

112TH CONGRESS
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H. R. 6483

To amend the Truth in Lending Act to address certain issues related to the extension of consumer credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2012

Ms. BONAMICI (for herself, Mr. GRIJALVA, Mr. ELLISON, Mr. CLARKE of Michigan, Mr. FILNER, Ms. DELAURO, Mr. BLUMENAUER, Mr. SARBANES, and Ms. CHU) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to address certain issues related to the extension of consumer credit, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stopping Abuse and
5 Fraud in Electronic Lending Act of 2012” or the “SAFE
6 Lending Act of 2012”.

7 **SEC. 2. CONSUMER CONTROL OVER BANK ACCOUNTS.**

8 (a) PROHIBITING UNAUTHORIZED REMOTELY CRE-
9 ATED CHECKS.—Section 905 of the Electronic Fund

1 Transfer Act (15 U.S.C. 1693c) is amended by adding at
2 the end the following:

3 “(d) LIMITATIONS ON REMOTELY CREATED
4 CHECKS.—

5 “(1) IN GENERAL.—Subject to the limitations
6 set forth under paragraph (2) and any additional
7 limitations that the Bureau may establish, by rule,
8 a remotely created check may only be issued by a
9 person designated in writing by the consumer, such
10 designation specifically provided in writing by the
11 consumer to the insured depository institution at
12 which the consumer maintains the account from
13 which the check is to be drawn.

14 “(2) ADDITIONAL LIMITATIONS.—

15 “(A) IN GENERAL.—An authorization pro-
16 vided under paragraph (1) may be revoked at
17 any time by the consumer.

18 “(B) CONSUMER FINANCIAL PROTECTION
19 LAWS.—No payment order, including a re-
20 motely created check, may be issued by any per-
21 son in response to the exercise of, or attempt to
22 exercise, any rights by a consumer under any
23 Federal consumer financial law (as defined in
24 section 1002(14) of the Consumer Financial
25 Protection Act of 2010 (12 U.S.C. 5481(14)))

1 or any other provision of any law or regulation
2 within the jurisdiction of the Bureau.

3 “(3) REMOTELY CREATED CHECK DEFINED.—

4 For purposes of this subsection, the term ‘remotely
5 created check’ means a check (including paper and
6 electronic checks and any other payment order that
7 the Bureau, by rule, determines is appropriately cov-
8 ered by this subsection) that—

9 “(A) is not created by the financial institu-
10 tion that holds the customer account from
11 which the check is to be paid; and

12 “(B) does not bear a signature applied, or
13 purported to be applied, by the person from
14 whose account the check is to be paid.”.

15 (b) CONSUMER PROTECTIONS FOR CERTAIN ONE-
16 TIME ELECTRONIC FUND TRANSFERS.—Section 913 of
17 the Electronic Fund Transfer Act (15 U.S.C. 1693k) is
18 amended—

19 (1) by inserting “(a) IN GENERAL.—” before
20 “No person”;

21 (2) striking “preauthorized electronic fund
22 transfers” and inserting “an electronic fund trans-
23 fer”; and

24 (3) by adding at the end the following:

1 “(b) TREATMENT FOR ELECTRONIC FUND TRANS-
2 FERS IN CREDIT EXTENSIONS.—If a consumer voluntarily
3 agrees to repay an extension of small-dollar consumer
4 credit transaction (as defined in section 140B(b) of the
5 Truth in Lending Act) by means of an electronic fund
6 transfer, such electronic fund transfer shall be treated as
7 a preauthorized electronic fund transfer subject to the pro-
8 tections of this title.”.

9 **SEC. 3. CONSISTENT APPLICATION OF LAW FOR SMALL-**
10 **DOLLAR LENDING.**

11 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
12 ing Act (15 U.S.C. 1601 et seq.) is amended by adding
13 at the end the following:

14 **“SEC. 140B. CONSISTENT APPLICATION OF LAW FOR**
15 **SMALL-DOLLAR LENDING.**

16 “(a) IN GENERAL.—Notwithstanding any other pro-
17 vision of law or any agreement between the parties to a
18 transaction, and except to the extent that Federal or tribal
19 law affords greater protection to the consumer, any small-
20 dollar consumer credit transaction made over the Internet,
21 telephone, facsimile, mail, electronic mail, or other elec-
22 tronic communication and any small-dollar consumer cred-
23 it transaction conducted by an insured depository institu-
24 tion (as defined in section 3 of the Federal Deposit Insur-
25 ance Act) shall comply with the laws of the State in which

1 the consumer resides with respect to annual percentage
2 rates, interest, fees, charges, and such other similar or re-
3 lated matters as the Bureau may, by rule, determine.

4 “(b) DEFINITION.—As used in this section, the term
5 ‘small-dollar consumer credit transaction’ means any
6 transaction that extends, facilitates, brokers, arranges, or
7 gathers applications for credit that is—

8 “(1) made to a consumer in an amount of not
9 more than \$5,000, or such greater amount as the
10 Bureau may, by rule, determine, such amount to be
11 adjusted annually to reflect changes in the Con-
12 sumer Price Index for all urban consumers published
13 by the Department of Labor; and

14 “(2) extended pursuant to an agreement that
15 is—

16 “(A) other than an open-end credit plan
17 and is payable in one or more installments of
18 less than 12 months (or such longer period as
19 the Bureau may, by rule, determine);

20 “(B) an open-end credit plan in which each
21 advance is fully repayable within a defined time
22 or in connection with a defined event, or both;
23 or

24 “(C) such other plan as the Bureau deter-
25 mines, by rule.”.

1 (b) CONFORMING AMENDMENT.—The table of con-
2 tents in chapter 2 of the Truth in Lending Act (15 U.S.C.
3 1601 et seq.) is amended by adding at the end the fol-
4 lowing new item:

“140B. Consistent application of law for small-dollar lending.”.

5 **SEC. 4. PROHIBITION ON LEAD GENERATION AND ANONYM-**
6 **ITY IN SMALL-DOLLAR CONSUMER CREDIT**
7 **TRANSACTIONS.**

8 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
9 ing Act (15 U.S.C. 1601 et seq.), as amended by this Act,
10 is amended by adding at the end the following:

11 **“SEC. 140C. PROHIBITION ON LEAD GENERATION AND ANO-**
12 **NYMITY IN SMALL-DOLLAR CONSUMER CRED-**
13 **IT TRANSACTIONS.**

14 “(a) IDENTIFICATION INFORMATION.—Any person
15 engaged in the business of facilitating, brokering, arrang-
16 ing, gathering applications for, distributing sensitive per-
17 sonal financial information, or extending credit in connec-
18 tion with small-dollar consumer credit transactions shall
19 prominently disclose information by which they may be
20 contacted or identified, including for service of process and
21 for identification of the registrant of any domain name
22 registered or used.

23 “(b) PROHIBITION ON LEAD GENERATION IN SMALL-
24 DOLLAR CONSUMER CREDIT TRANSACTIONS.—No person
25 may engage in the business of facilitating, brokering, ar-

1 ranging, gathering applications for, or distributing sen-
2 sitive personal financial information in connection with
3 small-dollar consumer credit transactions, unless the per-
4 son is directly extending the small-dollar consumer credit
5 to the consumer.

6 “(c) DEFINITIONS.—For purposes of this section—

7 “(1) the term ‘sensitive personal financial infor-
8 mation’ means the consumer’s Social Security num-
9 ber, financial account number, bank routing number,
10 bank account number, or any required security or
11 access code that are immediately necessary to permit
12 access to the financial account of an individual; and

13 “(2) the term ‘small-dollar consumer credit
14 transaction’ has the same meaning as in section
15 140B(b).

16 “(d) RULE OF CONSTRUCTION.—

17 “(1) IN GENERAL.—Nothing in this section
18 may be interpreted to limit the authority of the Bu-
19 reau to further restrict activities covered by this sec-
20 tion.

21 “(2) CLARIFICATION.—It shall not be consid-
22 ered ‘facilitating’ in connection with small-dollar
23 consumer credit transactions to be engaged solely
24 in—

1 “(A) the provision of a telecommunications
2 service, or of an Internet access service or
3 Internet information location tool (as those
4 terms are defined in section 231 of the Commu-
5 nications Act of 1934 (47 U.S.C. 231)); or

6 “(B) the transmission, storage, retrieval,
7 hosting, formatting, or translation (or any com-
8 bination thereof) of a communication, without
9 selection or alteration of the content of the
10 communication, except that deletion of a par-
11 ticular communication or material made by an-
12 other person in a manner consistent with sec-
13 tion 230(e) of the Communications Act of 1934
14 (47 U.S.C. 230(e)).

15 “(e) CIVIL LIABILITY.—Violations of this section
16 shall be subject to the civil liability provisions of section
17 130, and any person who violates this section shall be
18 treated as a creditor for purposes of section 130.”.

19 (b) CONFORMING AMENDMENT.—The table of con-
20 tents in chapter 2 of the Truth in Lending Act (15 U.S.C.
21 1601 et seq.), as amended by section 3(b), is further
22 amended by adding at the end the following new item:

“140C. Prohibition on lead generation and anonymity in small-dollar consumer
credit transactions.”.

1 **SEC. 5. ENHANCED ENFORCEMENT AUTHORITY AGAINST**
2 **CERTAIN INTERNET LENDING.**

3 (a) IN GENERAL.—The Truth in Lending Act (15
4 U.S.C. 1601 et seq.) is amended by inserting after section
5 108 the following:

6 **“SEC. 108A. ENHANCED ENFORCEMENT AUTHORITY**
7 **AGAINST CERTAIN INTERNET LENDING.**

8 “(a) DEFINITIONS.—In this section, the following
9 definitions shall apply:

10 “(1) COMPLAINANT.—The term ‘complainant’
11 means a State attorney general or State or tribal
12 agency with enforcement authority over prohibited
13 activity who files a complaint with the Bureau under
14 subsection (d).

15 “(2) COVERED OFFSHORE PERSON.—

16 “(A) IN GENERAL.—The term ‘covered off-
17 shore person’ means a person (and if such per-
18 son is not known, the Internet site or other
19 electronic representation of such person, such
20 as a telephone number, text message service, or
21 mobile application) that—

22 “(i) conducts business directed to resi-
23 dents of the United States;

24 “(ii) does not have a domain name
25 that is registered or assigned by a domain
26 name registrar, domain name registry, or

1 other domain name registration authority
2 that is located within a judicial district of
3 the United States; and

4 “(iii) is not operated by an entity that
5 is located within a judicial district of the
6 United States.

7 “(B) BUSINESS DIRECTED TO RESIDENTS
8 OF THE UNITED STATES.—For purposes of
9 making a determination under subparagraph
10 (A)(i), the Bureau may consider, among other
11 indicators, whether—

12 “(i) the person extends, facilitates,
13 brokers, arranges, or gathers applications
14 for credit to persons located in the United
15 States;

16 “(ii) the person has reasonable meas-
17 ures in place to prevent its services from
18 being accessed from or delivered to the
19 United States; and

20 “(iii) any prices for goods and services
21 provided are indicated in the currency of
22 the United States.

23 “(3) COVERED ONSHORE PERSON.—The term
24 ‘covered onshore person’ means a State government
25 or an Indian tribe.

1 “(4) COVERED PERSON.—The term ‘covered
2 person’ means a covered offshore person and covered
3 onshore person.

4 “(5) FEDERAL CONSUMER FINANCIAL LAW.—
5 The term ‘Federal consumer financial law’ has the
6 same meaning as in section 1002 of the Consumer
7 Financial Protection Act of 2010 (12 U.S.C. 5481).

8 “(6) FINANCIAL TRANSACTION PROVIDER.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), the term ‘financial trans-
11 action provider’ has the same meaning as in
12 section 5362(4) of title 31, United States Code.

13 “(B) EXCEPTION.—The term ‘financial
14 transaction provider’ does not include an Inter-
15 net service platform or an affiliate of an Inter-
16 net service platform.

17 “(7) INDIAN TRIBE.—The term ‘Indian tribe’
18 has the same meaning as in section 4 of the Indian
19 Self-Determination and Education Assistance Act
20 (25 U.S.C. 450b).

21 “(8) INTERNET SERVICE PLATFORM.—The
22 term ‘Internet service platform’ means an interactive
23 digital service the provider of which—

1 “(A) does not act merely as a payment
2 intermediary between a user and a supplier of
3 goods or services; and

4 “(B) provides additional services to facili-
5 tate interaction between users unrelated to pur-
6 chases from suppliers of goods and services.

7 “(9) INTERNET SITE.—The term ‘Internet site’
8 means the collection of digital assets, including links,
9 indexes, or pointers to digital assets, accessible
10 through the Internet that are addressed relative to
11 a common domain name.

12 “(10) OPERATOR.—The term ‘operator’, when
13 used in connection with an Internet site, includes
14 any person with authority to operate the Internet
15 site.

16 “(11) OWNER.—The term ‘owner’, when used
17 in connection with an Internet site, includes any
18 owner of a majority interest in the Internet site.

19 “(12) STATE CONSUMER FINANCIAL LAW.—The
20 term ‘State consumer financial law’ means a provi-
21 sion of State law that either constitutes a ‘State
22 consumer financial law’ as that term is defined in
23 section 5136C of title LXII of the Revised Statutes
24 of the United States (12 U.S.C. 21 et seq.), or pro-
25 hibits unfair or deceptive acts or practices.

1 “(b) APPLICABILITY OF SECTION.—It shall be a vio-
2 lation of this section for a covered person to violate a Fed-
3 eral, State, or tribal consumer financial law.

4 “(c) INVESTIGATION OF VIOLATIONS BY BUREAU.—

5 “(1) IN GENERAL.—The Bureau—

6 “(A) may investigate any alleged violation
7 of subsection (b) on its own initiative; and

8 “(B) shall—

9 “(i) review any alleged violation of
10 subsection (b) upon receiving a complaint
11 filed under subsection (d); and

12 “(ii) adjudicate and otherwise inves-
13 tigate and respond to such complaint, as
14 appropriate.

15 “(2) CONSULTATIONS.—In taking action under
16 paragraph (1), the Bureau shall, as the Bureau de-
17 termines appropriate, consult with and seek advice
18 and information from the Attorney General of the
19 United States, the Federal Trade Commission, the
20 International Trade Commission (in any case involv-
21 ing a covered offshore person), the Bureau of Indian
22 Affairs (in the case of matters involving an Indian
23 tribe), federally recognized Indian tribes (in the case
24 of rulemakings involving Indian tribes), and such

1 other agencies and officials as the Bureau considers
2 appropriate.

3 “(3) LIMITATION ON INVESTIGATIONS OF DO-
4 MAIN NAMES; CONSENT TO JURISDICTION.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graphs (B) and (C) and such limitations as the
7 Bureau may, by rule, determine, the Bureau
8 shall terminate, or not initiate, an investigation
9 or adjudication under paragraph (1) with re-
10 spect to a covered person—

11 “(i) if the covered person provides to
12 the public and to the Bureau—

13 “(I) the name of an individual
14 authorized to receive process on behalf
15 of the covered person;

16 “(II) an address at which process
17 may be served;

18 “(III) a telephone number at
19 which the individual described in
20 clause (i) may be contacted; and

21 “(IV) a statement that the cov-
22 ered person consents to the jurisdic-
23 tion and venue of the United States
24 district courts with respect to a viola-

1 tion of the relevant consumer lending
2 laws.

3 “(B) ACCEPTANCE OF JURISDICTION.—In
4 the event of the filing of any civil action in the
5 appropriate United States district court for a
6 violation of State or tribal consumer lending
7 laws, the covered person shall accept service
8 and waive, in a timely manner, any objections
9 to jurisdiction, as set forth in the statement de-
10 scribed in subparagraph (A)(iv).

11 “(C) INVESTIGATIONS.—Any limitations on
12 investigations under this paragraph shall not
13 apply if—

14 “(i) any of the information provided
15 by the covered person is inaccurate in any
16 way; or

17 “(ii) at any point, the covered person
18 fails to respond to or abide by any order
19 or request of the relevant court.

20 “(4) RULE OF CONSTRUCTION.—It shall not be
21 considered a violation of this section to be engaged
22 solely in—

23 “(A) the provision of a telecommunications
24 service, or of an Internet access service or
25 Internet information location tool (as those

1 terms are defined in section 231 of the Commu-
2 nications Act of 1934 (47 U.S.C. 231)); or

3 “(B) the transmission, storage, retrieval,
4 hosting, formatting, or translation (or any com-
5 bination thereof) of a communication, without
6 selection or alteration of the content of the
7 communication, except that deletion of a par-
8 ticular communication or material made by an-
9 other person in a manner consistent with sec-
10 tion 230(e) of the Communications Act of 1934
11 (47 U.S.C. 230(e)).

12 “(d) COMPLAINTS.—

13 “(1) IN GENERAL.—A complaint alleging, under
14 oath, that a covered person is in violation of sub-
15 section (b) may be filed with the Bureau.

16 “(2) NOTICE WITH RESPECT TO OFFSHORE
17 PERSONS.—

18 “(A) IN GENERAL.—Upon filing a com-
19 plaint under paragraph (1), if the identity of
20 the subject covered offshore person is not
21 known, but the Internet site or other electronic
22 representation is known, the complainant shall
23 send a notice of the violation alleged in the
24 complaint to the registrant of the domain name
25 of the Internet site (or relevant operator of the

1 electronic representation) alleged to be operated
2 or maintained in violation of subsection (b)—

3 “(i) at the postal and e-mail addresses
4 appearing in the applicable publicly acces-
5 sible database of registrations, if any, to
6 the extent such addresses are reasonably
7 available;

8 “(ii) via the postal and e-mail ad-
9 dresses of the registrar, registry, or other
10 domain name registration authority that
11 registered or assigned the domain name
12 (or relevant electronic representation), to
13 the extent such addresses are reasonably
14 available; and

15 “(iii) in any other such form as the
16 Bureau finds necessary.

17 “(B) RULE OF CONSTRUCTION.—For pur-
18 poses of this subsection, the actions described
19 in this subparagraph shall constitute service of
20 process.

21 “(3) IDENTIFICATION OF, AND NOTICE TO, EN-
22 TITIES THAT MAY BE REQUIRED TO TAKE ACTION
23 PURSUANT TO THIS SECTION.—

24 “(A) IDENTIFICATION.—A complaint filed
25 under paragraph (1) shall identify any financial

1 transaction provider that may be required to
2 take measures described in subsection (g)(2) if
3 the Bureau issues an order under subsection (f)
4 with respect to the complaint and the order is
5 served on the provider or service pursuant to
6 subsection (g)(1).

7 “(B) NOTICE.—Upon filing a complaint
8 under paragraph (1), the complainant shall pro-
9 vide notice to any financial transaction provider
10 identified in the complaint pursuant to subpara-
11 graph (A) or any amendments to the complaint.

12 “(C) INTERVENTION.—

13 “(i) IN GENERAL.—A financial trans-
14 action provider or identified in a complaint
15 pursuant to subparagraph (A) may inter-
16 vene upon timely request filed with the Bu-
17 reau in—

18 “(I) an investigation initiated
19 under subsection (c) pursuant to the
20 complaint; or

21 “(II) pursuant to subsection
22 (f)(3), an action to modify, suspend,
23 or vacate an order issued pursuant to
24 the complaint.

1 “(ii) RULE OF CONSTRUCTION.—Fail-
2 ure to intervene under clause (i) in an in-
3 vestigation under subsection (c) does not
4 preclude a financial transaction provider
5 notified of the investigation from subse-
6 quently seeking an order to modify, sus-
7 pend, or vacate an order issued by the Bu-
8 reau under subsection (f).

9 “(e) DETERMINATIONS.—

10 “(1) IN GENERAL.—Unless waived in writing by
11 the covered person, the Bureau shall determine, with
12 respect to each investigation initiated under sub-
13 section (c) and not otherwise terminated subject to
14 the provisions of this section, whether the covered
15 person under investigation is in violation of sub-
16 section (b).

17 “(2) EFFECTIVE DATE.—A determination made
18 under paragraph (1) shall take effect on the date on
19 which the Bureau publishes the determination in the
20 Federal Register.

21 “(3) ELECTRONIC SUBMISSION OF INFORMA-
22 TION AND PROCEEDINGS.—The Bureau may, in
23 making any determination under this section—

24 “(A) allow the submission of information
25 electronically; and

1 “(B) hold hearings electronically or obtain
2 testimony or other information electronically or
3 by such means as the Bureau determines allows
4 participation in proceedings under this section
5 at as low a cost as possible to participants in
6 the proceedings.

7 “(f) CEASE AND DESIST ORDERS.—

8 “(1) IN GENERAL.—If the Bureau determines
9 under subsection (e) that a covered person is in vio-
10 lation of subsection (b), in addition to any actions
11 which the Bureau may otherwise take, the Bureau
12 may—

13 “(A) issue an order to cease and desist
14 from the violation of subsection (b) to the cov-
15 ered person (and if the identity of the subject
16 covered offshore person is not known, to the
17 relevant Internet site and to the owner and the
18 operator of the Internet site or relevant elec-
19 tronic representation); and

20 “(B) cause the order to be served on the
21 covered person.

22 “(2) TEMPORARY AND PRELIMINARY CEASE
23 AND DESIST ORDERS.—

24 “(A) PETITION BY COMPLAINANT.—A
25 complainant may file with the Bureau a peti-

1 tion, in accordance with this paragraph, for the
2 issuance of a temporary or preliminary order.

3 “(B) OPPORTUNITY TO BE HEARD.—

4 “(i) IN GENERAL.—Before issuing a
5 temporary or preliminary cease and desist
6 order under this paragraph, the Bureau
7 shall provide to any person (including any
8 applicable Internet site or electronic rep-
9 resentation and the owner and the oper-
10 ator of such Internet site or electronic rep-
11 resentation) alleged to be in violation of
12 subsection (b) an opportunity to be heard
13 and to submit relevant information to the
14 Bureau.

15 “(ii) ELECTRONIC SUBMISSION OF IN-
16 FORMATION AND PROCEEDINGS.—The Bu-
17 reau may provide an opportunity to be
18 heard and to submit information under
19 clause (i) electronically or in such other
20 manner as the Bureau determines appro-
21 priate.

22 “(C) ISSUANCE OF ORDER.—If, upon re-
23 ceiving a petition under subparagraph (A) and
24 after providing an opportunity to be heard
25 under subparagraph (B), the Bureau deter-

1 mines that the covered person is in violation of
2 subsection (b), in addition to any actions which
3 the Director may otherwise take, the Bureau
4 may issue a temporary or preliminary cease and
5 desist order against, and cause the order to be
6 served on the relevant person pursuant to para-
7 graph (1).

8 “(D) STANDARD FOR RELIEF.—If the Bu-
9 reau issues a temporary or preliminary cease
10 and desist order under this paragraph, the
11 order shall be issued in a manner consistent
12 with the provisions of rule 65 of the Federal
13 Rules of Civil Procedure, or any successor
14 thereto, relating to preliminary injunctions and
15 temporary restraining orders.

16 “(E) PROCEDURES FOR TEMPORARY
17 CEASE AND DESIST ORDER.—

18 “(i) EXPEDITED CONSIDERATION.—
19 Upon a showing of extraordinary cir-
20 cumstances by the complainant filing a pe-
21 tition for a temporary cease and desist
22 order under subparagraph (A), the Bureau
23 may make a determination with respect to
24 the petition on an expedited basis.

25 “(ii) EXPIRATION OF ORDER.—

1 “(I) IN GENERAL.—Except as
2 provided in subclause (II), a tem-
3 porary cease and desist order issued
4 under this paragraph shall expire at a
5 time determined by the Bureau that is
6 not later than 14 days after the
7 issuance of the order.

8 “(II) EXTENSION OF ORDER.—
9 The Bureau may extend a temporary
10 cease and desist order issued under
11 this paragraph for additional periods
12 of not more than 14 days for good
13 cause or with the consent of the entity
14 against which the order is issued.

15 “(F) PROCEDURES FOR PRELIMINARY
16 CEASE AND DESIST ORDER.—

17 “(i) IN GENERAL.—Except as pro-
18 vided in clause (ii), the Bureau shall make
19 a determination with respect to a petition
20 for a preliminary cease and desist order
21 not later than 30 days after the Bureau
22 publishes notice of the initiation of an in-
23 vestigation under subsection (c) in the
24 Federal Register.

1 “(ii) EXTENSIONS OF TIME FOR DE-
2 TERMINATION.—The Bureau may extend
3 the date by which the Bureau is required
4 to make a determination under clause (i)
5 with respect to a petition for a preliminary
6 cease and desist order for an additional 30
7 days, if the Bureau—

8 “(I) determines that the petition
9 presents a more complicated case; and

10 “(II) publishes in the Federal
11 Register an explanation of why the
12 Bureau determined that the case is
13 more complicated under subclause (I).

14 “(3) MODIFICATION OR REVOCATION OF OR-
15 DERS.—

16 “(A) IN GENERAL.—At any time after the
17 issuance of an order under this subsection, a
18 motion to modify, suspend, or vacate the order
19 may be filed by—

20 “(i) any covered person, bound by the
21 order;

22 “(ii) the owner or operator of any
23 Internet site or electronic representation
24 subject to the order;

1 “(iii) any domain name registrar or
2 registry that has registered or assigned the
3 domain name of the Internet site subject
4 to the order; or

5 “(iv) a financial transaction provider
6 on which a copy of an order has been
7 served pursuant to paragraph (1) of sub-
8 section (g) requiring the provider or service
9 to take action described in paragraph (2)
10 of that subsection.

11 “(B) RELIEF.—The Bureau shall modify,
12 suspend, or vacate an order, as appropriate, if
13 the Bureau determines that—

14 “(i) the subject to the order is no
15 longer, or never was in violation of sub-
16 section (b); or

17 “(ii) the interests of justice require
18 that the order be modified, suspended, or
19 vacated.

20 “(C) CONSIDERATION.—In making a de-
21 termination under subparagraph (B), the Bu-
22 reau may consider whether any domain name of
23 an Internet site (or the relevant electronic rep-
24 resentation) subject to the order has expired or
25 has been re-registered by a different entity.

1 “(4) AMENDMENT OF ORDERS.—A complainant
2 may petition the Bureau to amend an order issued
3 under this subsection if any relevant Internet site or
4 electronic representation determined under sub-
5 section (e) to be in violation of subparagraph (B) is
6 accessible or has been reconstituted at a different
7 domain name.

8 “(5) OPPORTUNITY TO BE HEARD FOR CERTAIN
9 ENTITIES.—Before the Bureau issues an order
10 under this subsection or modifies, suspends, vacates,
11 or amends such an order under paragraph (3) or
12 (4), a financial transaction provider that intervened
13 pursuant to subsection (d)(3) in an investigation or
14 action relating to the order shall have an oppor-
15 tunity to be heard before the Bureau with respect to
16 whether the Bureau should issue the order and the
17 scope of relief available under the order or whether
18 the Bureau should modify, suspend, vacate, or
19 amend the order, as the case may be.

20 “(6) EXPIRATION OF ORDERS WITH RESPECT
21 TO INTERNET SITE.—An order issued under this
22 subsection against an Internet site (or relevant elec-
23 tronic representation) shall cease to have any force
24 or effect upon expiration of the registration of the

1 domain name of the Internet site (or relevant elec-
2 tronic representation).

3 “(g) REQUIRED ACTIONS BASED ON BUREAU OR-
4 DERS.—

5 “(1) IN GENERAL.—If the Bureau reasonably
6 believes that a financial transaction provider identi-
7 fied in a complaint pursuant to subsection (d)(3), or
8 any amendment to the complaint, supplies services
9 to the covered person that is subject to the order
10 issued under subsection (f) with respect to the com-
11 plaint—

12 “(A) the Bureau may give permission to
13 the complainant to serve a copy of the order on
14 the financial transaction provider;

15 “(B) if the Bureau gives permission to the
16 complainant under subparagraph (A), the com-
17 plainant shall file proof of service with the Bu-
18 reau; and

19 “(C) upon receiving a copy of the order
20 pursuant to subparagraph (A), the financial
21 transaction provider shall implement the meas-
22 ures described in paragraph (2).

23 “(2) MEASURES TO BE IMPLEMENTED BY FI-
24 NANCIAL TRANSACTION PROVIDERS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), a financial transaction provider
3 shall, as expeditiously as is reasonable, take
4 reasonable and technically feasible measures, as
5 expeditiously as reasonable, designed to prevent
6 or prohibit the completion of payment trans-
7 actions by the provider that involve customers
8 located in the United States and the covered
9 person (including the relevant Internet site or
10 electronic representation) subject to the order
11 issued under subsection (f).

12 “(B) LIMITATIONS ON MEASURES.—A fi-
13 nancial transaction provider may not be re-
14 quired pursuant to subparagraph (A)—

15 “(i) to implement measures that are
16 not commercially reasonable;

17 “(ii) to modify services or facilities of
18 the provider to comply with the order
19 issued under subsection (f); or

20 “(iii) to prevent or prohibit the com-
21 pletion of a payment transaction if the pro-
22 vider could not reasonably determine in ad-
23 vance whether the entity was using the
24 Internet site subject to the order.

1 “(3) COMMUNICATION WITH USERS.—A finan-
2 cial transaction provider required to implement
3 measures described in paragraph (2) shall determine
4 how to communicate with the users or customers of
5 the provider or service, as the case may be, with re-
6 spect to those measures.

7 “(4) RULES OF CONSTRUCTION.—

8 “(A) LIMITATION ON OBLIGATIONS.—A fi-
9 nancial transaction provider required to imple-
10 ment measures described in paragraph (2) shall
11 not be required to take measures or actions in
12 addition to the measures described in para-
13 graph (2) pursuant to this section or an order
14 issued under this section.

15 “(B) MANNER OF COMPLIANCE.—A finan-
16 cial transaction provider required to implement
17 measures described in paragraph (2) shall be in
18 compliance with this subsection if the provider
19 implements the measures described in that
20 paragraph with respect to accounts of the pro-
21 vider, as of the date on which a copy of an
22 order is served under paragraph (1) or, if appli-
23 cable, the date on which the order is modified
24 or amended under paragraph (3) or (4) of sub-
25 section (f).

1 “(5) ACTIONS PURSUANT TO BUREAU ORDER.—

2 “(A) IMMUNITY FROM CIVIL ACTIONS.—No
3 cause of action shall lie in any court against a
4 financial transaction provider on which a copy
5 of an order is served under paragraph (1), or
6 against any director, officer, employee, or agent
7 thereof, other than in an action pursuant to
8 subsection (h), for—

9 “(i) any act reasonably designed to
10 comply with this subsection or reasonably
11 arising from the order; or

12 “(ii) any act, failure, or inability to
13 meet the obligations under this subsection
14 of the provider or service if the provider or
15 service, as the case may be, makes a good
16 faith effort to comply with such obliga-
17 tions.

18 “(B) IMMUNITY FROM LIABILITY.—A fi-
19 nancial transaction provider on which a copy of
20 an order is served under paragraph (1), and
21 any director, officer, employee, or agent thereof,
22 shall not be liable to any person for any acts
23 reasonably designed to comply with this sub-
24 section or reasonably arising from the order,

1 other than in an action pursuant to subsection
2 (h).

3 “(C) IMMUNITY FROM ACTIONS OF THIRD
4 PARTIES.—An action taken by a third party to
5 circumvent any measures implemented pursuant
6 to an order served on a financial transaction
7 provider under paragraph (1) may not be used
8 by any person in any claim or cause of action
9 against the provider or service, as the case may
10 be, other than in an action pursuant to sub-
11 section (h).

12 “(h) ENFORCEMENT OF ORDERS.—

13 “(1) IN GENERAL.—In order to compel compli-
14 ance with this section, the Bureau and any State At-
15 torney General (or other appropriate State or tribal
16 entity) having enforcement authority over prohibited
17 activity may bring an action for injunctive relief
18 against any person subject to an order issued under
19 subsection (f) or on which such an order is served
20 under subsection (g) that fails to comply with the
21 order.

22 “(2) RULE OF CONSTRUCTION.—The authority
23 granted to the Bureau, State, and tribal authorities
24 under paragraph (1) shall be the sole legal remedy
25 for enforcing the obligations under subsection (g) of

1 a financial transaction provider on which an order is
2 served under paragraph (1) of that subsection.

3 “(3) AFFIRMATIVE DEFENSES.—A defendant in
4 an action commenced under paragraph (1) may es-
5 tablish an affirmative defense by showing that the
6 defendant does not have the technical means to com-
7 ply with this section without incurring an unreason-
8 able economic burden or that the order is incon-
9 sistent with this section. That showing shall serve as
10 a defense only to the extent of the inability of the
11 defendant to comply or to the extent of the incon-
12 sistency.

13 “(i) SANCTIONS FOR ABUSE OF PROCESS AND DIS-
14 COVERY.—The Bureau may, by rule, prescribe sanctions
15 for abuse of process in a manner consistent with the provi-
16 sions of rule 11 and rule 37 of the Federal Rules of Civil
17 Procedure.

18 “(j) IMMUNITY FOR ENFORCEMENT OF ORDERS.—
19 No cause of action shall lie in any court, no person may
20 rely on any claim or cause of action, and no liability for
21 damages to any person shall be granted, against a finan-
22 cial transaction provider for taking any action pursuant
23 to subsection (g)(2).

24 “(k) SAVINGS CLAUSE.—Nothing in this section, in-
25 cluding subsection (c), may be construed to limit the au-

1 thority or jurisdiction of the Bureau, any other Federal
2 agency, or any State or tribe to review, regulate, inves-
3 tigate, enforce against, or otherwise restrict activities cov-
4 ered by this section.”.

5 (b) CONFORMING AMENDMENT.—The table of con-
6 tents in chapter 1 of the Truth in Lending Act (15 U.S.C.
7 1601 et seq.) is amended by inserting after the item relat-
8 ing to section 108 the following new item:

“108A. Enhanced enforcement authority against certain Internet lending.”.

9 **SEC. 6. STUDIES.**

10 Not later than 180 days after enactment of this sec-
11 tion, the Government Accountability Office (in this section
12 referred to as the “GAO”) shall conduct a study regarding
13 the availability of capital on reservations of Indian tribes
14 (as such term is defined in section 4 of the Indian Self-
15 Determination and Education Assistance Act (25 U.S.C.
16 450b)) and the impact that small-dollar consumer credit
17 extended through Internet and non-Internet means to
18 members of Indian tribes has had on economic opportunity
19 and wealth for members of Indian tribes. In conducting
20 the study, the GAO shall consult, as appropriate, with the
21 Bureau of Consumer Financial Protection, the Board of
22 Governors of the Federal Reserve System, the Bureau of
23 Indian Affairs, federally recognized Indian tribes, and
24 community development financial institutions operating in
25 Indian lands. The report shall be presented to the Com-

1 mittee on Banking, Housing, and Urban Affairs and the
2 Committee on Indian Affairs of the Senate and the Com-
3 mittee on Financial Services and the Committee on Nat-
4 ural Resources of the House of Representatives.

5 **SEC. 7. RULEMAKING.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Bureau of Consumer Financial Protection
8 shall adopt any final rules necessary to implement the pro-
9 visions of this Act and the amendments made by this Act.

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