end, the following  
18 new paragraph:

19 “(3) subtitle E of the Consumer Financial Pro-  
20 tection Agency Act of 2009, by the Agency in the  
21 case of a covered person under that Act.”; and

22 (2) in subsection (c), by striking “Board” and  
23 inserting “Agency”.

24 (f) SECTION 272.—Section 272 of the Truth in Sav-  
25 ings Act (12 U.S.C. 4311) is amended—

1           (1) in subsection (a), by striking “Board” and  
2           inserting “Agency”; and

3           (2) in subsection (b), by striking “regulation  
4           prescribed by the Board” each place it appears and  
5           inserting “regulation prescribed by the Agency”.

6           (g) SECTION 273.—Section 273 of the Truth in Sav-  
7           ings Act (12 U.S.C. 4312) is amended in the last sentence  
8           by striking “Board” and inserting “Agency”.

9           (h) SECTION 274.—Section 274 of the Truth in Sav-  
10          ings Act (12 U.S.C. 4313) is amended—

11           (1) in paragraph (2) by striking “Board” and  
12           inserting “Agency”; and

13           (2) by striking paragraph (4) and inserting the  
14           following new paragraph:

15           “(4) AGENCY.—The term ‘Agency’ means the  
16           Consumer Financial Protection Agency.”.

17   **SEC. 194. EFFECTIVE DATE.**

18          The amendments made by sections 183 through 193  
19          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 it appears;

21 (2) by inserting a comma after “chapter” and  
22 after “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”;

21 (2) by amending subsection (b) to read as fol-  
22 lows:

23 “(b) PROCEDURE APPLICABLE.—When prescribing a  
24 rule under subsection (a)(1)(B) of this section, the Com-  
25 mission shall proceed in accordance with section 553 of

1 Title 5 (without regard to any reference in such section  
2 to sections 556 and 557 of such title).”;

3 (3) by striking subsections (c), (d)(1), (d)(2),  
4 (f), (i), and (j), and redesignating subsections (e),  
5 (g) and (h) as (d), (e) and (f);

6 (4) by redesignating paragraph (d)(3) as sub-  
7 section (c); and

8 (5) in subsection (e)—

9 (A) in paragraph (1)(B), by striking “the  
10 transcript required by subsection (c)(5) of this  
11 section,”;

12 (B) in paragraph (2), by striking every-  
13 thing following “error”;

14 (C) in paragraph (5), by striking subpara-  
15 graph (C).

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