

TAKING ACCOUNT OF BUREAUCRATS' SPENDING ACT OF
2016

MAY 6, 2016.—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. 1486]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1486) to amend the Consumer Financial Protection Act of 2010 to bring the Bureau of Consumer Financial Protection into the regular appropriations process, and for other purposes, 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 “Taking Account of Bureaucrats’ Spending Act of 2016” or the “TABS Act of 2016”.

SEC. 2. BRINGING THE BUREAU INTO THE REGULAR APPROPRIATIONS PROCESS.

Section 1017 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5497) is amended—

(1) in subsection (a)—

(A) by amending the heading of such subsection to read as follows:
“BUDGET, FINANCIAL MANAGEMENT, AND AUDIT.—”;

(B) by striking paragraphs (1), (2), and (3);

(C) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively; and

(D) by striking subparagraphs (E) and (F) of paragraph (1), as so redesignated;

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as subsections (b) and (c), respectively; and

(4) in subsection (c), as so redesignated—

(A) by striking paragraphs (1), (2), and (3) and inserting the following:
 “(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Bureau for fiscal year 2017 an amount equal to the aggregate amount of funds transferred by the Board of Governors to the Bureau during fiscal year 2015.”; and

(B) by redesignating paragraph (4) as paragraph (2).

PURPOSE AND SUMMARY

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111–203) created the Bureau of Consumer Financial Protection (Bureau) as an independent agency housed within the Federal Reserve System, and charged it with regulating “the offering and provision of consumer financial products or services” under the federal consumer financial laws. Title X grants the Director of the Bureau the “general authority” to “prescribe rules and issue orders and guidance” to administer, enforce, and implement federal consumer financial laws.

The Dodd-Frank Act authorizes the Bureau to fund itself outside the congressional appropriations process by drawing money from the Federal Reserve to the extent the Bureau’s Director deems necessary. The Federal Reserve does not oversee the agency or exercise any authority over it, but the Federal Reserve must transfer to the Bureau whatever funds its Director requests, up to the following fixed percentages of the Federal Reserve’s 2009 operating expenses:

- 11 percent in fiscal year 2012, or \$547.8 million;
- 12 percent in fiscal year 2013, or \$597.6 million; and
- 12 percent each fiscal year thereafter, subject to annual adjustments for inflation.

If they were not diverted from the Federal Reserve to the Bureau, these funds would otherwise be forwarded from the Federal Reserve to the Treasury as part of the federal fisc.

Given that the Bureau’s funding is not appropriated by Congress, many observers have raised concerns about the lack of transparency in the Bureau’s funding and expenditures and Congress’s ability to exercise oversight of the Bureau. In light of these concerns, H.R. 1486 eliminates the direct funding of the Bureau by the Federal Reserve. Instead, it subjects the Bureau to the regular appropriations process; H.R. 1486 authorizes to be appropriated to the Bureau for fiscal year 2017 an amount equal to the aggregate amount of funds transferred by the Federal Reserve to the Bureau during fiscal year 2015.

BACKGROUND AND NEED FOR LEGISLATION

The Bureau’s Director sets the Bureau’s budget each year. The budget is funded by a combination of: (1) the amount the Director actually requests from the Federal Reserve in a given fiscal year, and (2) unobligated balances brought forward from prior fiscal years. Unlike appropriations, which expire if unused, funds transferred to the Bureau by the Federal Reserve can be held unobligated for years and used to augment budgetary resources.

For FY 2015, Director Richard Cordray set a Bureau budget of \$582 million. He requested four transfers from the Federal Reserve

totaling \$485.1 million. But by bringing forward \$139.5 million in unobligated funds from FY 2014, the Bureau had total budgetary resources available for FY 2015 of \$654.4 million, which exceeded its maximum transfer request level of \$619 million. By the end of FY 2015, the Bureau had spent approximately \$559 million.

Since its inception, the Bureau has grown rapidly. For its first full year of existence—FY 2012—the Bureau had a budget of \$299.8 million and a full-time equivalent employee count of 831. In FY 2013, its budget grew to \$541.4 million, with 1,335 employees. For FY 2016, its estimated budget is \$605.9 million and 1,623 employees. For FY 2016, which ends September 30, 2016, the Bureau will have paid \$300.2 million in salary and benefits, or average compensation of \$184,966 per employee.

To obtain funding, the Bureau’s Director simply sends a quarterly request letter to the Federal Reserve. In the most recent letter, for instance, Director Cordray stated: “I have determined that \$159,900,000 is the amount necessary to carry out the authorities of the Bureau for FY 2016 Q2, and I request that the Board transfer this amount to the Bureau immediately.”¹

By law, the Bureau is autonomous from the Federal Reserve System;² the Federal Reserve is not permitted to review the Director’s fund transfer requests or approve the Bureau’s budget. Section 1017(a)(2)(C) of the Dodd-Frank Act also prohibits the House and Senate Appropriations Committees from reviewing any of the funds obtained by the Bureau from the Federal Reserve. In addition, Section 1017(a)(4)(E) provides that the Director has no obligation to consult with or obtain the consent of the Office of Management and Budget regarding the Bureau’s budget.

There are two main types of federal financial regulators: product regulators and prudential regulators. The principal function of product regulators is to protect consumers or investors from fraudulent or misleading products and services offered in the market, whereas the principal function of prudential regulators is to protect financial institutions and their insured deposits by ensuring their safe and sound operation. These different functions have given rise to different methods for funding these agencies. Where agency and industry interests are presumed to be aligned, as in prudential supervision, Congress generally funds agency activities through industry assessments. For example, the Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and National Credit Union Administration (NCUA) are funded this way. But where agency and industry interests are presumed not to be aligned, as in policing markets for force and fraud, Congress has generally funded agency activities through appropriations. For example, the Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), Consumer Product Safety Commission (CPSC), and Commodity Futures Trading Commission (CFTC), are funded principally through Congressional appropriations.

¹Letter from Richard Cordray, Director of the Consumer Financial Protection Bureau, to William Mitchell, Chief Financial Officer of the Board of Governors of the Federal Reserve System (Jan. 26, 2016), available at http://files.consumerfinance.gov/f/201602_cfpb_transfer-request-letter_q2.pdf.

²Section 1012(c) of Dodd-Frank.

The Bureau neither generates its own funding through assessments, nor is subject to the appropriations process. Its mission is clearly that of a product regulator rather than that of a prudential regulator. Accordingly, it should be funded through Congressional appropriations.

HEARINGS

The Committee on Financial Services held hearings examining matters relating to H.R. 1486 on March 3, 2015, September 29, 2015, and on March 16, 2016.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on April 13, 2016, and ordered H.R. 1486 to be reported favorably to the House as amended by a recorded vote of 33 yeas to 20 nays (recorded vote no. FC-106, a quorum being present. Before the motion to report was offered, the Committee adopted an amendment in the nature of a substitute offered by Mr. Barr by voice vote.

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. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 33 yeas to 20 nays (Record vote no. FC-106), a quorum being present.

Record vote no. FC-106

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)		X	
Mr. King (NY)	X			Mrs. Maloney (NY)		X	
Mr. Royce				Ms. Velázquez		X	
Mr. Lucas	X			Mr. Sherman			
Mr. Garrett	X			Mr. Meeks		X	
Mr. Neugebauer	X			Mr. Capuano			
Mr. McHenry	X			Mr. Hinojosa		X	
Mr. Pearce	X			Mr. Clay		X	
Mr. Posey	X			Mr. Lynch		X	
Mr. Fitzpatrick	X			Mr. David Scott (GA)		X	
Mr. Westmoreland	X			Mr. Al Green (TX)		X	
Mr. Luetkemeyer	X			Mr. Cleaver		X	
Mr. Huizenga (MI)	X			Ms. Moore			
Mr. Duffy	X			Mr. Ellison		X	
Mr. Hurt (VA)	X			Mr. Perlmutter		X	
Mr. Stivers	X			Mr. Himes		X	
Mr. Fincher	X			Mr. Carney		X	
Mr. Stutzman	X			Ms. Sewell (AL)		X	
Mr. Mulvaney	X			Mr. Foster			
Mr. Hultgren	X			Mr. Kildee		X	
Mr. Ross	X			Mr. Murphy (FL)		X	
Mr. Pittenger	X			Mr. Delaney		X	
Mrs. Wagner	X			Ms. Sinema			
Mr. Barr	X			Mrs. Beatty			
Mr. Rothfus	X			Mr. Heck (WA)		X	
Mr. Messer	X			Mr. Vargas		X	
Mr. Schweikert	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin	X						
Mrs. Love	X						
Mr. Hill	X						
Mr. Emmer	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of 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. 1486 will promote increased accountability by making the Bureau of Consumer Financial Protection subject to the Congressional appropriations process.

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, Revised April 21, 2016.

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. 1486, the Taking Account of Bureaucrats' Spending Act of 2016.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 1486—Taking Account of Bureaucrats' Spending Act of 2016

Summary: Under current law, the Bureau of Consumer Financial Protection (CFPB) is permanently authorized to spend amounts

transferred from the Federal Reserve, subject to certain limits. H.R. 1486 would change the law so that spending for the CFPB would be subject to the annual appropriation process. The bill would authorize the appropriation of \$485 million for fiscal year 2017, the amount provided by the Federal Reserve in fiscal year 2015.

CBO estimates that enacting H.R. 1486 would reduce direct spending by \$6.6 billion over the 2017–2026 period; therefore, pay-as-you-go procedures apply. (Enacting the bill would not affect revenues.) CBO estimates that implementing the bill would cost \$485 million over the 2017–2021 period, assuming appropriation of the specified amount.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in one or more of the four consecutive 10-year periods beginning in 2027.

H.R. 1486 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 effect of H.R. 1486 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—											
		2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017– 2021	2017– 2026
		DECREASES IN DIRECT SPENDING											
Estimated Budget Authority	..	–580	–638	–651	–664	–678	–692	–706	–720	–735	–750	–3,211	–6,814
Estimated Outlays	..	–377	–618	–646	–659	–673	–687	–701	–715	–730	–745	–2,973	–6,551
		INCREASES IN SPENDING SUBJECT TO APPROPRIATION											
Authorization Level		485	0	0	0	0	0	0	0	0	0	485	485
Estimated Outlays	..	315	170	0	0	0	0	0	0	0	0	485	485

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the beginning of fiscal year 2017, that the authorized amount will be appropriated in 2017, and that spending will follow historical patterns for operations of the CFPB.

The Dodd-Frank Wall Street Reform and Consumer Financial Protection Act established the CFPB as an independent agency that is authorized to spend amounts from the Federal Reserve. H.R. 1486 would not affect the amount of federal revenues received by the Federal Reserve, but it would end CFPB’s authority to spend those amounts. The CFPB’s budget is expected to total \$565 million (net of the effects of sequestration) in 2016.

Direct Spending

H.R. 1486 would terminate the permanent authority for the CFPB to be funded through transfers from the Federal Reserve. Based on information from the agency, CBO estimates that enact-

ing that change would reduce direct spending by about \$6.6 billion over the 2017–2026 period.

Spending Subject to Appropriation

H.R. 1486 would authorize an appropriation for CFPB in 2017 equal to the \$485 million transferred to the CFPB by the Federal Reserve in 2015. CBO has not estimated any authorizations for years after 2017 because H.R. 1486 would only authorize appropriations for the CFPB in 2017. However, CBO expects that operating the CFPB from 2018 through 2026 would cost between \$5 billion and \$6 billion, assuming the CFPB continues its current activities and appropriations are provided each year.

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 ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1486, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON APRIL 13, 2016

	By fiscal year, in millions of dollars—												
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2016– 2021	2016– 2026
Statutory Pay-As-You-Go Impact	0	-377	-618	-646	-659	-673	-687	-701	-715	-730	-745	-2,973	-6,551
NET DECREASE IN THE DEFICIT													

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: H.R. 1486 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous estimate: This estimate corrects a typographical error in the cost estimate CBO transmitted for the same bill on April 20, 2016. This version makes clear on page one that implementing the bill would cost \$485 million over the 2017–2021 period, assuming appropriation of the specified amount. That correction makes the reference to estimated discretionary costs consistent with other references to those costs in the estimate.

Estimate prepared by: Federal Costs: Stephen Rabent and Kathleen Gramp; Impact on State, Local, and Tribal Governments: Rachel Austin; Impact on the Private Sector: Logan Smith.

Estimate approved by: H. Samuel Papenfuss, 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. 1486 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(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 1486 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(i) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 1486 contains no directed rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Section cites H.R. 1486 as the “Taking Account of Bureaucrats’ Spending Act of 2016”.

Section 2. Bringing the Bureau into the regular appropriations process

This section amends the Dodd-Frank Act to subject the Bureau to the congressional appropriations process. In addition, this section authorizes to be appropriated to the Bureau for Fiscal Year 2017 an amount equal to the aggregate amount of funds transferred by the Board of Governors of the Federal Reserve System to the Bureau during fiscal year 2015.

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, and existing law in which no change is proposed is shown in roman):

CONSUMER FINANCIAL PROTECTION ACT OF 2010

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

* * * * *

Subtitle A—Bureau of Consumer Financial Protection

* * * * *

SEC. 1017. FUNDING; PENALTIES AND FINES.

(a) **【TRANSFER OF FUNDS FROM BOARD OF GOVERNORS】** *BUDGET, FINANCIAL MANAGEMENT, AND AUDIT.*—

【(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 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).

【(2) FUNDING CAP.—

[(A) IN GENERAL.—Notwithstanding paragraph (1), and in accordance with this paragraph, the amount that shall be transferred to the Bureau in each fiscal year shall not exceed a fixed percentage of the total operating expenses of the Federal Reserve System, as reported in the Annual Report, 2009, of the Board of Governors, equal to—

- [(i) 10 percent of such expenses in fiscal year 2011;
- [(ii) 11 percent of such expenses in fiscal year 2012;
- and
- [(iii) 12 percent of such expenses in fiscal year 2013, and in each year thereafter.

[(B) ADJUSTMENT OF AMOUNT.—The dollar amount referred to in subparagraph (A)(iii) shall be adjusted annually, using the percent increase, if any, in the employment cost index for total compensation for State and local government workers published by the Federal Government, or the successor index thereto, for the 12-month period ending on September 30 of the year preceding the transfer.

[(C) REVIEWABILITY.—Notwithstanding any other provision in this title, the funds derived from the Federal Reserve System pursuant to this subsection shall not be subject to review by the Committees on Appropriations of the House of Representatives and the Senate.

[(3) TRANSITION PERIOD.—Beginning on the date of enactment of this Act and until the designated transfer date, the Board of Governors shall transfer to the Bureau the amount estimated by the Secretary needed to carry out the authorities granted to the Bureau under Federal consumer financial law, from the date of enactment of this Act until the designated transfer date.]

[(4)] (1) BUDGET AND FINANCIAL MANAGEMENT.—

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

(B) FINANCIAL STATEMENTS.—The Bureau shall prepare annually a statement of—

- (i) assets and liabilities and surplus or deficit;
- (ii) income and expenses; and
- (iii) sources and application of funds.

(C) FINANCIAL MANAGEMENT SYSTEMS.—The Bureau shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements and applicable Federal accounting standards.

(D) ASSERTION OF INTERNAL CONTROLS.—The Director 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 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.

[(F) FINANCIAL STATEMENTS.—The financial statements of the Bureau shall not be consolidated with the financial statements of either the Board of Governors or the Federal Reserve System.]

[(5)] (2) AUDIT OF THE BUREAU.—

(A) IN GENERAL.—The Comptroller General shall annually audit the financial transactions of the Bureau in accordance with the United States generally accepted government auditing standards, as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Bureau are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Bureau pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Bureau shall remain in possession and custody of the Bureau. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General, and the right of access of the Comptroller General to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

(B) REPORT.—The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Bureau, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Bureau at the time submitted to the Congress.

(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.

[(b) CONSUMER FINANCIAL PROTECTION FUND.—

[(1) SEPARATE FUND IN FEDERAL RESERVE ESTABLISHED.—There is established in the Federal Reserve a separate fund, to be known as the “Bureau of Consumer Financial Protection Fund” (referred to in this section as the “Bureau Fund”). The Bureau Fund shall be maintained and established at a Federal reserve bank, in accordance with such requirements as the Board of Governors may impose.

[(2) FUND RECEIPTS.—All amounts transferred to the Bureau under subsection (a) shall be deposited into the Bureau Fund.

[(3) INVESTMENT AUTHORITY.—

[(A) AMOUNTS IN BUREAU FUND MAY BE INVESTED.—The Bureau may request the Board of Governors to direct the investment of the portion of the Bureau Fund that is not, in the judgment of the Bureau, required to meet the current needs of the Bureau.

[(B) ELIGIBLE INVESTMENTS.—Investments authorized by this paragraph shall be made in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Bureau Fund, as determined by the Bureau.

[(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Bureau Fund shall be credited to the Bureau Fund.

[(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, 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 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.

[(2) FUNDS THAT ARE NOT GOVERNMENT FUNDS.—Funds obtained by or transferred to the Bureau Fund shall not be construed to be Government funds or appropriated monies.

[(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.—Notwithstanding any other provision of law, amounts in the Bureau Fund and in the Civil Penalty Fund established under subsection (d) shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority.]

[(d)] (b) PENALTIES AND FINES.—

(1) ESTABLISHMENT OF VICTIMS RELIEF FUND.—There is established in the Federal Reserve a separate fund, to be known as the “Consumer Financial Civil Penalty Fund” (referred to in this section as the “Civil Penalty Fund”). The Civil Penalty Fund shall be maintained and established at a Federal reserve bank, in accordance with such requirements as the Board of Governors may impose. If the Bureau obtains a civil penalty against any person in any judicial or administrative action under Federal consumer financial laws, the Bureau shall deposit into the Civil Penalty Fund, the amount of the penalty collected.

(2) PAYMENT TO VICTIMS.—Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws. To the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.

[(e)] (c) AUTHORIZATION OF APPROPRIATIONS; ANNUAL REPORT.—

[(1) DETERMINATION REGARDING NEED FOR APPROPRIATED FUNDS.—

[(A) IN GENERAL.—The Director 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 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 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 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.

[(3) APPORTIONMENT.—Notwithstanding any other provision of law, the amounts in paragraph (2) shall be subject to apportionment under section 1517 of title 31, United States Code, and restrictions that generally apply to the use of appropriated funds in title 31, United States Code, and other laws.]

(1) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to the Bureau for fiscal year 2017 an amount equal to the aggregate amount of funds transferred by the Board of Governors to the Bureau during fiscal year 2015.*

[(4)] (2) *ANNUAL REPORT.*—The Director 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, 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.

* * * * *

MINORITY VIEWS

H.R. 1486 would subject the Consumer Financial Protection Bureau (CFPB or Bureau) to the Congressional appropriations process, removing the independence necessary for the agency to act aggressively on behalf of American consumers and opening the door for the agency's opponents to shut it down once and for all.

Prior to the Financial Crisis of 2008, federal banking regulators who shared consumer protection duties failed to adequately monitor consumer markets for abuses. This lack of supervision laid the groundwork for a financial catastrophe built on predatory mortgage loans that would eventually threaten the worldwide economy, resulting in millions of foreclosures, trillions in lost wealth and economic growth, and devastating unemployment among America's working class.

In addition to reining in the financial institutions that acted so recklessly, the Dodd-Frank Act established a new independent agency with the sole responsibility to monitor consumer markets and ensuring safety and fairness in access to consumer credit products. While the Consumer Financial Protection Bureau (CFPB) faces a number of constraints on its authority, Congress provided the Bureau with an independent stream of funding insulated from powerful financial and political interests, similar to those of other regulators charged with monitoring financial markets.

The CFPB is the only agency whose funding is subject to a statutory cap. While other agencies may raise whatever revenue necessary to cover their operating expenses, the CFPB is bound by a statutory limit on its expenditures.

The CFPB is the only agency whose rules are subject to a veto by a vote of the other independent regulators. By a two-thirds agreement, the Financial Stability Oversight Council can overturn CFPB rulemakings.

The CFPB faces a yearly audit from the Government Accountability Office, required by the Dodd-Frank Act.

The CFPB is the only banking regulator required to convene a Small Business Regulatory Enforcement panel prior to engaging in rulemakings in its jurisdiction. This ensures that the CFPB is accountable to small businesses and community financial institutions when exercising its regulatory authority.

Finally, the Majority claims that putting the CFPB on appropriations will increase accountability, when in fact their plan is to starve the agency of funding and eliminate it for good. In 2013 when Republicans passed similar legislation, they claimed putting the CFPB on appropriations would save taxpayers \$5.4 billion—but this claim could only be true if Congress eliminated funding for all CFPB activities in CBO's ten-year budget window.

For the first time in history, the American consumer has a cop on the beat looking out for their interests in the consumer markets.

Republicans, who did not support the creation of the Bureau, who attempted to stymie it by preventing a Director from being confirmed by the Senate, and who have objected to nearly every one of its attempts at regulating consumer markets, want to use the appropriations process to leave the consumer beat unsupervised.

For these reasons, the Minority strongly opposed passage of H.R. 1486.

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ED PERLMUTTER.
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