

116TH CONGRESS  
2D SESSION

# H. R. 7793

To amend the Consumer Financial Protection Act of 2010 to provide for whistleblower incentives and protection.

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IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2020

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Consumer Financial Protection Act of 2010 to provide for whistleblower incentives and protection.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Compensa-  
5 tion for CFPB Whistleblowers Act”.

6 **SEC. 2. BUREAU WHISTLEBLOWER INCENTIVES AND PRO-**  
7 **TECTION.**

8 (a) IN GENERAL.—The Consumer Financial Protec-  
9 tion Act (12 U.S.C. 5481 et seq.) is amended by adding  
10 at the end of section 1017 the following:

1 **“SEC. 1017A. WHISTLEBLOWER INCENTIVES AND PROTEC-**  
2 **TION.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) ADMINISTRATIVE PROCEEDING OR COURT  
5 ACTION.—The term ‘administrative proceeding or  
6 court action’ means any judicial or administrative  
7 action brought by the Bureau that results in mone-  
8 tary sanctions greater than or equal to \$500,000.

9 “(2) FUND.—The term ‘Fund’ means the Con-  
10 sumer Financial Civil Penalty Fund established  
11 under section 1017(d)(1).

12 “(3) MONETARY SANCTIONS.—The term ‘mone-  
13 tary sanctions’ means, with respect to any adminis-  
14 trative proceeding or court action, any monies, in-  
15 cluding penalties, disgorgement, restitution, dam-  
16 ages, interest, ordered to be paid or other amounts  
17 of relief obtained under section 1055(a)(2).

18 “(4) ORIGINAL INFORMATION.—The term  
19 ‘original information’ means information that—

20 “(A) is derived from the independent  
21 knowledge or analysis of a whistleblower;

22 “(B) is not known to the Bureau from any  
23 other source, unless the whistleblower is the  
24 original source of the information;

25 “(C) is not exclusively derived from an al-  
26 legation made in a judicial or administrative

1 hearing, in a governmental report, hearing, or  
2 from the news media, unless the whistleblower  
3 is a source of the information; and

4 “(D) is not exclusively derived from an al-  
5 legation made in an audit, examination or in-  
6 vestigation.

7 “(5) SUCCESSFUL ENFORCEMENT.—The term  
8 ‘successful enforcement’ includes, with respect to  
9 any administrative proceeding or court action  
10 brought by the Bureau, any settlement of such pro-  
11 ceeding or action.

12 “(6) WHISTLEBLOWER.—The term ‘whistle-  
13 blower’ means any individual, or 2 or more individ-  
14 uals acting jointly, who provides original information  
15 relating to a violation of Federal consumer financial  
16 law, consistent with any rule or regulation issued by  
17 the Bureau under this section.

18 “(b) AWARDS.—

19 “(1) IN GENERAL.—In any administrative pro-  
20 ceeding or court action the Bureau, subject to regu-  
21 lations prescribed by the Bureau and subject to sub-  
22 section (c), shall pay an award or awards to 1 or  
23 more whistleblowers who voluntarily provided origi-  
24 nal information that led to the successful enforce-

1 ment of the covered administrative proceeding or  
2 court action in an aggregate amount equal to—

3 “(A) not less than 10 percent, in total, of  
4 what has been collected of the monetary sanc-  
5 tions imposed in the action; and

6 “(B) not more than 30 percent, in total, of  
7 what has been collected of the monetary sanc-  
8 tions imposed in the action.

9 “(2) PAYMENT OF AWARDS.—Any amount paid  
10 under paragraph (1) shall be paid from the Fund.

11 “(3) AWARD MINIMUM.—If the Bureau is un-  
12 able to collect at least \$1,000,000 of the monetary  
13 sanctions imposed in the action, the Bureau shall  
14 provide for an award to any single whistleblower  
15 equal to the greater of—

16 “(A) 10 percent of the amount collected; or

17 “(B) \$50,000.

18 “(c) DETERMINATION OF AMOUNT OF AWARD; DE-  
19 NIAL OF AWARD.—

20 “(1) DETERMINATION OF AMOUNT OF  
21 AWARD.—

22 “(A) DISCRETION.—The determination of  
23 the percentage amount of an award made under  
24 subsection (b) shall be in the discretion of the  
25 Bureau.

1           “(B) CRITERIA.—In determining the per-  
2           centage amount of an award made under sub-  
3           section (b), the Bureau shall take into consider-  
4           ation—

5                   “(i) the significance of the informa-  
6                   tion provided by the whistleblower to the  
7                   successful enforcement of the administra-  
8                   tive proceeding or court action;

9                   “(ii) the degree of assistance provided  
10                  by the whistleblower and any legal rep-  
11                  resentative of the whistleblower in an ad-  
12                  ministrative proceeding or court action;

13                  “(iii) the programmatic interest of the  
14                  Bureau in deterring violations of Federal  
15                  consumer financial law (including applica-  
16                  ble regulations) by making awards to whis-  
17                  tlers who provide information that  
18                  leads to the successful enforcement of such  
19                  laws; and

20                  “(iv) such additional relevant factors  
21                  as the Bureau may establish by rule or  
22                  regulation, including the amount available  
23                  in the Fund for prioritizing restitution to  
24                  affected consumers.

1           “(2) DENIAL OF AWARD.—No award under  
2 subsection (b) shall be made—

3           “(A) to any whistleblower who is, or was at  
4 the time the whistleblower acquired the original  
5 information submitted to the Bureau, a mem-  
6 ber, officer, or employee of an entity described  
7 in subclauses (I) through (V) of subsection  
8 (h)(1)(C)(i);

9           “(B) to any whistleblower who is convicted  
10 of a criminal violation related to the adminis-  
11 trative proceeding or court action for which the  
12 whistleblower otherwise could receive an award  
13 under this section;

14           “(C) to any whistleblower who is found to  
15 be liable for the conduct in the administrative  
16 proceeding or court action, or a related action,  
17 for which the whistleblower otherwise could re-  
18 ceive an award under this section;

19           “(D) to any whistleblower who planned  
20 and initiated the conduct at issue in the admin-  
21 istrative proceeding or court action for which  
22 the whistleblower otherwise could receive an  
23 award under this section;

24           “(E) to any whistleblower who submits in-  
25 formation to the Bureau that is based on the

1 facts underlying the administrative proceeding  
2 or court action previously submitted by another  
3 whistleblower; and

4 “(F) to any whistleblower who fails to sub-  
5 mit information to the Bureau in such form as  
6 the Bureau may, by rule or regulation, require.

7 “(d) REPRESENTATION.—

8 “(1) PERMITTED REPRESENTATION.—Any  
9 whistleblower who makes a claim for an award under  
10 subsection (b) may be represented by counsel.

11 “(2) REQUIRED REPRESENTATION.—

12 “(A) IN GENERAL.—Any whistleblower  
13 who anonymously makes a claim for an award  
14 under subsection (b) shall be represented by  
15 counsel if the whistleblower submits the infor-  
16 mation upon which the claim is based.

17 “(B) DISCLOSURE OF IDENTITY.—Prior to  
18 the payment of an award, a whistleblower shall  
19 disclose the identity of the whistleblower and  
20 provide such other information as the Bureau  
21 may require, directly or through counsel of the  
22 whistleblower.

23 “(e) NO CONTRACT NECESSARY.—No contract or  
24 other agreement with the Bureau is necessary for any  
25 whistleblower to receive an award under subsection (b),

1 unless otherwise required by the Bureau by rule or regula-  
2 tion.

3 “(f) APPEALS.—Any determination made under this  
4 section, including whether, to whom, or in what amount  
5 to make awards, shall be in the discretion of the Bureau.  
6 Any such determination, except the determination of the  
7 amount of an award if the award was made in accordance  
8 with subsection (b), may be appealed to the appropriate  
9 court of appeals of the United States not more than 30  
10 days after the determination is issued by the Bureau. The  
11 court shall review the determination made by the Bureau  
12 in accordance with section 706 of title 5.

13 “(g) REPORTS TO CONGRESS.—Not later than Octo-  
14 ber 30 of each year, the Bureau shall transmit to the  
15 House Committee on Financial Services and the Senate  
16 Committee on Banking, Housing, and Urban Affairs a re-  
17 port on the Bureau’s whistleblower award program under  
18 this section, including a description of the number of  
19 awards granted and the types of cases in which awards  
20 were granted during the preceding fiscal year.

21 “(h) PROTECTION OF WHISTLEBLOWERS.—

22 “(1) CONFIDENTIALITY.—

23 “(A) IN GENERAL.—Except as provided in  
24 subparagraphs (B) and (C), the Bureau and  
25 any officer or employee of the Bureau, shall not



1 disclose any information, including information  
2 provided by a whistleblower to the Bureau,  
3 which could reasonably be expected to reveal  
4 the identity of a whistleblower, except in ac-  
5 cordance with the provisions of section 552a of  
6 title 5, United States Code, unless and until re-  
7 quired to be disclosed to a defendant or re-  
8 spondent in connection with a public proceeding  
9 instituted by the Bureau or any entity described  
10 in subparagraph (C). For purposes of section  
11 552 of title 5, United States Code, this para-  
12 graph shall be considered a statute described in  
13 subsection (b)(3)(B) of such section 552.

14 “(B) EFFECT.—Nothing in this paragraph  
15 is intended to limit the ability of the Attorney  
16 General to present such evidence to a grand  
17 jury or to share such evidence with potential  
18 witnesses or defendants in the course of an on-  
19 going criminal investigation.

20 “(C) AVAILABILITY TO GOVERNMENT  
21 AGENCIES.—

22 “(i) IN GENERAL.—Without the loss  
23 of its status as confidential in the hands of  
24 the Bureau, all information referred to in  
25 subparagraph (A) may, in the discretion of

1 the Bureau, when determined by the Bu-  
2 reau to be necessary or appropriate, be  
3 made available to—

4 “(I) the Department of Justice;

5 “(II) an appropriate department  
6 or agency of the Federal Government,  
7 acting within the scope of its jurisdic-  
8 tion;

9 “(III) a State attorney general in  
10 connection with any criminal inves-  
11 tigation;

12 “(IV) an appropriate department  
13 or agency of any State, acting within  
14 the scope of its jurisdiction; and

15 “(V) a foreign regulatory author-  
16 ity.

17 “(ii) MAINTENANCE OF INFORMA-  
18 TION.—Each of the entities, agencies, or  
19 persons described in clause (i) shall main-  
20 tain information described in that clause  
21 as confidential, in accordance with the re-  
22 quirements in subparagraph (A).

23 “(2) RIGHTS RETAINED.—Nothing in this sec-  
24 tion shall be deemed to diminish the rights, privi-  
25 leges, or remedies of any whistleblower under section

1       1057, any other Federal or State law, or under any  
2       collective bargaining agreement.

3       “(i) RULEMAKING AUTHORITY.—The Bureau shall  
4       have the authority to issue such rules and regulations as  
5       may be necessary or appropriate to implement the provi-  
6       sions of this section consistent with the purposes of this  
7       section.

8       “(j) ORIGINAL INFORMATION.—Information sub-  
9       mitted to the Bureau by a whistleblower in accordance  
10      with rules or regulations implementing this section shall  
11      not lose its status as original information solely because  
12      the whistleblower submitted such information prior to the  
13      effective date of such rules or regulations, provided such  
14      information was submitted after the date of enactment of  
15      this section.

16      “(k) PROVISION OF FALSE INFORMATION.—A whis-  
17      tleblower who knowingly and willfully makes any false, fic-  
18      titious, or fraudulent statement or representation, or who  
19      makes or uses any false writing or document knowing the  
20      same to contain any false, fictitious, or fraudulent state-  
21      ment or entry, shall not be entitled to an award under  
22      this section and shall be subject to prosecution under sec-  
23      tion 1001 of title 18, United States Code.

24      “(l) UNENFORCEABILITY OF CERTAIN AGREE-  
25      MENTS.—

1           “(1) NO WAIVER OF RIGHTS AND REMEDIES.—  
2       Except as provided under paragraph (3), and not-  
3       withstanding any other provision of law, the rights  
4       and remedies provided for in this section may not be  
5       waived by any agreement, policy, form, or condition  
6       of employment, including by any predispute arbitra-  
7       tion agreement.

8           “(2) NO PREDISPUTE ARBITRATION AGREE-  
9       MENTS.—Except as provided under paragraph (3),  
10      and notwithstanding any other provision of law, no  
11      predispute arbitration agreement shall be valid or  
12      enforceable to the extent that it requires arbitration  
13      of a dispute arising under this section.

14          “(3) EXCEPTION.—Notwithstanding paragraphs  
15      (1) and (2), an arbitration provision in a collective  
16      bargaining agreement shall be enforceable as to dis-  
17      putes arising under subsection (a)(4), unless the Bu-  
18      reau determines, by rule, that such provision is in-  
19      consistent with the purposes of this title.”.

20      (b) CONSUMER FINANCIAL CIVIL PENALTY FUND.—  
21      Section 1017(d)(2) of the Consumer Financial Protection  
22      Act of 2010 (12 U.S.C. 5497(d)(2)) is amended, in the  
23      first sentence, by inserting “and for awards authorized  
24      under section 1017A” before the period at the end.

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