

RESPONSIBLE CONSUMER FINANCIAL PROTECTION  
REGULATIONS ACT OF 2013

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FEBRUARY 6, 2014.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed  
\_\_\_\_\_

Mr. HENSARLING, from the Committee on Financial Services,  
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2446]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2446) to replace the Director of the Bureau of Consumer Financial Protection with a five person Commission, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Responsible Consumer Financial Protection Regulations Act of 2013”.

**SEC. 2. ESTABLISHMENT OF THE COMMISSION.**

Section 1011 of the Consumer Financial Protection Act of 2010 is amended—

- (1) by striking subsections (b), (c), and (d);
- (2) by redesignating subsection (e) as subsection (j); and
- (3) by inserting after subsection (a) the following new subsections:

“(b) ESTABLISHMENT OF THE COMMISSION.—

“(1) IN GENERAL.—There is hereby established a commission (hereinafter referred to in this section as the ‘Commission’) that shall serve as the head of the Bureau.

“(2) AUTHORITY TO PRESCRIBE REGULATIONS.—The Commission may prescribe such regulations and issue such orders in accordance with this title as the Commission may determine to be necessary for carrying out this title and all other laws within the Commission’s jurisdiction and shall exercise any authorities granted under this title and all other laws within the Commission’s jurisdiction.

“(c) COMPOSITION OF THE COMMISSION.—

“(1) IN GENERAL.—The Commission shall be composed of the Vice Chairman for Supervision of the Federal Reserve System and 4 additional members who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—

“(A) are citizens of the United States; and

“(B) have strong competencies and experiences related to consumer financial protection.

“(2) STAGGERING.—The members of the Commission appointed under paragraph (1) shall serve staggered terms, which initially shall be established by the President for terms of 1, 2, 4, and 5 years, respectively.

“(3) TERMS.—

“(A) IN GENERAL.—Each member of the Commission appointed under paragraph (1), including the Chair, shall serve for a term of 5 years.

“(B) REMOVAL.—The President may remove any member of the Commission appointed under paragraph (1).

“(C) VACANCIES.—Any member of the Commission appointed under paragraph (1) appointed to fill a vacancy occurring before the expiration of the term to which that member’s predecessor was appointed (including the Chair) shall be appointed only for the remainder of the term.

“(D) CONTINUATION OF SERVICE.—Each member of the Commission appointed under paragraph (1) may continue to serve after the expiration of the term of office to which that member was appointed until a successor has been appointed by the President and confirmed by the Senate, except that a member may not continue to serve more than 1 year after the date on which that member’s term would otherwise expire.

“(E) OTHER EMPLOYMENT PROHIBITED.—No member of the Commission appointed under paragraph (1) shall engage in any other business, vocation, or employment.

“(d) AFFILIATION.—With respect to members appointed pursuant to subsection (c)(1), not more than 2 shall be members of any one political party.

“(e) CHAIR OF THE COMMISSION.—

“(1) APPOINTMENT.—The Chair of the Commission shall be appointed by the President from among the members of the Commission appointed under subsection (c)(1).

“(2) AUTHORITY.—The Chair shall be the principal executive officer of the Bureau, and shall exercise all of the executive and administrative functions of the Bureau, including with respect to—

“(A) the appointment and supervision of personnel employed under the Bureau (other than personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chair);

“(B) the distribution of business among personnel appointed and supervised by the Chair and among administrative units of the Bureau; and

“(C) the use and expenditure of funds.

“(3) LIMITATION.—In carrying out any of the Chair’s functions under the provisions of this subsection the Chair shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

“(4) REQUESTS OR ESTIMATES RELATED TO APPROPRIATIONS.—Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chair without the prior approval of the Commission.

“(f) NO IMPAIRMENT BY REASON OF VACANCIES.—No vacancy in the members of the Commission shall impair the right of the remaining members of the Commission to exercise all the powers of the Commission. Three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only 3 members serving on the Commission because of vacancies in the Commission, 2 members of the Commission shall constitute a quorum for the transaction of business. If there are only 2 members serving on the Commission because of vacancies in the Commission, 2 members shall constitute a quorum for the 6-month period beginning on the date of the vacancy which caused the number of Commission members to decline to 2.

“(g) SEAL.—The Commission shall have an official seal.

“(h) COMPENSATION.—

“(1) CHAIR.—The Chair shall receive compensation at the rate prescribed for level I of the Executive Schedule under section 5313 of title 5, United States Code.

“(2) OTHER MEMBERS OF THE COMMISSION.—The 3 other members of the Commission appointed under subsection (c)(1) shall each receive compensation at

the rate prescribed for level II of the Executive Schedule under section 5314 of title 5, United States Code.

“(i) INITIAL QUORUM ESTABLISHED.—During any time period prior to the confirmation of at least two members of the Commission, one member of the Commission shall constitute a quorum for the transaction of business. Following the confirmation of at least 2 additional commissioners, the quorum requirements of subsection (f) shall apply.”.

### SEC. 3. CONFORMING AMENDMENTS.

(a) CONSUMER FINANCIAL PROTECTION ACT OF 2010.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Consumer Financial Protection Act of 2010 is amended—

(A) by striking “Director of the” each place such term appears, other than where such term is used to refer to a Director other than the Director of the Bureau of Consumer Financial Protection;

(B) by striking “Director” each place such term appears and inserting “Bureau”, other than where such term is used to refer to a Director other than the Director of the Bureau of Consumer Financial Protection; and

(C) in section 1002, by striking paragraph (10).

(2) EXCEPTIONS.—The Consumer Financial Protection Act of 2010 is amended—

(A) in section 1012(c)(4), by striking “Director” each place such term appears and inserting “Commission of the Bureau”;

(B) in section 1013(c)(3)—

(i) by striking “Assistant Director of the Bureau for” and inserting “Head of the Office of”; and

(ii) in subparagraph (B), by striking “Assistant Director” and inserting “Head of the Office”;

(C) in section 1013(g)(2)—

(i) by striking “ASSISTANT DIRECTOR” and inserting “HEAD OF THE OFFICE”; and

(ii) by striking “an assistant director” and inserting “a Head of the Office of Financial Protection for Older Americans”;

(D) in section 1016(a), by striking “Director of the Bureau” and inserting “Chair of the Commission”; and

(E) in section 1066(a), by striking “Director of the Bureau is” and inserting “first member of the Commission is”.

(b) DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.—The Dodd-Frank Wall Street Reform and Consumer Protection Act is amended—

(1) in section 111(b)(1)(D), by striking “Director” and inserting “Chair of the Commission”; and

(2) in section 1447, by striking “Director of the Bureau” each place such term appears and inserting “Bureau”.

(c) ELECTRONIC FUND TRANSFER ACT.—Section 920(a)(4)(C) of the Electronic Fund Transfer Act, as added by section 1075(a)(2) of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau of Consumer Financial Protection” and inserting “Bureau of Consumer Financial Protection”.

(d) EXPEDITED FUNDS AVAILABILITY ACT.—The Expedited Funds Availability Act, as amended by section 1086 of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau” each place such term appears and inserting “Bureau”.

(e) FEDERAL DEPOSIT INSURANCE ACT.—Section 2 of the Federal Deposit Insurance Act, as amended by section 336(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by striking “Director of the Consumer Financial Protection Bureau” each place such term appears and inserting “Chair of the Commission of the Bureau of Consumer Financial Protection”.

(f) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978.—Section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)(4)), as amended by section 1091 of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Consumer Financial Protection Bureau” and inserting “Chair of the Commission of the Bureau of Consumer Financial Protection”.

(g) FINANCIAL LITERACY AND EDUCATION IMPROVEMENT ACT.—Section 513 of the Financial Literacy and Education Improvement Act, as amended by section 1013(d)(5) of the Consumer Financial Protection Act of 2010, is amended by striking “Director” each place such term appears and inserting “Chair of the Commission”.

(h) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 307 of the Home Mortgage Disclosure Act of 1975, as amended by section 1094(6) of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau of Con-

sumer Financial Protection” each place such term appears and inserting “Bureau of Consumer Financial Protection”.

(i) INTERSTATE LAND SALES FULL DISCLOSURE ACT.—The Interstate Land Sales Full Disclosure Act, as amended by section 1098A of the Consumer Financial Protection Act of 2010, is amended—

(1) by amending section 1402(1) to read as follows:

“(1) ‘Chair’ means the Chair of the Commission of the Bureau of Consumer Financial Protection;” and

(2) in section 1416(a), by striking “Director of the Bureau of Consumer Financial Protection” and inserting “Chair”.

(j) REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.—Section 5 of the Real Estate Settlement Procedures Act of 1974, as amended by section 1450 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended—

(1) by striking “The Director of the Bureau of Consumer Financial Protection (hereafter in this section referred to as the ‘Director’)” and inserting “The Bureau of Consumer Financial Protection”; and

(2) by striking “Director” each place such term appears and inserting “Bureau”.

(k) S.A.F.E. MORTGAGE LICENSING ACT OF 2008.—The S.A.F.E. Mortgage Licensing Act of 2008, as amended by section 1100 of the Consumer Financial Protection Act of 2010, is amended—

(1) by striking “Director” each place such term appears in headings and text, other than where such term is used in the context of the Director of the Office of Thrift Supervision, and inserting “Bureau”; and

(2) in section 1503, by striking paragraph (10).

(l) TITLE 44, UNITED STATES CODE.—Section 3513(c) of title 44, United States Code, as amended by section 1100D(b) of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau” and inserting “Bureau”.

#### PURPOSE AND SUMMARY

H.R. 2446, the Responsible Consumer Financial Protection Regulations Act of 2013, amends the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) to promote greater accountability and transparency at the Consumer Financial Protection Bureau (CFPB). It achieves this objective by replacing the single director of the CFPB with a commission, similar to the structure of other federal agencies charged with consumer or investor protection.

#### BACKGROUND AND NEED FOR LEGISLATION

The CFPB is currently governed by a single director in whom all the CFPB’s legal authority rests and on whose authority there are few, if any, meaningful checks and balances. Other financial regulatory agencies, in contrast, are typically governed by boards or commissions (among others, the Securities and Exchange Commission, the Federal Trade Commission, the Board of Governors of the Federal Reserve, and the Federal Deposit Insurance Corporation). Governance by a bipartisan board or commission is beneficial because it permits the discussion of various viewpoints and draws from the collective wisdom of the board rather than the edicts of a single director.

Under this legislation, the single director who currently has sole authority for carrying out the CFPB’s mission would be replaced by a Commission comprised of the Fed’s Vice Chair for Supervision and four members appointed by the President, with the advice and consent of the Senate. Commission members must be U.S. citizens and have strong competencies and experiences related to consumer financial protection. The appointed members of the Commission shall serve five-year, staggered terms. Not more than two ap-

pointed Commission members shall be members of any one political party.

The Chair of the Commission will be appointed by the President from among the four appointed Commission members. The Chair will exercise all the CFPB's executive and administrative functions. The Chair will, however, be governed by the general policies, findings, and determinations of the Commission in carrying out his or her duties.

The Chair of the Commission shall be compensated at level I of the Executive Schedule (\$199,700) and other appointed Commission members shall be compensated at level II of the Executive Schedule (\$179,700).

#### HEARINGS

The Committee on Financial Services' Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 2446 on October 29, 2013.

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 20, 2013, and ordered H.R. 2446 to be reported favorably to the House with an amendment by a recorded vote of 31 yeas to 21 nays (recorded vote no. FC-40), a quorum being present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto.

1. A motion by Chairman Hensarling to report the bill (H.R. 2446) with an amendment to the House with a favorable recommendation was agreed to by a record vote of 31 yeas to 21 nays (recorded vote no. FC-40).

#### RECORD VOTE NO. FC-40

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling .....	X	.....	.....	Ms. Waters .....	.....	X	.....
Mr. Bachus .....	X	.....	.....	Mrs. Maloney (NY) .....	.....	X	.....
Mr. King (NY) .....	X	.....	.....	Ms. Velázquez .....	.....	X	.....
Mr. Royce .....	X	.....	.....	Mr. Watt .....	.....	X	.....
Mr. Lucas .....	X	.....	.....	Mr. Sherman .....	.....	.....	.....
Mr. Gary G. Miller (CA) .....	X	.....	.....	Mr. Meeks .....	.....	.....	.....
Mrs. Capito .....	X	.....	.....	Mr. Capuano .....	.....	X	.....
Mr. Garrett .....	X	.....	.....	Mr. Hinojosa .....	.....	X	.....
Mr. Neugebauer .....	X	.....	.....	Mr. Clay .....	.....	.....	.....
Mr. McHenry .....	X	.....	.....	Mrs. McCarthy (NY) .....	.....	.....	.....
Mr. Campbell .....	.....	.....	.....	Mr. Lynch .....	.....	X	.....
Mrs. Bachmann .....	X	.....	.....	Mr. David Scott (GA) .....	.....	X	.....
Mr. McCarthy (CA) .....	X	.....	.....	Mr. Al Green (TX) .....	.....	.....	.....
Mr. Pearce .....	X	.....	.....	Mr. Cleaver .....	.....	X	.....
Mr. Posey .....	.....	.....	.....	Ms. Moore .....	.....	X	.....
Mr. Fitzpatrick .....	X	.....	.....	Mr. Ellison .....	.....	X	.....
Mr. Westmoreland .....	X	.....	.....	Mr. Perlmutter .....	.....	.....	.....
Mr. Luetkemeyer .....	X	.....	.....	Mr. Himes .....	.....	X	.....
Mr. Huizenga (MI) .....	X	.....	.....	Mr. Peters (MI) .....	.....	X	.....
Mr. Duffy .....	X	.....	.....	Mr. Carney .....	.....	X	.....
Mr. Hurt .....	X	.....	.....	Ms. Sewell (AL) .....	.....	X	.....
Mr. Grimm .....	X	.....	.....	Mr. Foster .....	.....	X	.....
Mr. Stivers .....	X	.....	.....	Mr. Kildee .....	.....	.....	.....

## RECORD VOTE NO. FC-40—Continued

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Fincher .....	X	.....	.....	Mr. Murphy (FL) .....	.....	X	.....
Mr. Stutzman .....	X	.....	.....	Mr. Delaney .....	.....	X	.....
Mr. Mulvaney .....	X	.....	.....	Ms. Sinema .....	.....	X	.....
Mr. Hultgren .....	X	.....	.....	Mrs. Beatty .....	.....	X	.....
Mr. Ross .....	X	.....	.....	Mr. Heck (WA) .....	.....	X	.....
Mr. Pittenger .....	X	.....	.....				
Mrs. Wagner .....	X	.....	.....				
Mr. Barr .....	X	.....	.....				
Mr. Cotton .....	X	.....	.....				
Mr. Rothfus .....	X	.....	.....				

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 2446, among other things, replaces the single director of the CFPB with a commission structure of governance.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 6, 2014.*

Hon. JEB HENSARLING,  
*Chairman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2446, the Responsible Consumer Financial Protection Regulations Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 2446—Responsible Consumer Financial Protection Regulations Act of 2013*

Summary: H.R. 2446 would replace the Director of the Consumer Financial Protection Bureau (CFPB) with a commission made up of a chairman and four additional members appointed by the President and confirmed by the Senate. The commission would be responsible for developing regulations to carry out the laws that fall within the jurisdiction of the CFPB.

Based on information from the CFPB, CBO estimates that enacting H.R. 2446 would increase direct spending by \$74 million over the 2014–2024 period. Because the bill would affect direct spending, pay-as-you-go procedures apply. CBO estimates that enacting the bill would not affect revenues and that implementing H.R. 2446 would not affect spending subject to appropriation.

H.R. 2446 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2446 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—													
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014– 2019	2014– 2024	
CHANGES IN DIRECT SPENDING														
Estimated Budget Authority .....	2	7	7	7	7	7	7	8	8	8	8	37	75	
Estimated Outlays .....	*	7	7	7	7	7	7	8	8	8	8	35	74	

Note: Components may not sum to totals because of rounding; \* = less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the middle of fiscal year 2014, that the new commissioners will be confirmed by the end of the fiscal year, and that spending will follow historical patterns for the CFPB. The CFPB is permanently authorized to spend amounts transferred from the Federal Reserve; because that activity is not subject to appropriation, CFPB expenditures are recorded in the budget as direct spending.

H.R. 2446 would replace the director and deputy director of the CFPB with a five-member commission. Based on information from the CFPB and agencies with similar organizational structures, CBO estimates that the agency would eventually hire an additional 40 employees to provide legal, research, and administrative support to the five commissioners and dismiss the agency director and deputy director. CBO estimates that additional costs for salaries, benefits, and overhead for the new positions would total about \$7 million a year. In the next few years, the CFBP will spend about \$450 million a year under current law to carry out all of its activities, CBO estimates.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATES OF PAY-AS-YOU-GO EFFECTS FOR H.R. 2446, AS ORDERED BY THE HOUSE  
COMMITTEE ON FINANCIAL SERVICES ON NOVEMBER 21, 2013

	By fiscal year, in millions of dollars—														2014– 2019	2014– 2024
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024					
	NET INCREASE IN THE DEFICIT															
Statutory Pay-As-You-Go Impact ....	0	7	7	7	7	7	7	8	8	8	8	8	35	74		

Intergovernmental and private-sector impact: H.R. 2446 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Susan Willie; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo; Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

#### EARMARK IDENTIFICATION

H.R. 2446 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee states that no provision of H.R. 2446 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program



related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee states that H.R. 2446 does not direct any rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This section cites H.R. 2446 as the “Responsible Consumer Financial Protection Regulations Act of 2013.”

*Section 2. Establishment of the commission*

This section establishes a commission to serve as the head of the CFPB, endows the commission with authority to carry out its statutory mission, fixes the number and qualifications of members to serve on the commission, prescribes the appointment and authorities of the chair of the commission, and sets out other attendant characteristics and authorities of the commission.

*Section 3. Conforming amendments*

This section makes technical and conforming amendments to Federal law consistent with the substantive amendments made by section 2.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT**

**SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Dodd-Frank Wall Street Reform and Consumer Protection Act”.

\* \* \* \* \*

**TITLE I—FINANCIAL STABILITY**

\* \* \* \* \*

**Subtitle A—Financial Stability Oversight Council**

**SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.**

(a) \* \* \*

(b) **MEMBERSHIP.**—The Council shall consist of the following members:

(1) VOTING MEMBERS.—The voting members, who shall each have 1 vote on the Council shall be—

(A) \* \* \* the Secretary of the Treasury, who shall serve as Chairperson of the Council;

\* \* \* \* \*

(D) the **[Director]** *Chair of the Commission* of the Bureau;

\* \* \* \* \*

### **TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION**

#### **SEC. 1001. SHORT TITLE.**

This title may be cited as the “Consumer Financial Protection Act of 2010”.

#### **SEC. 1002. DEFINITIONS.**

Except as otherwise provided in this title, for purposes of this title, the following definitions shall apply:

(1) \* \* \*

\* \* \* \* \*

**[(10) DIRECTOR.—**The term “Director ” means the Director of the Bureau.**]**

\* \* \* \* \*

### **Subtitle A—Bureau of Consumer Financial Protection**

#### **SEC. 1011. ESTABLISHMENT OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION.**

(a) \* \* \*

**[(b) DIRECTOR AND DEPUTY DIRECTOR.—**

**[(1) IN GENERAL.—**There is established the position of the Director who shall serve as the head of the Bureau.

**[(2) APPOINTMENT.—**Subject to paragraph (3), the Director shall be appointed by the President, by and with the advice and consent of the Senate.

**[(3) QUALIFICATION.—**The President shall nominate the Director from among individuals who are citizens of the United States.

**[(4) COMPENSATION.—**The Director shall be compensated at the rate prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.

**[(5) DEPUTY DIRECTOR.—**There is established the position of Deputy Director, who shall—

**[(A) be appointed by the Director; and**

**[(B) serve as acting Director in the absence or unavailability of the Director.**

**[(c) TERM.—**

**[(1) IN GENERAL.—**The Director shall serve for a term of 5 years.

[(2) EXPIRATION OF TERM.—An individual may serve as Director after the expiration of the term for which appointed, until a successor has been appointed and qualified.]

[(3) REMOVAL FOR CAUSE.—The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.]

[(d) SERVICE RESTRICTION.—No Director or Deputy Director may hold any office, position, or employment in any Federal reserve bank, Federal home loan bank, covered person, or service provider during the period of service of such person as Director or Deputy Director.]

(b) *ESTABLISHMENT OF THE COMMISSION.*—

(1) *IN GENERAL.*—*There is hereby established a commission (hereinafter referred to in this section as the “Commission”) that shall serve as the head of the Bureau.*

(2) *AUTHORITY TO PRESCRIBE REGULATIONS.*—*The Commission may prescribe such regulations and issue such orders in accordance with this title as the Commission may determine to be necessary for carrying out this title and all other laws within the Commission’s jurisdiction and shall exercise any authorities granted under this title and all other laws within the Commission’s jurisdiction.*

(c) *COMPOSITION OF THE COMMISSION.*—

(1) *IN GENERAL.*—*The Commission shall be composed of the Vice Chairman for Supervision of the Federal Reserve System and 4 additional members who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—*

(A) *are citizens of the United States; and*

(B) *have strong competencies and experiences related to consumer financial protection.*

(2) *STAGGERING.*—*The members of the Commission appointed under paragraph (1) shall serve staggered terms, which initially shall be established by the President for terms of 1, 2, 4, and 5 years, respectively.*

(3) *TERMS.*—

(A) *IN GENERAL.*—*Each member of the Commission appointed under paragraph (1), including the Chair, shall serve for a term of 5 years.*

(B) *REMOVAL.*—*The President may remove any member of the Commission appointed under paragraph (1).*

(C) *VACANCIES.*—*Any member of the Commission appointed under paragraph (1) appointed to fill a vacancy occurring before the expiration of the term to which that member’s predecessor was appointed (including the Chair) shall be appointed only for the remainder of the term.*

(D) *CONTINUATION OF SERVICE.*—*Each member of the Commission appointed under paragraph (1) may continue to serve after the expiration of the term of office to which that member was appointed until a successor has been appointed by the President and confirmed by the Senate, except that a member may not continue to serve more than 1 year after the date on which that member’s term would otherwise expire.*

(E) *OTHER EMPLOYMENT PROHIBITED.*—No member of the Commission appointed under paragraph (1) shall engage in any other business, vocation, or employment.

(d) *AFFILIATION.*—With respect to members appointed pursuant to subsection (c)(1), not more than 2 shall be members of any one political party.

(e) *CHAIR OF THE COMMISSION.*—

(1) *APPOINTMENT.*—The Chair of the Commission shall be appointed by the President from among the members of the Commission appointed under subsection (c)(1).

(2) *AUTHORITY.*—The Chair shall be the principal executive officer of the Bureau, and shall exercise all of the executive and administrative functions of the Bureau, including with respect to—

(A) the appointment and supervision of personnel employed under the Bureau (other than personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chair);

(B) the distribution of business among personnel appointed and supervised by the Chair and among administrative units of the Bureau; and

(C) the use and expenditure of funds.

(3) *LIMITATION.*—In carrying out any of the Chair's functions under the provisions of this subsection the Chair shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(4) *REQUESTS OR ESTIMATES RELATED TO APPROPRIATIONS.*—Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chair without the prior approval of the Commission.

(f) *NO IMPAIRMENT BY REASON OF VACANCIES.*—No vacancy in the members of the Commission shall impair the right of the remaining members of the Commission to exercise all the powers of the Commission. Three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only 3 members serving on the Commission because of vacancies in the Commission, 2 members of the Commission shall constitute a quorum for the transaction of business. If there are only 2 members serving on the Commission because of vacancies in the Commission, 2 members shall constitute a quorum for the 6-month period beginning on the date of the vacancy which caused the number of Commission members to decline to 2.

(g) *SEAL.*—The Commission shall have an official seal.

(h) *COMPENSATION.*—

(1) *CHAIR.*—The Chair shall receive compensation at the rate prescribed for level I of the Executive Schedule under section 5313 of title 5, United States Code.

(2) *OTHER MEMBERS OF THE COMMISSION.*—The 3 other members of the Commission appointed under subsection (c)(1) shall each receive compensation at the rate prescribed for level II of the Executive Schedule under section 5314 of title 5, United States Code.

(i) *INITIAL QUORUM ESTABLISHED.*—During any time period prior to the confirmation of at least two members of the Commission, one member of the Commission shall constitute a quorum for the transaction of business. Following the confirmation of at least 2 additional commissioners, the quorum requirements of subsection (f) shall apply.

[(e)] (j) *OFFICES.*—The principal office of the Bureau shall be in the District of Columbia. The [Director] *Bureau* may establish regional offices of the Bureau, including in cities in which the Federal reserve banks, or branches of such banks, are located, in order to carry out the responsibilities assigned to the Bureau under the Federal consumer financial laws.

**SEC. 1012. EXECUTIVE AND ADMINISTRATIVE POWERS.**

(a) *POWERS OF THE BUREAU.*—The Bureau is authorized to establish the general policies of the Bureau with respect to all executive and administrative functions, including—

(1) \* \* \*

\* \* \* \* \*

(8) the distribution of business among personnel appointed and supervised by the [Director] *Bureau* and among administrative units of the Bureau;

\* \* \* \* \*

(b) *DELEGATION OF AUTHORITY.*—The [Director of the] Bureau may delegate to any duly authorized employee, representative, or agent any power vested in the Bureau by law.

(c) *AUTONOMY OF THE BUREAU.*—

(1) \* \* \*

(2) *AUTONOMY.*—Notwithstanding the authorities granted to the Board of Governors under the Federal Reserve Act, the Board of Governors may not—

(A) intervene in any matter or proceeding before the [Director] *Bureau*, including examinations or enforcement actions, unless otherwise specifically provided by law;

\* \* \* \* \*

(4) *RECOMMENDATIONS AND TESTIMONY.*—No officer or agency of the United States shall have any authority to require the [Director] *Commission of the Bureau* or any other officer of the Bureau to submit legislative recommendations, or testimony or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress, if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the [Director] *Commission of the Bureau* or such officer, and do not necessarily reflect the views of the Board of Governors or the President.

\* \* \* \* \*

**SEC. 1013. ADMINISTRATION.**

(a) *PERSONNEL.*—

(1) *APPOINTMENT.*—

(A) *IN GENERAL.*—The [Director] *Bureau* may fix the number of, and appoint and direct, all employees of the

Bureau, in accordance with the applicable provisions of title 5, United States Code.

(B) EMPLOYEES OF THE BUREAU.—The [Director] *Bureau* is authorized to employ attorneys, compliance examiners, compliance supervision analysts, economists, statisticians, and other employees as may be deemed necessary to conduct the business of the Bureau. Unless otherwise provided expressly by law, any individual appointed under this section shall be an employee as defined in section 2105 of title 5, United States Code, and subject to the provisions of such title and other laws generally applicable to the employees of an Executive agency.

(C) WAIVER AUTHORITY.—

(i) IN GENERAL.—In making any appointment under subparagraph (A), the [Director] *Bureau* may waive the requirements of chapter 33 of title 5, United States Code, and the regulations implementing such chapter, to the extent necessary to appoint employees on terms and conditions that are consistent with those set forth in section 11(1) of the Federal Reserve Act (12 U.S.C. 248(1)), while providing for—

(I) \* \* \*

\* \* \* \* \*

(ii) VETERANS PREFERENCES.—In implementing this subparagraph, the [Director] *Bureau* shall comply with the provisions of section 2302(b)(11), regarding veterans' preference requirements, in a manner consistent with that in which such provisions are applied under chapter 33 of title 5, United States Code. The authority under this subparagraph to waive the requirements of that chapter 33 shall expire 5 years after the date of enactment of this Act.

(2) COMPENSATION.—Notwithstanding any otherwise applicable provision of title 5, United States Code, concerning compensation, including the provisions of chapter 51 and chapter 53, the following provisions shall apply with respect to employees of the Bureau:

(A) The rates of basic pay for all employees of the Bureau may be set and adjusted by the [Director] *Bureau*.

(B) The [Director] *Bureau* shall at all times provide compensation (including benefits) to each class of employees that, at a minimum, are comparable to the compensation and benefits then being provided by the Board of Governors for the corresponding class of employees.

\* \* \* \* \*

(b) SPECIFIC FUNCTIONAL UNITS.—

(1) RESEARCH.—The [Director] *Bureau* shall establish a unit whose functions shall include researching, analyzing, and reporting on—

(A) \* \* \*

\* \* \* \* \*

(2) COMMUNITY AFFAIRS.—The [Director] *Bureau* shall establish a unit whose functions shall include providing informa-

tion, guidance, and technical assistance regarding the offering and provision of consumer financial products or services to traditionally underserved consumers and communities.

(3) COLLECTING AND TRACKING COMPLAINTS.—

(A) IN GENERAL.—The **[Director]** *Bureau* shall establish a unit whose functions shall include establishing a single, toll-free telephone number, a website, and a database or utilizing an existing database to facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services. The **[Director]** *Bureau* shall coordinate with the Federal Trade Commission or other Federal agencies to route complaints to such agencies, where appropriate.

\* \* \* \* \*

(C) REPORTS TO THE CONGRESS.—The **[Director]** *Bureau* shall present an annual report to Congress not later than March 31 of each year on the complaints received by the Bureau in the prior year regarding consumer financial products and services. Such report shall include information and analysis about complaint numbers, complaint types, and, where applicable, information about resolution of complaints.

\* \* \* \* \*

(c) OFFICE OF FAIR LENDING AND EQUAL OPPORTUNITY.—

(1) ESTABLISHMENT.—The **[Director]** *Bureau* shall establish within the Bureau the Office of Fair Lending and Equal Opportunity.

(2) FUNCTIONS.—The Office of Fair Lending and Equal Opportunity shall have such powers and duties as the **[Director]** *Bureau* may delegate to the Office, including—

(A) \* \* \*

\* \* \* \* \*

(3) ADMINISTRATION OF OFFICE.—There is established the position of **[Assistant Director of the Bureau for]** *Head of the Office of Fair Lending and Equal Opportunity*, who—

(A) shall be appointed by the **[Director]** *Bureau*; and

(B) shall carry out such duties as the **[Director]** *Bureau* may delegate to such **[Assistant Director]** *Head of the Office*.

(d) OFFICE OF FINANCIAL EDUCATION.—

(1) ESTABLISHMENT.—The **[Director]** *Bureau* shall establish an Office of Financial Education, which shall be responsible for developing and implementing initiatives intended to educate and empower consumers to make better informed financial decisions.

\* \* \* \* \*

(3) COORDINATION.—The Office of Financial Education shall coordinate with other units within the Bureau in carrying out its functions, including—

(A) \* \* \*

(B) working with the research unit established by the **[Director]** *Bureau* to conduct research related to consumer financial education and counseling.

(4) REPORT.—Not later than 24 months after the designated transfer date, and annually thereafter, the [Director] Bureau shall submit a report on its financial literacy activities and strategy to improve financial literacy of consumers to—

(A) \* \* \*

\* \* \* \* \*

(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

(1) IN GENERAL.—The [Director] Bureau shall establish an Office of Service Member Affairs, which shall be responsible for developing and implementing initiatives for service members and their families intended to—

(A) \* \* \*

\* \* \* \* \*

(2) COORDINATION.—

(A) REGIONAL SERVICES.—The [Director] Bureau is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Service Member Affairs, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

(B) AGREEMENTS.—The [Director] Bureau is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Service Member Affairs.

\* \* \* \* \*

(g) OFFICE OF FINANCIAL PROTECTION FOR OLDER AMERICANS.—

(1) ESTABLISHMENT.—Before the end of the 180-day period beginning on the designated transfer date, the [Director] Bureau shall establish the Office of Financial Protection for Older Americans, the functions of which shall include activities designed to facilitate the financial literacy of individuals who have attained the age of 62 years or more (in this subsection, referred to as “seniors”) on protection from unfair, deceptive, and abusive practices and on current and future financial choices, including through the dissemination of materials to seniors on such topics.

(2) [ASSISTANT DIRECTOR] HEAD OF THE OFFICE.—The Office of Financial Protection for Older Americans (in this subsection referred to as the “Office”) shall be headed by [an assistant director] a Head of the Office of Financial Protection for Older Americans.

\* \* \* \* \*

**SEC. 1014. CONSUMER ADVISORY BOARD.**

(a) ESTABLISHMENT REQUIRED.—The [Director] Bureau shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.



(b) MEMBERSHIP.—In appointing the members of the Consumer Advisory Board, the [Director] *Bureau* shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of depository institutions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and seek representation of the interests of covered persons and consumers, without regard to party affiliation. Not fewer than 6 members shall be appointed upon the recommendation of the regional Federal Reserve Bank Presidents, on a rotating basis.

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

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

(1) be entitled to receive compensation at a rate fixed by the [Director] *Bureau* while attending meetings of the Consumer Advisory Board, including travel time; and

\* \* \* \* \*

**SEC. 1016. APPEARANCES BEFORE AND REPORTS TO CONGRESS.**

(a) APPEARANCES BEFORE CONGRESS.—The [Director of the Bureau] *Chair of the Commission* shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Energy and Commerce of the House of Representatives at semi-annual hearings regarding the reports required under subsection (b).

\* \* \* \* \*

**SEC. 1017. FUNDING; PENALTIES AND FINES.**

(a) TRANSFER OF FUNDS FROM BOARD OF GOVERNORS.—

(1) IN GENERAL.—Each year (or quarter of such year), beginning on the designated transfer date, and each quarter thereafter, the Board of Governors shall transfer to the Bureau from the combined earnings of the Federal Reserve System, the amount determined by the [Director] *Bureau* to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law, taking into account such other sums made available to the Bureau from the preceding year (or quarter of such year).

\* \* \* \* \*

(4) BUDGET AND FINANCIAL MANAGEMENT.—

(A) FINANCIAL OPERATING PLANS AND FORECASTS.—The [Director] *Bureau* shall provide to the Director of the Office of Management and Budget copies of the financial operating plans and forecasts of the [Director] *Bureau*, as prepared by the [Director] *Bureau* in the ordinary course of the operations of the Bureau, and copies of the quarterly reports of the financial condition and results of operations

of the Bureau, as prepared by the [Director] Bureau in the ordinary course of the operations of the Bureau.

\* \* \* \* \*

(D) ASSERTION OF INTERNAL CONTROLS.—The [Director] Bureau shall provide to the Comptroller General of the United States an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Bureau, using the standards established in section 3512(c) of title 31, United States Code.

(E) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the [Director] Bureau to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in subparagraph (A) or any jurisdiction or oversight over the affairs or operations of the Bureau.

\* \* \* \* \*

(5) AUDIT OF THE BUREAU.—

(A) \* \* \*

\* \* \* \* \*

(C) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the [Director of the] Bureau shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.

\* \* \* \* \*

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds obtained by, transferred to, or credited to the Bureau Fund shall be immediately available to the Bureau and under the control of the [Director] Bureau, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities. The compensation of the [Director] Bureau and other employees of the Bureau and all other expenses thereof may be paid from, obtained by, transferred to, or credited to the Bureau Fund under this section.

\* \* \* \* \*

(e) AUTHORIZATION OF APPROPRIATIONS; ANNUAL REPORT.—

(1) DETERMINATION REGARDING NEED FOR APPROPRIATED FUNDS.—

(A) IN GENERAL.—The **[Director]** *Bureau* is authorized to determine that sums available to the Bureau under this section will not be sufficient to carry out the authorities of the Bureau under Federal consumer financial law for the upcoming year.

(B) REPORT REQUIRED.—When making a determination under subparagraph (A), the **[Director]** *Bureau* shall prepare a report regarding the funding of the Bureau, including the assets and liabilities of the Bureau, and the extent to which the funding needs of the Bureau are anticipated to exceed the level of the amount set forth in subsection (a)(2). The **[Director]** *Bureau* shall submit the report to the President and to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(2) AUTHORIZATION OF APPROPRIATIONS.—If the **[Director]** *Bureau* makes the determination and submits the report pursuant to paragraph (1), there are hereby authorized to be appropriated to the Bureau, for the purposes of carrying out the authorities granted in Federal consumer financial law, \$200,000,000 for each of fiscal years 2010, 2011, 2012, 2013, and 2014.

\* \* \* \* \*

(4) ANNUAL REPORT.—The **[Director]** *Bureau* shall prepare and submit a report, on an annual basis, to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives regarding the financial operating plans and forecasts of the **[Director]** *Bureau*, the financial condition and results of operations of the Bureau, and the sources and application of funds of the Bureau, including any funds appropriated in accordance with this subsection.

\* \* \* \* \*

**Subtitle B—General Powers of the Bureau**

**SEC. 1022. RULEMAKING AUTHORITY.**

(a) \* \* \*

(b) RULEMAKING, ORDERS, AND GUIDANCE.—

(1) GENERAL AUTHORITY.—The **[Director]** *Bureau* may prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.

\* \* \* \* \*

**SEC. 1024. SUPERVISION OF NONDEPOSITORY COVERED PERSONS.**

(a) \* \* \*

(b) SUPERVISION.—

(1) \* \* \*

\* \* \* \* \*

(5) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the [Director] *Bureau* to require reports from persons described in subsection (a)(1), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

\* \* \* \* \*

**SEC. 1025. SUPERVISION OF VERY LARGE BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.**

(a) \* \* \*

(b) SUPERVISION.—

(1) \* \* \*

\* \* \* \* \*

(4) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the [Director] *Bureau* to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

\* \* \* \* \*

**SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.**

(a) \* \* \*

(b) REPORTS.—The [Director] *Bureau* may require reports from a person described in subsection (a), as necessary to support the role of the Bureau in implementing Federal consumer financial law, to support its examination activities under subsection (c), and to assess and detect risks to consumers and consumer financial markets.

(1) \* \* \*

(2) PRESERVATION OF AUTHORITY.—Nothing in this subsection may be construed as limiting the authority of the [Director] *Bureau* from requiring from a person described in subsection (a), as permitted under paragraph (1), information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

\* \* \* \* \*

**SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.**

(a) \* \* \*

\* \* \* \* \*

(c) EXCLUSION FOR MANUFACTURED HOME RETAILERS AND MODULAR HOME RETAILERS.—

(1) IN GENERAL.—The [Director] *Bureau* may not exercise any rulemaking, supervisory, enforcement, or other authority over a person to the extent that—

(A) \* \* \*

\* \* \* \* \*

(1) EXCLUSION FOR ACTIVITIES RELATING TO CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—The [Director] Bureau and the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority, including authority to order penalties, over any activities related to the solicitation or making of voluntary contributions to a tax-exempt organization as recognized by the Internal Revenue Service, by any agent, volunteer, or representative of such organizations to the extent the organization, agent, volunteer, or representative thereof is soliciting or providing advice, information, education, or instruction to any donor or potential donor relating to a contribution to the organization.

\* \* \* \* \*

**Subtitle C—Specific Bureau Authorities**

**SEC. 1035. PRIVATE EDUCATION LOAN OMBUDSMAN.**

(a) ESTABLISHMENT.—The Secretary, in consultation with the [Director] Bureau, shall designate a Private Education Loan Ombudsman (in this section referred to as the “Ombudsman”) within the Bureau, to provide timely assistance to borrowers of private education loans.

(b) PUBLIC INFORMATION.—The Secretary and the [Director] Bureau shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education student loan programs.

(c) FUNCTIONS OF OMBUDSMAN.—The Ombudsman designated under this subsection shall—

(1) in accordance with regulations of the [Director] Bureau, receive, review, and attempt to resolve informally complaints from borrowers of loans described in subsection (a), including, as appropriate, attempts to resolve such complaints in collaboration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs;

\* \* \* \* \*

(4) make appropriate recommendations to the [Director] Bureau, the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

\* \* \* \* \*

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

\* \* \* \* \*

**SEC. 1066. INTERIM AUTHORITY OF THE SECRETARY.**

(a) IN GENERAL.—The Secretary is authorized to perform the functions of the Bureau under this subtitle until the [Director of the Bureau is] *first member of the Commission* is confirmed by the Senate in accordance with section 1011.

\* \* \* \* \*

**Subtitle G—Regulatory Improvements**

\* \* \* \* \*

**SEC. 1079. REVIEW, REPORT, AND PROGRAM WITH RESPECT TO EXCHANGE FACILITATORS.**

(a) REVIEW.—The [Director] *Bureau* shall review all Federal laws and regulations relating to the protection of consumers who use exchange facilitators for transactions primarily for personal, family, or household purposes.

(b) REPORT.—Not later than 1 year after the designated transfer date, the [Director] *Bureau* shall submit to Congress a report describing—

(1) \* \* \*

\* \* \* \* \*

**TITLE XIV—MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT**

\* \* \* \* \*

**Subtitle D—Office of Housing Counseling**

\* \* \* \* \*

**SEC. 1447. DEFAULT AND FORECLOSURE DATABASE.**

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development and the [Director of the Bureau] *Bureau*, in consultation with the Federal agencies responsible for regulation of banking and financial institutions involved in residential mortgage lending and servicing, shall establish and maintain a database of information on foreclosures and defaults on mortgage loans for one- to four-unit residential properties and shall make such information publicly available, subject to subsection (e).

\* \* \* \* \*

(c) REQUIREMENTS.—Information collected and made available through the database shall include—

(1) \* \* \*

\* \* \* \* \*

(6) such other information as the Secretary of Housing and Urban Development and the [Director of the Bureau] *Bureau* consider appropriate.

\* \* \* \* \*

(e) PRIVACY AND CONFIDENTIALITY.—In establishing and maintaining the database described in subsection (a), the Secretary of

Housing and Urban Development and the [Director of the Bureau] Bureau shall—

(1) \* \* \*

\* \* \* \* \*

**SECTION 920 OF THE ELECTRONIC FUND TRANSFER ACT**

**SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

(a) REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.—

(1) \* \* \*

\* \* \* \* \*

(4) CONSIDERATIONS; CONSULTATION.—In prescribing regulations under paragraph (3)(A), the Board shall—

(A) \* \* \*

\* \* \* \* \*

(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the [Director of the Bureau of Consumer Financial Protection] Bureau of Consumer Financial Protection.

\* \* \* \* \*

**EXPEDITED FUNDS AVAILABILITY ACT**

\* \* \* \* \*

**TITLE VI—EXPEDITED FUNDS AVAILABILITY**

**SEC. 601. SHORT TITLE.**

This title may be cited as the “Expedited Funds Availability Act”.

\* \* \* \* \*

**SEC. 603. EXPEDITED FUNDS AVAILABILITY SCHEDULES.**

(a) \* \* \*

\* \* \* \* \*

(d) TIME PERIOD ADJUSTMENTS.—

(1) REDUCTION GENERALLY.—Notwithstanding any other provision of law, the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, shall, by regulation, reduce the time periods established under subsections (b), (c), and (e) to as short a time as possible and equal to the period of time achievable under the improved check clearing system for a receiving depository institution to reasonably ex-

pect to learn of the nonpayment of most items for each category of checks.

\* \* \* \* \*

**SEC. 604. SAFEGUARD EXCEPTIONS.**

(a) **NEW ACCOUNTS.**—Notwithstanding section 603, in the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period (or such shorter period as the Board, jointly with the [Director of the Bureau] *Bureau* of Consumer Financial Protection, may establish) beginning on the date such account is established—

(1) \* \* \*

\* \* \* \* \*

(b) **LARGE OR REDEPOSITED CHECKS; REPEATED OVERDRAFTS.**—The Board, jointly with the [Director of the Bureau] *Bureau* of Consumer Financial Protection, may, by regulation, establish reasonable exceptions to any time limitation established under subsection (a)(2), (b), (c), or (e) of section 603 for—

(1) \* \* \*

\* \* \* \* \*

(c) **REASONABLE CAUSE EXCEPTION.**—

(1) **IN GENERAL.**—In accordance with regulations which the Board, jointly with the [Director of the Bureau] *Bureau* of Consumer Financial Protection, shall prescribe, subsections (a)(2), (b), (c), and (e) of section 603 shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person. Such reasons shall be included in the notice required under subsection (f).

\* \* \* \* \*

(d) **EMERGENCY CONDITIONS.**—Subject to such regulations as the Board, jointly with the [Director of the Bureau] *Bureau* of Consumer Financial Protection, may prescribe, subsections (a)(2), (b), (c), and (e) of section 603 shall not apply to funds deposited by check in any receiving depository institution in the case of—

(1) \* \* \*

\* \* \* \* \*

if the receiving depository institution exercises such diligence as the circumstances require.

(e) **PREVENTION OF FRAUD LOSSES.**—

(1) **IN GENERAL.**—The Board, jointly with the [Director of the Bureau] *Bureau* of Consumer Financial Protection, may, by regulation or order, suspend the applicability of this title, or any portion thereof, to any classification of checks if the Board, jointly with the [Director of the Bureau] *Bureau* of Consumer Financial Protection, determines that—



(A) \* \* \*

\* \* \* \* \*

(3) REPORT TO CONGRESS.—

(A) NOTICE OF EACH SUSPENSION.—Within 10 days of prescribing any regulation or issuing any order under paragraph (1), the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, shall transmit a report of such action to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) CONTENTS OF REPORT.—Each report under subparagraph (A) shall contain—

(i) \* \* \*

(ii) evidence considered by the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, in making the determination under paragraph (1) with respect to such regulation or order; and

\* \* \* \* \*

(f) NOTICE OF EXCEPTION; AVAILABILITY WITHIN REASONABLE TIME.—

(1) IN GENERAL.—If any exception contained in this section (other than subsection (a)) applies with respect to funds deposited in an account at a depository institution—

(A) \* \* \*

(B) except where other time periods are specifically provided in this title, the availability of the funds deposited shall be governed by the policy of the receiving depository institution, but shall not exceed a reasonable period of time as determined by the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection.

(2) TIME FOR NOTICE.—The notice required under paragraph (1)(A) with respect to a deposit to which an exception contained in this section applies shall be made by the time provided in the following subparagraphs:

(A) \* \* \*

\* \* \* \* \*

(C) In the case of a deposit to which subsection (d) or (e) applies, notice shall be provided by the depository institution in accordance with regulations of the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection.

\* \* \* \* \*

**SEC. 605. DISCLOSURE OF FUNDS AVAILABILITY POLICIES.**

(a) \* \* \*

(b) PREPRINTED DEPOSIT SLIPS.—All preprinted deposit slips that a depository institution furnishes to its customers shall contain a summary notice, as prescribed by the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, in

regulations, that deposited items may not be available for immediate withdrawal.

\* \* \* \* \*

(d) POSTING OF NOTICE.—

(1) \* \* \*

(2) GENERAL NOTICE AT AUTOMATED TELLER MACHINES.—In the case of any automated teller machine at which any funds are received for deposit in an account at any depository institution, the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, shall prescribe, by regulations, that the owner or operator of such automated teller machine shall post or provide a general notice that funds deposited in such machine may not be immediately available for withdrawal.

\* \* \* \* \*

(f) MODEL DISCLOSURE FORMS.—

(1) PREPARED BY BOARD AND BUREAU.—The Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language.

\* \* \* \* \*

(3) VOLUNTARY USE.—Nothing in this title requires the use of any such model form or clause prescribed by the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, under this subsection.

(4) NOTICE AND COMMENT.—Model disclosure forms and clauses shall be adopted by the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, only after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

**SEC. 609. REGULATIONS AND REPORTS BY BOARD.**

(a) IN GENERAL.—After notice and opportunity to submit comment in accordance with section 553(c) of title 5, United States Code, the Board, jointly with the [Director of the Bureau] Bureau of Consumer Financial Protection, shall prescribe regulations—

(1) \* \* \*

\* \* \* \* \*

(e) CONSULTATIONS.—In prescribing regulations under subsections (a) and (b), the Board and the [Director of the Bureau] Bureau of Consumer Financial Protection, in the case of subsection (a), and the Board, in the case of subsection (b), shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.

\* \* \* \* \*

---

**FEDERAL DEPOSIT INSURANCE ACT**

\* \* \* \* \*

**SEC. 2. MANAGEMENT.**

(a) **BOARD OF DIRECTORS.—**

(1) **IN GENERAL.—**The management of the Corporation shall be vested in a Board of Directors consisting of 5 members—

(A) \* \* \*

(B) 1 of whom shall be the [Director of the Consumer Financial Protection Bureau] *Chair of the Commission of the Bureau of Consumer Financial Protection*; and

\* \* \* \* \*

(d) **VACANCY.—**

(1) \* \* \*

(2) **ACTING OFFICIALS MAY SERVE.—**In the event of a vacancy in the office of the Comptroller of the Currency or the office of [Director of the Consumer Financial Protection Bureau] *Chair of the Commission of the Bureau of Consumer Financial Protection* and pending the appointment of a successor, or during the absence or disability of the Comptroller of the Currency or the [Director of the Consumer Financial Protection Bureau] *Chair of the Commission of the Bureau of Consumer Financial Protection*, the acting Comptroller of the Currency or the acting [Director of the Consumer Financial Protection Bureau] *Chair of the Commission of the Bureau of Consumer Financial Protection*, as the case may be, shall be a member of the Board of Directors in the place of the Comptroller or Director.

\* \* \* \* \*

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**FEDERAL FINANCIAL INSTITUTIONS EXAMINATION  
COUNCIL ACT OF 1978**

\* \* \* \* \*

**TITLE X—FEDERAL FINANCIAL INSTITUTIONS  
EXAMINATION COUNCIL**

\* \* \* \* \*

**ESTABLISHMENT OF THE COUNCIL**

**SEC. 1004.** (a) There is established the Financial Institutions Examination Council which shall consist of—

(1) \* \* \*

\* \* \* \* \*

(4) the [Director of the Consumer Financial Protection Bureau] *Chair of the Commission of the Bureau of Consumer Financial Protection*,

\* \* \* \* \*

---

**SECTION 513 OF THE FINANCIAL LITERACY AND  
EDUCATION IMPROVEMENT ACT**

\* \* \* \* \*

## TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

### SEC. 513. ESTABLISHMENT OF FINANCIAL LITERACY AND EDUCATION COMMISSION.

(a) \* \* \*

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of—

(A) \* \* \*

\* \* \* \* \*

(C) the [Director] *Chair of the Commission* of the Bureau of Consumer Financial Protection; and

\* \* \* \* \*

(d) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson. The [Director] *Chair of the Commission* of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman.

\* \* \* \* \*

## HOME MORTGAGE DISCLOSURE ACT OF 1975

### TITLE III—HOME MORTGAGE DISCLOSURE

#### SHORT TITLE

SEC. 301. This title may be cited as the “Home Mortgage Disclosure Act of 1975”.

\* \* \* \* \*

### SEC. 307. COMPLIANCE IMPROVEMENT METHODS.

(a) IN GENERAL.—

(1) CONSULTATION REQUIRED.—The [Director of the Bureau of Consumer Financial Protection] *Bureau of Consumer Financial Protection*, with the assistance of the Secretary, the Director of the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Bureau deems appropriate, shall develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

\* \* \* \* \*

(3) CONTRACTING AUTHORITY.—The [Director of the Bureau of Consumer Financial Protection] *Bureau of Consumer Financial Protection* is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) RECOMMENDATIONS TO CONGRESS.—The [Director of the Bureau of Consumer Financial Protection] *Bureau of Consumer Financial Protection* shall recommend to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, such additional

legislation as the [Director of the Bureau of Consumer Financial Protection] *Bureau of Consumer Financial Protection* deems appropriate to carry out the purpose of this title.

\* \* \* \* \*

**INTERSTATE LAND SALES FULL DISCLOSURE ACT**

\* \* \* \* \*

**TITLE XIV—INTERSTATE LAND SALES**

\* \* \* \* \*

**DEFINITIONS**

SEC. 1402. For the purposes of this title, the term—

[(1) “Director” means the Director of the Bureau of Consumer Financial Protection;]

(1) “Chair” means the Chair of the Commission of the Bureau of Consumer Financial Protection;

\* \* \* \* \*

**ADMINISTRATION**

SEC. 1416. (a) The authority and responsibility for administering this title shall be in the [Director of the Bureau of Consumer Financial Protection] *Chair* who may delegate any of his functions, duties, and powers to employees of the Bureau of Consumer Financial Protection or to boards of such employees including functions, duties, and powers with respect to investigating, hearing, determining, ordering, or otherwise acting as to any work, business, or matter under this title. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Bureau in compliance with sections 3105, 3344, 5372, and 7521 of title 5 of the United States Code. The Director shall by rule prescribed such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Bureau, to boards of officers or to himself, as shall be appropriate and in accordance with law.

\* \* \* \* \*

**REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974**

\* \* \* \* \*

**HOME BUYING INFORMATION BOOKLETS**

SEC. 5. (a) PREPARATION AND DISTRIBUTION.— [The Director of the Bureau of Consumer Financial Protection (hereafter in this section referred to as the “Director”)] *The Bureau of Consumer Financial Protection* shall prepare, at least once every 5 years, a booklet to help consumers applying for federally related mortgage loans to understand the nature and costs of real estate settlement services. The [Director] *Bureau* shall prepare the booklet in various lan-

guages and cultural styles, as the [Director] *Bureau* determines to be appropriate, so that the booklet is understandable and accessible to homebuyers of different ethnic and cultural backgrounds. The [Director] *Bureau* shall distribute such booklets to all lenders that make federally related mortgage loans. The [Director] *Bureau* shall also distribute to such lenders lists, organized by location, of homeownership counselors certified under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) for use in complying with the requirement under subsection (c) of this section.

(b) CONTENTS.—Each booklet shall be in such form and detail as the [Director] *Bureau* shall prescribe and, in addition to such other information as the [Director] *Bureau* may provide, shall include in plain and understandable language the following information:

(1) \* \* \*

\* \* \* \* \*

(6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled “Consumer Handbook on Adjustable Rate Mortgages”, published by the [Director] *Bureau*, or to any suitable substitute of such booklet that the [Director] *Bureau* may subsequently adopt pursuant to such section.

\* \* \* \* \*

---

**S.A.F.E. MORTGAGE LICENSING ACT OF 2008**

**DIVISION A—HOUSING FINANCE REFORM**

\* \* \* \* \*

**TITLE V—S.A.F.E. MORTGAGE LICENSING ACT**

**SEC. 1501. SHORT TITLE.**

This title may be cited as the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” or “S.A.F.E. Mortgage Licensing Act of 2008”.

**SEC. 1503. DEFINITIONS.**

For purposes of this title, the following definitions shall apply:

(1) \* \* \*

\* \* \* \* \*

(6) **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**—The term “Nationwide Mortgage Licensing System and Registry” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators

or any system established by the [Director] *Bureau* under section 1509.

\* \* \* \* \*

[(10) DIRECTOR.—The term “Director ” means the Director of the Bureau of Consumer Financial Protection.]

\* \* \* \* \*

(12) STATE-LICENSED LOAN ORIGINATOR.—The term “State-licensed loan originator” means any individual who—

(A) \* \* \*

\* \* \* \* \*

(C) is licensed by a State or by the [Director] *Bureau* under section 1508 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

\* \* \* \* \*

**SEC. 1508. BUREAU OF CONSUMER FINANCIAL PROTECTION BACKUP AUTHORITY TO ESTABLISH LOAN ORIGINATOR LICENSING SYSTEM.**

(a) BACKUP LICENSING SYSTEM.—If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this title or at any time thereafter, the [Director] *Bureau* determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 1505 and 1506 and subsection (d) of this section, or does not participate in the Nationwide Mortgage Licensing System and Registry, the [Director] *Bureau* shall provide for the establishment and maintenance of a system for the licensing and registration by the [Director] *Bureau* of loan originators operating in such State as State-licensed loan originators.

(b) LICENSING AND REGISTRATION REQUIREMENTS.—The system established by the [Director] *Bureau* under subsection (a) for any State shall meet the requirements of sections 1505 and 1506 for State-licensed loan originators.

(c) UNIQUE IDENTIFIER.—The [Director] *Bureau* shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the [Director] *Bureau* as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) STATE LICENSING LAW REQUIREMENTS.—For purposes of this section, the law in effect in a State meets the requirements of this subsection if the [Director] *Bureau* determines the law satisfies the following minimum requirements:

(1) \* \* \*

\* \* \* \* \*

(e) TEMPORARY EXTENSION OF PERIOD.—The [Director] *Bureau* may extend, by not more than 24 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law

that meets the requirements of sections 1505 and 1506 and subsection (d) if the **[Director]** *Bureau* determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

\* \* \* \* \*

**SEC. 1509. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.**

If at any time the **[Director]** *Bureau* determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this title for a comprehensive licensing, supervisory, and tracking system for loan originators, the **[Director]** *Bureau* shall establish and maintain such a system to carry out the purposes of this title and the effective registration and regulation of loan originators.

\* \* \* \* \*

**SEC. 1512. CONFIDENTIALITY OF INFORMATION.**

(a) **SYSTEM CONFIDENTIALITY.**—Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the **[Director]** *Bureau* under section 1509, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) **NONAPPLICABILITY OF CERTAIN REQUIREMENTS.**—Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—

(1) \* \* \*

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the **[Director]** *Bureau* with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

\* \* \* \* \*

**SEC. 1513. LIABILITY PROVISIONS.**

The Bureau, any State official or agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the **[Director]** *Bureau* under section 1509, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing,



or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

**SEC. 1514. ENFORCEMENT BY THE BUREAU.**

- (a) **SUMMONS AUTHORITY.**—The **[Director] Bureau** may—
- (1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the **[Director] Bureau** under section 1508; and
  - (2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the **[Director] Bureau** or any delegate of the **[Director] Bureau** at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this title.
- (b) **EXAMINATION AUTHORITY.**—
- (1) **IN GENERAL.**—If the **[Director] Bureau** establishes a licensing system under section 1508 for any State, the **[Director] Bureau** shall appoint examiners for the purposes of administering such section.
  - (2) **POWER TO EXAMINE.**—Any examiner appointed under paragraph (1) shall have power, on behalf of the **[Director] Bureau**, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the **[Director] Bureau** under section 1508 whenever the **[Director] Bureau** determines an examination of any loan originator is necessary to determine the compliance by the originator with this title.
  - (3) **REPORT OF EXAMINATION.**—Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the **[Director] Bureau**.
  - (4) **ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE.**—In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the **[Director] Bureau** under section 1508, or with other types of investigations to determine compliance with applicable law and regulations, the **[Director] Bureau** and examiners appointed by the **[Director] Bureau** may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.
  - (5) **ASSESSMENTS.**—The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the **[Director] Bureau** under section 1508 shall be assessed by the **[Director] Bureau** against the loan originator to meet the Secretary's expenses in carrying out such examination.
- (c) **CEASE AND DESIST PROCEEDING.**—
- (1) **AUTHORITY OF SECRETARY.**—If the **[Director] Bureau** finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision

of this title, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the [Director] *Bureau* under section 1508, the [Director] *Bureau* may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the [Director] *Bureau* may specify in such order. Any such order may, as the [Director] *Bureau* deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the [Director] *Bureau* may specify, with such provision or regulation with respect to any loan originator.

(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the [Director] *Bureau* with the consent of any respondent so served.

(3) TEMPORARY ORDER.—Whenever the [Director] *Bureau* determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion of the proceedings, the [Director] *Bureau* may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as the [Director] *Bureau* deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the [Director] *Bureau* determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the [Director] *Bureau* or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

(4) REVIEW OF TEMPORARY ORDERS.—

(A) REVIEW BY SECRETARY.—At any time after the respondent has been served with a temporary cease and desist order pursuant to paragraph (3), the respondent may apply to the [Director] *Bureau* to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease and desist order entered without a prior hearing before the [Director] *Bureau*, the respondent may, within 10 days after the date on which the order

was served, request a hearing on such application and the **[Director] Bureau** shall hold a hearing and render a decision on such application at the earliest possible time.

(B) JUDICIAL REVIEW.—Within—

(i) 10 days after the date the respondent was served with a temporary cease and desist order entered with a prior hearing before the **[Director] Bureau**; or

(ii) 10 days after the **[Director] Bureau** renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease and desist order entered without a prior hearing before the **[Director] Bureau**,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease and desist order entered without a prior hearing before the **[Director] Bureau** may not apply to the court except after hearing and decision by the **[Director] Bureau** on the respondent's application under subparagraph (A).

\* \* \* \* \*

(5) AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS.—In any cease and desist proceeding under paragraph (1), the **[Director] Bureau** may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the **[Director] Bureau** shall determine, any person who has violated this title or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) AUTHORITY OF THE SECRETARY TO ASSESS MONEY PENALTIES.—

(1) IN GENERAL.—The **[Director] Bureau** may impose a civil penalty on a loan originator operating in any State which is subject to a licensing system established by the **[Director] Bureau** under section 1508, if the **[Director] Bureau** finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of this title or any regulation prescribed by the **[Director] Bureau** under this title or order issued under subsection (c).

\* \* \* \* \*

**SEC. 1516. REPORTS AND RECOMMENDATIONS TO CONGRESS.**

(a) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the **[Director] Bureau** shall submit a report to Congress on the effectiveness of the provisions of this title, including legislative recommendations, if any, for strengthening consumer protections, enhancing examination standards, streamlining communication between all stakeholders involved in residential mortgage loan origination and proc-

essing, and establishing performance based bonding requirements for mortgage originators or institutions that employ such brokers.

(b) LEGISLATIVE RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this title, the [Director] *Bureau* shall make recommendations to Congress on legislative reforms to the Real Estate Settlement Procedures Act of 1974, that the [Director] *Bureau* deems appropriate to promote more transparent disclosures, allowing consumers to better shop and compare mortgage loan terms and settlement costs.

**SEC. 1517. STUDY AND REPORTS ON DEFAULTS AND FORECLOSURES.**

(a) STUDY REQUIRED.—The [Director] *Bureau* shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as is available.

(b) PRELIMINARY REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this title, the [Director] *Bureau* shall submit to Congress a preliminary report regarding the study required by this section.

(c) FINAL REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this title, the [Director] *Bureau* shall submit to Congress a final report regarding the results of the study required by this section, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to provide targeted assistance to populations with the highest risk of potential default or foreclosure.

\* \* \* \* \*

**SECTION 3513 OF TITLE 44, UNITED STATES CODE**

**§ 3513. Director review of agency activities; reporting; agency response**

(a) \* \* \*

\* \* \* \* \*

(c) COMPARABLE TREATMENT.—Notwithstanding any other provision of law, the Director shall treat or review a rule or order prescribed or proposed by the [Director of the Bureau] *Bureau* of Consumer Financial Protection on the same terms and conditions as apply to any rule or order prescribed or proposed by the Board of Governors of the Federal Reserve System.

## MINORITY VIEWS

Replacing the Director of the Consumer Financial Protection Bureau (CFPB or Bureau) with a five-member commission is a blatant attempt to stymie the functioning of the agency and empower regulated entities to exercise more influence over CFPB's decision-making. A commission would make the Bureau less accountable to Congress and other stakeholders not enhance its accountability. By increasing bureaucracy, the bill would stall decision-making and could delay action on critical issues affecting consumers.

The Dodd-Frank Wall Street Reform and Consumer Financial Protection (Dodd-Frank) Act already includes several provisions designed to ensure that myriad stakeholder views are incorporated into the Bureau's decision making process. Specifically, Section 1100G of the Dodd-Frank Act mandates the Bureau seek out input from small businesses, Section 1022(b)(2)(B) mandates that the Bureau consult with other prudential bank regulators and Section 1014 requires the Bureau to solicit the views of a Consumer Advisory Board to ensure the Bureau is informed of emerging practices in the consumer financial products or services industry, including trends, concerns and other relevant information.

In fact, the Bureau has already shown a willingness to incorporate stakeholder feedback into its decision-making process. Examples of this include the balanced approach the Bureau has taken in addressing concerns raised by industry participants in both its remittance and mortgage rules.

Furthermore, replacing the Director of the Bureau with a five-member commission would be inconsistent with the leadership structures of the Office of the Comptroller of the Currency (OCC) and Federal Housing Finance Agency (FHFA), both of which are run by single directors. While some, but not all, financial regulators are governed by multi-member commissions, these agencies lack many of the accountability and consultation requirements to which the CFPB must adhere.

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WM. LACY CLAY.  
PATRICK MURPHY.  
ED PERLUTTER.  
EMANUEL CLEAVER.  
BRAD SHERMAN.

