

111TH CONGRESS
1ST SESSION

H. R. 3126

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

IN THE HOUSE OF REPRESENTATIVES

JULY 8, 2009

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

TITLE I—CONSUMER FINANCIAL PROTECTION AGENCY

- Sec. 101. Definitions.

Subtitle A—Establishment of the Agency

- Sec. 111. Establishment of the Consumer Financial Protection Agency.
- Sec. 112. Board.
- Sec. 113. Executive and administrative powers.
- Sec. 114. Administration.
- Sec. 115. Consumer Advisory Board.
- Sec. 116. Coordination.
- Sec. 117. Reports to the Congress.
- Sec. 118. Funding; fees and assessments; penalties and fines.
- Sec. 119. Effective date.

Subtitle B—General Powers of the Agency

- Sec. 121. Mandate and objectives.
- Sec. 122. Authorities.
- Sec. 123. Collection of information; confidentiality rules.
- Sec. 124. Monitoring; assessments of significant rules; reports.
- Sec. 125. Authority to restrict mandatory pre-dispute arbitration.
- Sec. 126. Effective date.

Subtitle C—Specific Authorities

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

Subtitle D—Preservation of State Law

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

Subtitle E—Enforcement Powers

- Sec. 151. Definitions.
- Sec. 152. Investigations and administrative discovery.
- Sec. 153. Hearings and adjudication proceedings.
- Sec. 154. Litigation authority.
- Sec. 155. Relief available.
- Sec. 156. Referrals for criminal proceedings.
- Sec. 157. Employee protection.
- Sec. 158. Effective date.

Subtitle F—Transfer of Functions and Personnel; Transitional Provisions

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

Subtitle G—Regulatory Improvements

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

Subtitle H—Conforming Amendments

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

TITLE J—IMPROVEMENTS TO THE FEDERAL TRADE COMMISSION
ACT

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

1 **TITLE I—CONSUMER FINANCIAL**
2 **PROTECTION AGENCY**

3 **SEC. 101. DEFINITIONS.**

4 For the purposes of subtitles A through F of this
5 title, the following definitions shall apply:

6 (1) **AFFILIATE.**—The term “affiliate” means
7 any person that controls, is controlled by, or is
8 under common control with another person.

9 (2) **AGENCY.**—The term “Agency” means the
10 Consumer Financial Protection Agency.

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

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

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

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

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

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

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

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

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

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

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

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

8 (12) DEPOSIT.—The term “deposit”—

9 (A) has the same meaning as in section
10 3(l) of the Federal Deposit Insurance Act; and

11 (B) includes a share in a member account
12 (as defined in section 101(5) of the Federal
13 Credit Union Act) at a credit union.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (A) Deposit-taking activities.

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

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

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

18 (C) Check-guaranty services, including—

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

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

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

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

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

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

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

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

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

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

6 (I) Acting as financial adviser to any per-
7 son, including—

8 (i) providing financial and other re-
9 lated advisory services;

10 (ii) providing educational courses, and
11 instructional materials to consumers on in-
12 dividual financial management matters; or

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

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

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

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

12 (K) Money transmitting.

13 (L) Sale or issuance of stored value.

14 (M) Acting as a money services business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **SEC. 112. BOARD.**

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

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

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

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

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

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

7 (c) TERMS OF APPOINTED BOARD MEMBERS.—

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

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

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

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

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

6 (d) COMPENSATION.—

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

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

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

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

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

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

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

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

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

7 (5) adopt and use a seal;

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

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

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

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

24 (b) TRANSACTING BUSINESS.—

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

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

10 **SEC. 114. ADMINISTRATION.**

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

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

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

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

24 (b) PERSONNEL.—

25 (1) APPOINTMENT.—

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

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

11 (2) COMPENSATION.—

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

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

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

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

6 (c) SPECIFIC FUNCTIONAL UNITS.—

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

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

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

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

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

23 (2) COMMUNITY AFFAIRS.—The Agency shall
24 establish a unit whose functions shall include pro-
25 viding information, guidance, and technical assist-

1 ance regarding the provision of consumer financial
2 products or services to traditionally underserved con-
3 sumers and communities.

4 (3) CONSUMER COMPLAINTS.—The Agency
5 shall establish a unit whose functions shall include—

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

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

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

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

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

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

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

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

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

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

16 **SEC. 116. COORDINATION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (c) PENALTIES AND FINES.—

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

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

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

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

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

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

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

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

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

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

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

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

22 **SEC. 122. AUTHORITIES.**

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

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

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

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

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

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

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

1 (3) EXEMPTIONS.—

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

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

17 (i) total assets of the covered person;

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

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

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

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

4 (c) EXAMINATIONS AND REPORTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (e) PRIMARY ENFORCEMENT AUTHORITY.—

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

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

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

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

12 (f) EXCEPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (b) ASSESSMENT OF SIGNIFICANT RULES.—

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

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

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

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

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

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

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

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

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

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

10 **Subtitle C—Specific Authorities**

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

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

19 (b) RULEMAKING REQUIRED.—

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

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

5 (c) UNFAIRNESS.—

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

17 (2) ESTABLISHED PUBLIC POLICY AS FAC-
18 TOR.—In determining whether an act or practice is
19 unfair, the Agency may consider established public
20 policies as evidence to be considered with all other
21 evidence.

22 (d) CONSULTATION.—In prescribing a regulation
23 under this section, the Agency shall consult with the Fed-
24 eral banking agencies, or other Federal agencies, as appro-
25 priate, concerning the consistency of the proposed regula-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (2) registration, licensing, or certification;

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

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

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

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

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

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

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

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

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

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

22 (3) poses lower risks to consumers;

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

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

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

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

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

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

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

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

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

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

12 **SEC. 137. DUTIES.**

13 (a) IN GENERAL.—

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

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

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

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

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

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

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

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

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

4 (b) ADMINISTRATIVE PROCEEDINGS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 It shall be unlawful for any person to—

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

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

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

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

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

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

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

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

18 (a) IN GENERAL.—

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

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

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

15 (b) CONSULTATION REQUIRED.—

16 (1) NOTICE.—

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

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

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

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

12 (i) the identity of the parties;

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

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

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

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

23 (B) upon intervening—

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

1 action was not originally brought there;
2 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(d) EXCEPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

17 “(h) VISITORIAL POWERS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(c) EXCEPTIONS.—

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

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

10 “(B) the State consumer law is incon-
11 sistent with provisions of Federal law other
12 than this Act, but only to the extent of the in-
13 consistency (as determined in accordance with
14 the provision of the other Federal law).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(h) VISITORIAL POWERS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **SEC. 149. EFFECTIVE DATE.**

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

12 **Subtitle E—Enforcement Powers**

13 **SEC. 151. DEFINITIONS.**

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

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

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

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

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

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

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

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

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

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

5 (a) SUBPOENAS.—

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

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

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

25 (b) DEMANDS.—

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

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

14 (B) submit such tangible things;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (7) SERVICE.—

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

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

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

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

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

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

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

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

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

14 (9) PROOF OF SERVICE.—

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

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

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

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

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

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

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

13 (13) TESTIMONY.—

14 (A) PROCEDURE.—

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

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

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

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

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

23 (D) ATTORNEY REPRESENTATION.—

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

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

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

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

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

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

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

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

16 (E) TRANSCRIPTS.—

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

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

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

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

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

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

1 (F) CERTIFICATION BY INVESTIGATOR.—

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

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

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

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

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

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

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

14 (d) PETITION FOR ENFORCEMENT.—

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

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

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

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

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

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

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

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

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

20 (g) JURISDICTION OF COURT.—

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

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

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

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

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

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

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

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

24 (1) ISSUANCE.—

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

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

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

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

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

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

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

25 (3) DECISION AND APPEAL.—

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

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

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

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

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

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

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

12 (4) APPEAL TO COURT OF APPEALS.—

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

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

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

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

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

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

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

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

5 (1) ISSUANCE.—

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

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

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

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

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

24 (3) INCOMPLETE OR INACCURATE RECORDS.—

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

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

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

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

22 (i) shall take effect upon service; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (g) TIME FOR BRINGING ACTION.—

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

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

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

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

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

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

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

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

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

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

12 (A) rescission or reformation of contracts;

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

15 (C) restitution;

16 (D) compensation for unjust enrichment;

17 (E) payment of damages;

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

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

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

24 (3) NO EXEMPLARY OR PUNITIVE DAMAGES.—

25 Nothing in this subsection shall be construed as au-

1 thorizing the imposition of exemplary or punitive
2 damages.

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

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

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

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

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

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

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

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

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

22 (B) the gravity of the violation;

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

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

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

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

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

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

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

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

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

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

22 (b) AGENCY REVIEW OF TERMINATION.—

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

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

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

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

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

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

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

24 (7) DETERMINATION.—

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) BOARD OF GOVERNORS.—

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

1 Board of Governors are transferred to the
2 Agency.

3 (B) BOARD OF GOVERNORS' AUTHORITY.—

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

9 (2) COMPTROLLER OF THE CURRENCY.—

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

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

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

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

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

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

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

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

19 (5) FEDERAL TRADE COMMISSION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the National Credit Union Administration Board,
2 the Comptroller of the Currency, the Director of the
3 Office of Thrift Supervision, and the Director of the
4 Office of Management and Budget, designate a sin-
5 gle calendar date for the transfer of functions to the
6 Agency under section 161; and

7 (2) shall publish notice of that designation in
8 the Federal Register.

9 (b) CHANGING DESIGNATION.—The Secretary—

10 (1) may, in consultation with the Chairman of
11 the Board of Governors, the Chairperson of the Fed-
12 eral Deposit Insurance Corporation, the Chairman
13 of the Federal Trade Commission, the Chairman of
14 the National Credit Union Administration Board,
15 the Comptroller of the Currency, the Director of the
16 Office of Thrift Supervision, and the Director of the
17 Office of Management and Budget, change the date
18 designated under subsection (a); and

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

21 (c) PERMISSIBLE DATES.—

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

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

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

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

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

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

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

21 (a) BOARD OF GOVERNORS.—

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

1 the United States, the Board of Governors (or any
2 Federal reserve bank), or any other person that—

3 (A) arises under any provision of law relat-
4 ing to any consumer financial protection func-
5 tion of the Board of Governors transferred to
6 the Agency by this title; and

7 (B) existed on the day before the des-
8 igned transfer date.

9 (2) CONTINUATION OF SUITS.—This Act shall
10 not abate any proceeding commenced by or against
11 the Board of Governors (or any Federal reserve
12 bank) before the designated transfer date with re-
13 spect to any consumer financial protection function
14 of the Board of Governors (or any Federal reserve
15 bank) transferred to the Agency by this title, except
16 that the Agency shall be substituted for the Board
17 of Governors (or Federal reserve bank) as a party
18 to any such proceeding as of the designated transfer
19 date.

20 (b) FEDERAL DEPOSIT INSURANCE CORPORATION.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
22 TIONS NOT AFFECTED.—Section 161(a)(4) shall not
23 affect the validity of any right, duty, or obligation of
24 the United States, the Federal Deposit Insurance

1 Corporation, the Board of Directors of that Corpora-
2 tion, or any other person, that—

3 (A) arises under any provision of law relat-
4 ing to any consumer financial protection func-
5 tion of the Federal Deposit Insurance Corpora-
6 tion transferred to the Agency by this title; and

7 (B) existed on the day before the des-
8 igned transfer date.

9 (2) CONTINUATION OF SUITS.—This Act shall
10 not abate any proceeding commenced by or against
11 the Federal Deposit Insurance Corporation (or the
12 Board of Directors of that Corporation) before the
13 designated transfer date with respect to any con-
14 sumer financial protection function of the Federal
15 Deposit Insurance Corporation transferred to the
16 Agency by this title, except that the Agency shall be
17 substituted for the Federal Deposit Insurance Cor-
18 poration (or Board of Directors) as a party to any
19 such proceeding as of the designated transfer date.

20 (c) FEDERAL TRADE COMMISSION.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
22 TIONS NOT AFFECTED.—Section 161(a)(5) shall not
23 affect the validity of any right, duty, or obligation of
24 the United States, the Federal Trade Commission,
25 or any other person, that—

1 (A) arises under any provision of law relat-
2 ing to any consumer financial protection func-
3 tion of the Federal Trade Commission trans-
4 ferred to the Agency by this title; and

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

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

16 (d) NATIONAL CREDIT UNION ADMINISTRATION.—

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

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

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

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

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

17 (e) COMPTROLLER OF THE CURRENCY.—

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

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

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

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

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

16 (f) OFFICE OF THRIFT SUPERVISION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (c) TRANSFER OF FUNCTION.—

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

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

19 (d) EQUAL STATUS AND TENURE POSITIONS.—

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

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

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

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

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

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

25 (f) PERSONNEL ACTIONS LIMITED.—

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

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

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

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

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

23 (g) PAY.—

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

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

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

10 (A) for cause;

11 (B) for unacceptable performance; or

12 (C) with the employee’s consent.

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

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

21 (h) REORGANIZATION.—

22 (1) BETWEEN 1ST AND 3RD YEAR.—

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

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

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

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

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

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

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

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

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

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

3 (2) AFTER 3RD YEAR.—

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

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

25 (i) BENEFITS.—

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

3 (A) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (A) DURING 1ST YEAR.—

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

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

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

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

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

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

23 (iii) the Federal Employees Group
24 Life Insurance Program established by
25 chapter 87 of title 5, United States Code,

1 without regard to any requirement of in-
2 surability.

3 (C) LONG-TERM CARE INSURANCE AFTER
4 1ST YEAR.—If, after the 1-year period begin-
5 ning on the designated transfer date, the Agen-
6 cy decides not to continue participation in any
7 long-term care insurance program of an agency
8 or bank from which employees transferred, a
9 transferred employee who is a member of such
10 a program may, before the Agency’s decision
11 takes effect, elect to apply for coverage under
12 the Federal Long Term Care Insurance Pro-
13 gram established by chapter 90 of title 5,
14 United States Code, under the underwriting re-
15 quirements applicable to a new active workforce
16 member (as defined in Part 875, title 5, Code
17 of Federal Regulations).

18 (D) EMPLOYEE’S CONTRIBUTION.—An in-
19 dividual enrolled in the Federal Employees
20 Health Benefits program shall pay any em-
21 ployee contribution required by the plan.

22 (E) ADDITIONAL FUNDING.—The Agency
23 shall transfer to the Federal Employees Health
24 Benefits Fund established under section 8909
25 of title 5, United States Code, an amount deter-

1 mined by the Director of the Office of Per-
2 sonnel Management, after consultation with the
3 Agency and the Office of Management and
4 Budget, to be necessary to reimburse the Fund
5 for the cost to the Fund of providing benefits
6 under this subparagraph.

7 (F) CREDIT FOR TIME ENROLLED IN
8 OTHER PLANS.—For employees transferred
9 under this section, enrollment in a health bene-
10 fits plan administered by the Office of the
11 Comptroller of the Currency, the Office of
12 Thrift Supervision, the Federal Deposit Insur-
13 ance Corporation, the National Credit Union
14 Administration, the Board of Governors, or a
15 Federal reserve bank, immediately before enroll-
16 ment in a health benefits plan under chapter 89
17 of title 5, United States Code, shall be consid-
18 ered as enrollment in a health benefits plan
19 under that chapter for purposes of section
20 8905(b)(1)(A) of title 5, United States Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) INTERIM ADMINISTRATIVE SERVICES BY THE
10 DEPARTMENT OF THE TREASURY.—The Department of
11 the Treasury may provide administrative services nec-
12 essary to support the Agency before the designated trans-
13 fer date.

14 (c) INTERIM FUNDING FOR THE DEPARTMENT OF
15 THE TREASURY.—For the purposes of carrying out the
16 authorities granted in this section, there are appropriated
17 to the Department of the Treasury such sums as are nec-
18 essary. Notwithstanding any other provision of law, such
19 amounts shall be subject to apportionment under section
20 1517 of title 31, United States Code, and restrictions that
21 generally apply to the use of appropriated funds in title
22 31, United States Code, and other laws.

1 **Subtitle G—Regulatory**
2 **Improvements**

3 **SEC. 171. COLLECTION OF DEPOSIT ACCOUNT DATA.**

4 (a) **PURPOSE.**—The purpose of this section is to pro-
5 mote awareness and understanding of the access of indi-
6 viduals and communities to financial services, and to iden-
7 tify business and community development needs and op-
8 portunities.

9 (b) **IN GENERAL.**—

10 (1) **RECORDS REQUIRED.**—For each branch,
11 automated teller machine at which deposits are ac-
12 cepted, and other deposit taking service facility with
13 respect to any financial institution, the financial in-
14 stitution shall maintain records of the number and
15 dollar amounts of deposit accounts of customers.

16 (2) **GEO-CODED ADDRESSES OF DEPOSITORS.**—
17 The customers' addresses maintained pursuant to
18 paragraph (1) shall be geo-coded so that data shall
19 be collected regarding the census tracts of the resi-
20 dence or business location of the customers.

21 (3) **IDENTIFICATION OF DEPOSITOR TYPE.**—In
22 maintaining records on any deposit account under
23 this section, the financial institution shall also
24 record whether the deposit account is for a residen-
25 tial or commercial customer.

1 (4) PUBLIC AVAILABILITY.—

2 (A) IN GENERAL.—The following informa-
3 tion shall be publicly available on an annual
4 basis—

5 (i) the address and census tracts of
6 each branch, automated teller machine at
7 which deposits are accepted, and other de-
8 posit taking service facility with respect to
9 any financial institution;

10 (ii) the type of deposit account includ-
11 ing whether the account was a checking or
12 savings account; and

13 (iii) data on the number and dollar
14 amounts of the accounts, presented by cen-
15 sus tract location of the residential and
16 commercial customers.

17 (B) PROTECTION OF IDENTITY.—In the
18 publicly available data, any personally identifi-
19 able data element shall be removed so as to pro-
20 tect the identities of the commercial and resi-
21 dential customers.

22 (c) AVAILABILITY OF INFORMATION.—

23 (1) SUBMISSION TO AGENCIES.—The data re-
24 quired to be compiled and maintained under this
25 section by any financial institution shall be sub-

1 mitted annually to the Agency, or to a Federal bank-
2 ing agency, in accordance with rules prescribed by
3 the Agency.

4 (2) AVAILABILITY OF INFORMATION.—Informa-
5 tion compiled and maintained under this section
6 shall be retained for not less than 3 years after the
7 date of preparation and shall be made available to
8 the public, upon request, in the form required under
9 rules prescribed by the Agency.

10 (d) AGENCY USE.—The Agency—

11 (1) shall assess the distribution of residential
12 and commercial accounts at such financial institu-
13 tion across income and minority level of census
14 tracts; and

15 (2) may use the data for any other purpose as
16 permitted by law.

17 (e) REGULATIONS AND GUIDANCE.—

18 (1) IN GENERAL.—The Agency shall prescribe
19 such regulations and issue guidance as may be nec-
20 essary to carry out, enforce, and compile data pursu-
21 ant to this section.

22 (2) DATA COMPILATION REGULATIONS.—The
23 Agency shall prescribe regulations regarding the pro-
24 vision of data compiled under this section to the
25 Federal banking agencies to carry out the purposes

1 of this section and shall issue guidance to financial
2 institutions regarding measures to facilitate compli-
3 ance with the this section and the requirements of
4 regulations prescribed under this section.

5 (f) DEFINITIONS.—For purposes of this section, the
6 following definitions shall apply:

7 (1) AGENCY.—The term “Agency” means the
8 Consumer Financial Protection Agency.

9 (2) CREDIT UNION.—The term “credit union”
10 means a Federal credit union or a State-chartered
11 credit union (as such terms are defined in section
12 101 of the Federal Credit Union Act).

13 (3) DEPOSIT ACCOUNT.—The term “deposit ac-
14 count” includes any checking account, savings ac-
15 count, credit union share account, and other type of
16 account as defined by the Agency.

17 (4) FEDERAL BANKING AGENCY.—The term
18 “Federal banking agency” means the Board of Gov-
19 ernors of the Federal Reserve System, the head of
20 the agency responsible for chartering and regulating
21 national banks, the Director of the Office of Thrift
22 Supervision, the Federal Deposit Insurance Corpora-
23 tion, and the National Credit Union Administration;
24 and the term “Federal banking agencies” means all
25 of those agencies.

1 (5) FINANCIAL INSTITUTION.—The term “fi-
2 nancial institution”—

3 (A) has the meaning given to the term “in-
4 sured depository institution” in section 3(e)(2)
5 of the Federal Deposit Insurance Act; and

6 (B) includes any credit union.

7 (g) EFFECTIVE DATE.—This section shall take effect
8 on the designated transfer date.

9 **SEC. 172. SMALL BUSINESS DATA COLLECTION.**

10 (a) IN GENERAL.—The Equal Credit Opportunity
11 Act (15 U.S.C. 1691 et seq.) is amended by inserting after
12 section 704A the following new section:

13 **“§ 704B. Small business loan data collection**

14 “(a) PURPOSE.—The purpose of this section is to fa-
15 cilitate enforcement of fair lending laws and enable com-
16 munities, governmental entities, and creditors to identify
17 business and community development needs and opportu-
18 nities of women- and minority-owned small businesses.

19 “(b) IN GENERAL.—Subject to the requirements of
20 this section, in the case of any application to a financial
21 institution for credit for a small business, the financial in-
22 stitution shall—

23 “(1) inquire whether the business is a women-
24 or minority-owned business, without regard to
25 whether such application is received in person, by

1 mail, by telephone, by electronic mail or other form
2 of electronic transmission, or by any other means
3 and whether or not such application is in response
4 to a solicitation by the financial institution; and

5 “(2) maintain a record of the responses to such
6 inquiry separate from the application and accom-
7 panying information.

8 “(c) RIGHT TO REFUSE.—Any applicant for credit
9 may refuse to provide any information requested pursuant
10 to subsection (b) in connection with any application for
11 credit.

12 “(d) NO ACCESS BY UNDERWRITERS.—

13 “(1) IN GENERAL.—Where feasible, no loan un-
14 derwriter or other officer or employee of a financial
15 institution, or any affiliate of a financial institution,
16 involved in making any determination concerning an
17 application for credit shall have access to any infor-
18 mation provided by the applicant pursuant to a re-
19 quest under subsection (b) in connection with such
20 application.

21 “(2) EXCEPTION.—If a financial institution de-
22 termines that loan underwriter or other officer or
23 employee of a financial institution, or any affiliate of
24 a financial institution, involved in making any deter-
25 mination concerning an application for credit should

1 have access to any information provided by the ap-
2 plicant pursuant to a request under subsection (b),
3 the financial institution will provide notice to the ap-
4 plicant of the access of the underwriter to this infor-
5 mation, along with notice that the financial institu-
6 tion may not discriminate on this basis of this infor-
7 mation.

8 “(e) FORM AND MANNER OF INFORMATION.—

9 “(1) IN GENERAL.—Each financial institution
10 shall compile and maintain, in accordance with regu-
11 lations of the Agency, a record of the information
12 provided by any loan applicant pursuant to a request
13 under subsection (b).

14 “(2) ITEMIZATION.—Information compiled and
15 maintained under paragraph (1) shall also be
16 itemized in order to clearly and conspicuously dis-
17 close the following:

18 “(A) The number of the application and
19 the date the application was received.

20 “(B) The type and purpose of the loan or
21 other credit being applied for.

22 “(C) The amount of the credit or credit
23 limit applied for and the amount of the credit
24 transaction or the credit limit approved for such
25 applicant.

1 “(D) The type of action taken with respect
2 to such application and the date of such action.

3 “(E) The census tract in which is located
4 the principal place of business of the small busi-
5 ness loan applicant.

6 “(F) The gross annual revenue of the busi-
7 ness in the last fiscal year of the small business
8 loan applicant preceding the date of the appli-
9 cation.

10 “(G) The race and ethnicity of the prin-
11 cipal owners of the business.

12 “(H) Any additional data the Agency de-
13 termines would aid in fulfilling the purposes of
14 this section.

15 “(3) INCLUSION OF PERSONALLY IDENTIFIABLE
16 INFORMATION PROHIBITED.—In compiling and
17 maintaining any record of information under this
18 section, a financial institution may not include in
19 such record the name, specific address (other than
20 the census tract required under paragraph (1)(E)),
21 telephone number, electronic mail address, and any
22 other personally identifiable information concerning
23 any individual who is, or is connected with, the small
24 business loan applicant.

1 “(4) DISCRETION TO DELETE OR MODIFY PUB-
2 LICLY AVAILABLE DATA.—The Agency may, in the
3 discretion of the Agency, delete or modify data col-
4 lected under this section which is or will be available
5 to the public if the Agency determines that the dele-
6 tion or modification of the data would advance a
7 compelling privacy interest.

8 “(f) AVAILABILITY OF INFORMATION.—

9 “(1) SUBMISSION TO AGENCY.—The data re-
10 quired to be compiled and maintained under this
11 section by any financial institution shall be sub-
12 mitted annually to the Agency.

13 “(2) AVAILABILITY OF INFORMATION.—

14 “(A) IN GENERAL.—Information compiled
15 and maintained under this section shall be re-
16 tained for not less than 3 years after the date
17 of preparation and shall be made available to
18 the public, upon request, in the form required
19 under regulations prescribed by the Agency.

20 “(B) ANNUAL DISCLOSURE TO THE PUB-
21 LIC.—In addition to the availability by request
22 under subparagraph (A) of data compiled and
23 maintained under this section, the Agency shall
24 annually provide such data to the public.

1 “(C) PROCEDURES.—The procedures for
2 disclosing data compiled and maintained under
3 this section to the public shall be determined by
4 the Agency by regulation.

5 “(3) COMPILATION OF AGGREGATE DATA.—

6 “(A) IN GENERAL.—The Agency may, in
7 the discretion of the Agency, compile for the
8 Agency’s own use compilations of aggregate
9 data.

10 “(B) PUBLIC AVAILABILITY OF AGGRE-
11 GATE DATA.—The Agency may, in the discre-
12 tion of the Agency, make public compilations of
13 aggregate data in such manner as the Agency
14 may determine to be appropriate.

15 “(g) DEFINITIONS.—For purposes of this section, the
16 following definitions shall apply:

17 “(1) FINANCIAL INSTITUTION.—The term ‘fi-
18 nancial institution’ means any partnership, com-
19 pany, corporation, association (incorporated or unin-
20 corporated), trust, estate, cooperative organization,
21 or other entity that engages in any financial activity.

22 “(2) MINORITY-OWNED BUSINESS.—The term
23 ‘minority-owned business’ means a business—

1 “(A) more than 50 percent of the owner-
2 ship or control of which is held by 1 or more
3 minority individuals; and

4 “(B) more than 50 percent of the net prof-
5 it or loss of which accrues to 1 or more minor-
6 ity individuals.

7 “(3) WOMEN-OWNED BUSINESS.—The term
8 ‘women-owned business’ means a business—

9 “(A) more than 50 percent of the owner-
10 ship or control of which is held by 1 or more
11 women; and

12 “(B) more than 50 percent of the net prof-
13 it or loss of which accrues to 1 or more women.

14 “(4) MINORITY.—The term ‘minority’ has the
15 meaning given to such term by section 1204(c)(3) of
16 the Financial Institutions Reform, Recovery, and
17 Enforcement Act of 1989.

18 “(5) SMALL BUSINESS LOAN.—The term ‘small
19 business loan’ shall be defined by the Agency, which
20 may take into account—

21 “(A) the gross revenues of the borrower;

22 “(B) the total number of employees of the
23 borrower;

24 “(C) the industry in which the borrower
25 has its primary operations; and

1 “(D) the size of the loan.

2 “(h) AGENCY ACTION.—

3 “(1) IN GENERAL.—The Agency shall prescribe
4 such regulations and issue such guidance as may be
5 necessary to carry out, enforce, and compile data
6 pursuant to this section.

7 “(2) EXCEPTIONS.—The Agency, by regulation
8 or order, may adopt exceptions to any requirement
9 of this section and may, conditionally or uncondi-
10 tionally, exempt any financial institution or class of
11 institutions from the requirements of this section as
12 the Agency determines to be necessary or appro-
13 priate to carry out the purposes and objectives of
14 this section.

15 “(3) GUIDANCE.—The Agency shall issue guid-
16 ance designed to facilitate compliance with the re-
17 quirements of this section, including assisting finan-
18 cial institutions in working with applicants to deter-
19 mine whether the applicants are women- or minor-
20 ity-owned for the purposes of this section.’”.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—
22 Section 701(b) of the Equal Credit Opportunity Act (15
23 U.S.C. 1691(b)) is amended—

24 (1) by striking “or” after the semicolon at the
25 end of paragraph (3);

1 (2) by striking the period at the end of para-
2 graph (4) and inserting “; or”; and

3 (3) by inserting after paragraph (4), the fol-
4 lowing new paragraph:

5 “(5) to make an inquiry under section 704B in
6 accordance with the requirements of such section.”.

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for title VII of the Consumer Credit Protection Act is
9 amended by inserting after the item relating to section
10 704A the following new item:

“704B. Small business loan data collection.”.

11 (d) EFFECTIVE DATE.—This section shall take effect
12 on the designated transfer date.

13 **Subtitle H—Conforming** 14 **Amendments**

15 **SEC. 181. AMENDMENTS TO THE INSPECTOR GENERAL ACT** 16 **OF 1978.**

17 (a) ESTABLISHMENT.—Section 8G(a)(2) of the In-
18 spector General Act of 1978 (5 U.S.C. App. 3, 8G(a)(2))
19 is amended by inserting “the Consumer Financial Protec-
20 tion Agency,” before “the Consumer Product Safety Com-
21 mission,”.

22 (b) EFFECTIVE DATE.—This section shall take effect
23 on the date of the enactment of this Act.

1 **SEC. 182. AMENDMENTS TO THE PRIVACY ACT OF 1974.**

2 (a) **APPLICABILITY.**—Section 552a of title 5, United
3 States Code, is amended by adding at the end the fol-
4 lowing new subsection:

5 “(w) **APPLICABILITY TO CONSUMER FINANCIAL PRO-**
6 **TECTION AGENCY.**—Except as provided in the Consumer
7 Financial Protection Agency Act of 2009, this section
8 shall apply with respect to the Consumer Financial Protec-
9 tion Agency.”.

10 (b) **EFFECTIVE DATE.**—This section shall take effect
11 on the date of the enactment of this Act.

12 **SEC. 183. AMENDMENTS TO THE ALTERNATIVE MORTGAGE**
13 **TRANSACTION PARITY ACT OF 1982.**

14 (a) **SECTION 803(1).**—Section 803(1) of the Alter-
15 native Mortgage Transaction Parity Act of 1982 (12
16 U.S.C. 3802(1)) is amended by striking paragraphs (B)
17 and (C).

18 (b) **SECTION 804(a).**—Section 804(a) of the Alter-
19 native Mortgage Transaction Parity Act of 1982 (12
20 U.S.C. 3803(a)) is amended—

21 (1) in paragraphs (1), (2), and (3), by inserting
22 “on or before the designated transfer date, as deter-
23 mined in section 1062 of the Consumer Financial
24 Protection Agency Act of 2009” after “transactions
25 made” each place such term appears;

1 (2) in paragraph (2), by striking “and” at the
2 end;

3 (3) in paragraph (3), by striking the period at
4 the end and inserting “; and”; and

5 (4) by adding at the end the following new
6 paragraph:

7 “(4) with respect to transactions made after the
8 designated transfer date, as determined in section
9 1062 of the Consumer Financial Protection Agency
10 Act of 2009, only in accordance with regulations
11 governing alternative mortgage transactions as
12 issued by the Consumer Financial Protection Agency
13 for federally chartered housing creditors, in accord-
14 ance with the rulemaking authority granted to the
15 Consumer Financial Protection Agency with regard
16 to federally chartered housing creditors under laws
17 other than this section.”.

18 (c) SECTION 804.—Section 804 of the Alternative
19 Mortgage Transaction Parity Act of 1982 (12 U.S.C.
20 3803) is amended—

21 (1) by striking subsection (c) and inserting the
22 following new subsection:

23 “(c) EFFECT OF STATE LAW.—

24 “(1) IN GENERAL.—An alternative mortgage
25 transaction may be made by a housing creditor in

1 accordance with this section, notwithstanding any
2 State Constitution, law, or regulation that prohibits
3 an alternative mortgage transaction.

4 “(2) RULE OF CONSTRUCTION.—For purposes
5 of this subsection, a State Constitution, law, or reg-
6 ulation that prohibits an alternative mortgage trans-
7 action does not include any State Constitution, law,
8 or regulation that regulates mortgage transactions
9 generally, including any restriction on prepayment
10 penalties or late charges.”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(d) DUTIES OF CONSUMER FINANCIAL PROTECTION
14 AGENCY.—The Consumer Financial Protection Agency
15 shall—

16 “(1) review the regulations identified by the
17 Comptroller of the Currency, the National Credit
18 Union Administration, and the Director of the Office
19 of Thrift Supervision (as those regulations exist on
20 the designated transfer date, as determined in sec-
21 tion 1062 of the Consumer Financial Protection
22 Agency Act of 2009) as applicable under paragraphs
23 (1), (2), and (3) of subsection (a);

24 “(2) determine whether such regulations are
25 fair and not deceptive and otherwise meet the objec-

1 tives of title I of the Consumer Financial Protection
2 Agency Act of 2009; and

3 “(3) prescribe regulations under subsection
4 (a)(4) after the designated transfer date, as deter-
5 mined under such Act.”.

6 (d) EFFECTIVE DATE AND SCOPE OF APPLICA-
7 TION.—

8 (1) EFFECTIVE DATE.—This section shall take
9 effect on the designated transfer date.

10 (2) SCOPE OF APPLICATION.—The amendments
11 made by subsection (a) shall not affect any trans-
12 action covered by the Alternative Mortgage Trans-
13 action Parity Act of 1982 which is entered into on
14 or before the designated transfer date.

15 **SEC. 184. AMENDMENTS TO THE CONSUMER CREDIT PRO-**
16 **TECTION ACT.**

17 (a) TRUTH IN LENDING ACT.—

18 (1) SECTION 103.—Section 103 of the Truth in
19 Lending Act (15 U.S.C. 1602) is amended by strik-
20 ing subsection (b) and inserting the following new
21 subsection:

22 “(b) AGENCY DEFINITIONS.—

23 “(1) BOARD.—The term ‘Board’ means the
24 ‘Board of Governors of the Federal Reserve System’.

1 “(2) AGENCY.—The term ‘Agency’ means the
2 Consumer Financial Protection Agency.”.

3 (2) UNIVERSAL AMENDMENT RELATING TO
4 BOARD OF GOVERNORS OF THE FEDERAL RESERVE
5 SYSTEM.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), the Truth in Lending Act
8 (15 U.S.C. 1601 et seq.) is amended by striking
9 “Board” each place such term appears, includ-
10 ing in chapters 4 and 5 relating to credit billing
11 and consumer leases, and inserting “Agency”.

12 (B) EXCEPTIONS.—The amendment de-
13 scribed in subparagraph (A) shall not apply to
14 sections 108(a) (as amended by paragraph (4))
15 and 140(d)) or any reference in either such sec-
16 tion to the term “Board”.

17 (3) SECTION 105.—Section 105(b) of the Truth
18 in Lending Act (15 U.S.C. 1604(b)) is amended by
19 striking the first sentence and inserting the fol-
20 lowing: “The Agency shall publish a single, inte-
21 grated disclosure for mortgage loan transactions, in-
22 cluding real estate settlement cost statements, which
23 include the disclosure requirements of this title, in
24 conjunction with the disclosure requirements of the
25 Real Estate Settlement Procedures Act that, taken

1 together, may apply to transactions subject to both
2 or either law. The purpose of such model disclosure
3 shall be to facilitate compliance with the disclosure
4 requirements of those titles, and to aid the borrower
5 or lessee in understanding the transaction by uti-
6 lizing readily understandable language to simplify
7 the technical nature of the disclosures.”.

8 (4) SECTION 108.—Section 108 of the Truth in
9 Lending Act (15 U.S.C. 1607) is amended—

10 (A) by striking subsection (a) and insert-
11 ing the following new subsection:

12 “(a) ENFORCING AGENCIES.—Subject to section
13 1022 of the Consumer Financial Protection Agency Act
14 of 2009, compliance with the requirements imposed under
15 this title shall be enforced as follows:

16 “(1) Under section 8 of the Federal Deposit In-
17 surance Act, in the case of—

18 “(A) national banks, and Federal branches
19 and Federal agencies of foreign banks, by the
20 head of the agency responsible for chartering
21 and regulating national banks;

22 “(B) member banks of the Federal Reserve
23 System (other than national banks), branches
24 and agencies of foreign banks (other than Fed-
25 eral branches, Federal agencies, and insured

1 State branches of foreign banks), commercial
2 lending companies owned or controlled by for-
3 eign banks, and organizations operating under
4 section 25 or 25(a) of the Federal Reserve Act,
5 by the Board;

6 “(C) depository institution insured by the
7 Federal Deposit Insurance Corporation (other
8 than members of the Federal Reserve System,
9 Federal savings associations, and savings and
10 loan holding companies) and insured State
11 branches of foreign banks, by the Board of Di-
12 rectors of the Federal Deposit Insurance Cor-
13 poration; and

14 “(D) Federal savings associations and sav-
15 ings and loan holding companies, by the Direc-
16 tor of the Office of Thrift Supervision.

17 “(2) Under subtitle E of the Consumer Finan-
18 cial Protection Agency Act of 2009, by the Agency
19 in the case of a covered person under that Act.

20 “(3) Under the Federal Credit Union Act, by
21 the head of the agency responsible for chartering
22 and regulating Federal credit unions.

23 “(4) Under the Federal Aviation Act of 1958,
24 by the Secretary of Transportation with respect to

1 any air carrier or foreign air carrier subject to that
2 Act.

3 “(5) Under the Packers and Stockyards Act,
4 1921 (except as provided in section 406 of that Act),
5 by the Secretary of Agriculture with respect to any
6 activities subject to that Act.

7 “(6) Under the Farm Credit Act of 1971, by
8 the Farm Credit Administration with respect to any
9 Federal land bank, Federal land bank association,
10 Federal intermediate credit bank, or production
11 credit association.”; and

12 (B) by striking subsection (c) and insert-
13 ing the following new subsection:

14 “(c) OVERALL ENFORCEMENT AUTHORITY OF THE
15 FEDERAL TRADE COMMISSION.—Except to the extent
16 that enforcement of the requirements imposed under this
17 title is specifically committed to some other Government
18 agency under subsection (a) and subject to section 1022
19 of the Consumer Financial Protection Agency Act of 2009,
20 the Federal Trade Commission shall enforce such require-
21 ments. For the purpose of the exercise by the Federal
22 Trade Commission of its functions and powers under the
23 Federal Trade Commission Act, a violation of any require-
24 ment imposed under this title shall be deemed a violation
25 of a requirement imposed under that Act. All of the func-

1 tions and powers of the Federal Trade Commission under
2 the Federal Trade Commission Act are available to the
3 Commission to enforce compliance by any person with the
4 requirements under this title, irrespective of whether that
5 person is engaged in commerce or meets any other jurisdic-
6 tional tests in the Federal Trade Commission Act.”.

7 (5) UNIVERSAL AMENDMENT RELATING TO THE
8 FEDERAL TRADE COMMISSION.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (B), the Truth in Lending Act
11 (15 U.S.C. 1601 et seq.) is amended by striking
12 “Federal Trade Commission” each place such
13 term appears and inserting “Agency”.

14 (B) EXCEPTIONS.—The amendment de-
15 scribed in subparagraph (A) shall not apply to
16 sections 108(c) (as amended by paragraph (4))
17 and 129(m) (as amended by paragraph (7)) or
18 any reference in either such section to the term
19 “Federal Trade Commission”.

20 (6) SECTION 127.—Subparagraph (C) of section
21 127(b)(11) of the Truth in Lending Act (15 U.S.C.
22 1637(b)(11)) is amended to read as follows:

23 “(C) Notwithstanding subparagraphs (A)
24 and (B), in the case of a creditor with respect
25 to which compliance with this title is enforced

1 by the Agency, the following statement, in a
 2 prominent location on the front of the billing
 3 statement, disclosed clearly and conspicuously:
 4 ‘Minimum Payment Warning: Making only the
 5 required minimum payment will increase the in-
 6 terest you pay and the time it takes to repay
 7 your balance. For example, making only the
 8 typical 5 percent minimum monthly payment on
 9 a balance of \$300 at an interest rate of 17 per-
 10 cent would take 24 months to repay the balance
 11 in full. For an estimate of the time it would
 12 take to repay your balance, making only min-
 13 imum monthly payments, call the Consumer Fi-
 14 nancial Protection Agency at this toll-free num-
 15 ber: _____ [the blank space to
 16 be filled in by the creditor].’ A creditor who is
 17 subject to this subparagraph shall not be sub-
 18 ject to subparagraph (A) or (B).”.

19 (7) SECTION 129.—Section 129(m) of the Truth
 20 in Lending Act (15 U.S.C. 1639(m)) is amended to
 21 read as follows:

22 “(m) CIVIL PENALTIES IN FEDERAL TRADE COM-
 23 MISSION ENFORCEMENT ACTIONS.—For purposes of en-
 24 forcement by the Federal Trade Commission, any violation
 25 of a regulation issued by the Agency pursuant to sub-

1 section (1)(2) of this section shall be treated as a violation
2 of a rule promulgated under section 18 of the Federal
3 Trade Commission Act (15 U.S.C. 57a) regarding unfair
4 or deceptive acts or practices.”.

5 (b) FAIR CREDIT REPORTING ACT.—

6 (1) SECTION 603.—Section 603 of the Fair
7 Credit Reporting Act (15 U.S.C. 1681a) is amend-
8 ed—

9 (A) by redesignating subsections (w) and
10 (x) as subsections (x) and (y), respectively; and

11 (B) by inserting after subsection (v) the
12 following new subsection:

13 “(w) AGENCY.—The term ‘Agency’ means the Con-
14 sumer Financial Protection Agency.”.

15 (2) UNIVERSAL AMENDMENTS RELATING TO
16 THE FEDERAL TRADE COMMISSION.—Other than in
17 connection with the amendment made by paragraph
18 (7)(A), the Fair Credit Reporting Act (15 U.S.C.
19 1681a) is amended—

20 (A) by striking “Federal Trade Commis-
21 sion” each place such term appears and insert-
22 ing “Agency”;

23 (B) by striking “Commission” each place
24 such term appears (other than in connection

1 with the term amended in subparagraph (A))
2 and inserting “Agency”; and

3 (C) by striking “Federal banking agencies,
4 the National Credit Union Administration, and
5 the Commission shall jointly” each place such
6 term appears in sections 605(h)(2), 615(e)(1),
7 623(a)(8)(A), 623(e)(1), 628(a)(1), and
8 628(a)(3) and inserting “Agency shall”.

9 (3) SECTION 603.—Section 603(k)(2) of the
10 Fair Credit Reporting Act (15 U.S.C. 1681a(k)(2))
11 is amended by striking “Board of Governors of the
12 Federal Reserve System” and inserting “Agency”.

13 (4) SECTION 604.—Subsection 604(g) of the
14 Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is
15 amended—

16 (A) by striking subparagraph (C) of para-
17 graph (3) and inserting the following new sub-
18 sections:

19 “(C) as otherwise determined to be nec-
20 essary and appropriate, by regulation or order
21 and subject to paragraph (6), by the Agency
22 (with respect to any covered person subject to
23 the jurisdiction of such agency under paragraph
24 (2) of section 621(b)), or the applicable State

1 insurance authority (with respect to any person
2 engaged in providing insurance or annuities).”;

3 (B) by striking paragraph (5) and insert-
4 ing the following new paragraph:

5 “(5) REGULATIONS AND EFFECTIVE DATE FOR
6 PARAGRAPH (2).—

7 “(A) REGULATIONS REQUIRED.—The
8 Agency may, after notice and opportunity for
9 comment, prescribe regulations that permit
10 transactions under paragraph (2) that are de-
11 termined to be necessary and appropriate to
12 protect legitimate operational, transactional,
13 risk, consumer, and other needs (and which
14 shall include permitting actions necessary for
15 administrative verification purposes), consistent
16 with the intent of paragraph (2) to restrict the
17 use of medical information for inappropriate
18 purposes.”; and

19 (C) by striking paragraph (6).

20 (5) SECTION 611.—Subsection 611(e)(2) of the
21 Fair Credit Reporting Act (15 U.S.C.1681i(e)(2)) is
22 amended to read as follows:

23 “(2) EXCLUSION.—Complaints received or ob-
24 tained by the Agency pursuant to its investigative
25 authority under the Consumer Financial Protection

1 Agency Act of 2009 shall not be subject to para-
2 graph (1).”.

3 (6) SECTION 615.—Subparagraph 615(h)(6)(A)
4 of the Fair Credit Reporting Act (15 U.S.C.
5 1681m(h)(6)(A)) is amended to read as follows:

6 “(A) RULES REQUIRED.—The Agency
7 shall prescribe rules.”.

8 (7) SECTION 621.—Section 621 of the Fair
9 Credit Reporting Act (15 U.S.C. 1681s) is amend-
10 ed—

11 (A) by striking subsection (a) and insert-
12 ing the following new subsection:

13 “(a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
14 SION.—

15 “(1) IN GENERAL.—Subject to section 1022 of
16 the Consumer Financial Protection Agency Act of
17 2009, compliance with the requirements imposed
18 under this title shall be enforced under the Federal
19 Trade Commission Act by the Federal Trade Com-
20 mission with respect to consumer reporting agencies
21 and all other persons subject thereto, except to the
22 extent that enforcement of the requirements imposed
23 under this title is specifically committed to some
24 other government agency under subsection (b) here-
25 of. For the purpose of the exercise by the Federal

1 Trade Commission of its functions and powers under
2 the Federal Trade Commission Act, a violation of
3 any requirement or prohibition imposed under this
4 title shall constitute an unfair or deceptive act or
5 practice in commerce in violation of section 5(a) of
6 the Federal Trade Commission Act and shall be sub-
7 ject to enforcement by the Federal Trade Commis-
8 sion under section 5(b) of such Act with respect to
9 any consumer reporting agency or person subject to
10 enforcement by the Federal Trade Commission pur-
11 suant to this subsection, irrespective of whether that
12 person is engaged in commerce or meets any other
13 jurisdictional tests in the Federal Trade Commission
14 Act. The Federal Trade Commission shall have such
15 procedural, investigative, and enforcement powers
16 (subject to section 1022 of the Consumer Financial
17 Protection Agency Act of 2009), including the power
18 to issue procedural rules in enforcing compliance
19 with the requirements imposed under this title and
20 to require the filing of reports, the production of
21 documents, and the appearance of witnesses as
22 though the applicable terms and conditions of the
23 Federal Trade Commission Act were part of this
24 title. Any person violating any of the provisions of
25 this title shall be subject to the penalties and enti-

1 tled to the privileges and immunities provided in the
2 Federal Trade Commission Act as though the appli-
3 cable terms and provisions thereof were part of this
4 title.

5 “(2) CIVIL MONEY PENALTIES.—

6 “(A) IN GENERAL.—Subject to section
7 1022 of the Consumer Financial Protection
8 Agency Act of 2009, in the event of a knowing
9 violation, which constitutes a pattern or prac-
10 tice of violations of this title, the Commission
11 may commence a civil action to recover a civil
12 penalty in a district court of the United States
13 against any person that violates this title. In
14 such action, such person shall be liable for a
15 civil penalty of not more than \$2,500 per viola-
16 tion.

17 “(B) FACTORS IN DETERMINING
18 AMOUNT.—In determining the amount of a civil
19 penalty under subparagraph (A), the court shall
20 take into account the degree of culpability, any
21 history of prior such conduct, ability to pay, ef-
22 fect on ability to continue to do business, and
23 such other matters as justice may require.

24 “(3) EXCEPTION.—Notwithstanding paragraph
25 (2), a court may not impose any civil penalty on a

1 person for a violation of section 623(a)(1) unless the
2 person has been enjoined from committing the viola-
3 tion, or ordered not to commit the violation, in an
4 action or proceeding brought by or on behalf of the
5 Federal Trade Commission, and has violated the in-
6 junction or order, and the court may not impose any
7 civil penalty for any violation occurring before the
8 date of the violation of the injunction or order.”;

9 (B) by striking subsection (b) and insert-
10 ing the following new subsection:

11 “(b) ENFORCEMENT BY OTHER AGENCIES.—Subject
12 to section 1022 of the Consumer Financial Protection
13 Agency Act of 2009, compliance with the requirements im-
14 posed under this title with respect to consumer reporting
15 agencies, persons who use consumer reports from such
16 agencies, persons who furnish information to such agen-
17 cies, and users of information that are subject to sub-
18 section (d) of section 615 shall be enforced as follows:

19 “(1) Under section 8 of the Federal Deposit In-
20 surance Act, in the case of—

21 “(A) national banks, and Federal branches
22 and Federal agencies of foreign banks, by the
23 head of the agency responsible for chartering
24 and regulating national banks;

1 “(B) member banks of the Federal Reserve
2 System (other than national banks), branches
3 and agencies of foreign banks (other than Fed-
4 eral branches, Federal agencies, and insured
5 State branches of foreign banks), commercial
6 lending companies owned or controlled by for-
7 eign banks, and organizations operating under
8 section 25 or 25A of the Federal Reserve Act,
9 by the Board of Governors of the Federal Re-
10 serve System;

11 “(C) banks insured by the Federal Deposit
12 Insurance Corporation (other than members of
13 the Federal Reserve System, Federal savings
14 associations, and savings and loan holding com-
15 panies) and insured State branches of foreign
16 banks, by the Board of Directors of the Federal
17 Deposit Insurance Corporation; and

18 “(D) Federal savings associations and sav-
19 ings and loan holding companies, by the Direc-
20 tor of the Office of Thrift Supervision.

21 “(2) Under subtitle E of the Consumer Finan-
22 cial Protection Agency Act of 2009, by the Agency
23 in the case of a covered person under that Act.

1 “(3) Under the Federal Credit Union Act, by
2 the National Credit Union Administration Board
3 with respect to any Federal credit union.

4 “(4) Under subtitle IV of title 49, United
5 States Code, by the Secretary of Transportation,
6 with respect to all carriers subject to the jurisdiction
7 of the Surface Transportation Board.

8 “(5) Under the Federal Aviation Act of 1958,
9 by the Secretary of Transportation with respect to
10 any air carrier or foreign air carrier subject to that
11 Act.

12 “(6) Under the Packers and Stockyards Act,
13 1921 (except as provided in section 406 of that Act),
14 by the Secretary of Agriculture with respect to any
15 activities subject to that Act.

16 Any term used in paragraph (1) that is not defined in
17 this title or otherwise defined in section 3(s) of the Federal
18 Deposit Insurance Act shall have the meaning given to
19 such term in section 1(b) of the International Banking Act
20 of 1978.”;

21 (C) by striking subsection (e) and inserting
22 the following new subsection:

23 “(e) REGULATORY AUTHORITY.—The Agency shall
24 prescribe such regulations as necessary to carry out the

1 purposes of this Act with respect to a covered person de-
2 scribed in subsection (b)”; and

3 (D) in the heading of subsection (g) by
4 striking “FTC”.

5 (8) SECTION 623.—Section 623 of the Fair
6 Credit Reporting Act (15 U.S.C. 1681s-2) is
7 amended—

8 (A) by amending subparagraph (a)(7)(D)
9 to read as follows:

10 “(D) MODEL DISCLOSURE.—

11 “(i) DUTY OF AGENCY TO PRE-
12 PARE.—The Agency shall prescribe a brief
13 model disclosure a financial institution
14 may use to comply with subparagraph (A),
15 which shall not exceed 30 words.

16 “(ii) USE OF MODEL NOT RE-
17 QUIRED.—No provision of this paragraph
18 shall be construed as requiring a financial
19 institution to use any such model form pre-
20 scribed by the Agency.

21 “(iii) COMPLIANCE USING MODEL.—A
22 financial institution shall be deemed to be
23 in compliance with subparagraph (A) if the
24 financial institution uses any such model
25 form prescribed by the Agency, or the fi-

1 nancial institution uses any such model
2 form and rearranges its format.”.

3 (B) by amending subsection (e) to read as
4 follows:

5 “(e) ACCURACY GUIDELINES AND REGULATIONS RE-
6 QUIRED.—

7 “(1) GUIDELINES.—The Agency shall, with re-
8 spect to the entities that are subject to its enforce-
9 ment authority under section 621—

10 “(A) establish and maintain guidelines for
11 use by each person that furnishes information
12 to a consumer reporting agency regarding the
13 accuracy and integrity of the information relat-
14 ing to consumers that such entities furnish to
15 consumer reporting agencies, and update such
16 guidelines as often as necessary; and

17 “(B) prescribe regulations requiring each
18 person that furnishes information to a con-
19 sumer reporting agency to establish reasonable
20 policies and procedures or implementing the
21 guidelines established pursuant to subpara-
22 graph (A).

23 “(2) CRITERIA.—In developing the guidelines
24 required by paragraph (1)(A), the Agency shall—

1 “(A) identify patterns, practices, and spe-
2 cific forms of activity that can compromise the
3 accuracy and integrity of information furnished
4 to consumer reporting agencies;

5 “(B) review the methods (including techno-
6 logical means) used to furnish information re-
7 lating to consumers to consumer reporting
8 agencies;

9 “(C) determine whether persons that fur-
10 nish information to consumer reporting agen-
11 cies maintain and enforce policies to ensure the
12 accuracy and integrity of information furnished
13 to consumer reporting agencies; and

14 “(D) examine the policies and processes
15 that persons that furnish information to con-
16 sumer reporting agencies employ to conduct re-
17 investigations and correct inaccurate informa-
18 tion relating to consumers that has been fur-
19 nished to consumer reporting agencies.”

20 (c) EQUAL CREDIT OPPORTUNITY ACT.—

21 (1) SECTION 701.—Section 701 of the Equal
22 Credit Opportunity Act (15 U.S.C. 1691) is amend-
23 ed by striking “Board” each place such term ap-
24 pears and inserting “Agency”.

1 (2) SECTION 702.—Section 702(c) of the Equal
2 Credit Opportunity Act (15 U.S.C. 1691a) is
3 amended to read as follows:

4 “(c) The term ‘Agency’ means the Consumer Finan-
5 cial Protection Agency.”.

6 (3) SECTION 703.—Section 703 of the Equal
7 Credit Opportunity Act (15 U.S.C. 1691b) is
8 amended—

9 (A) by striking subsection (b);

10 (B) by redesignating paragraphs (1), (2),
11 (3), (4), and (5) of subsection (a) as sub-
12 sections (a), (b), (c), (d), and (e), respectively;

13 (C) in subsection (c) (as so redesign-
14 ated)—

15 (i) by striking “paragraph (2)” and
16 inserting “subsection (b)”; and

17 (ii) by striking “such paragraph” and
18 inserting “such subsection;”

19 (D) in subsection (d) (as so redesign-
20 ated)—

21 (i) by striking “subsection” and in-
22 serting “section’”

23 (ii) by striking “Act” and inserting
24 “title”; and

1 (iii) by striking “this paragraph” and
2 inserting “this subsection”; and

3 (E) by striking “Board” each place such
4 term appears in such section and inserting
5 “Agency”.

6 (4) SECTION 704.—Section 704 of the Equal
7 Credit Opportunity Act (15 U.S.C. 1691c) is amend-
8 ed—

9 (A) in subsection (a)—

10 (i) in the matter preceding paragraph
11 (1), by striking “Compliance” and insert-
12 ing “Subject to section 1022 of the Con-
13 sumer Financial Protection Agency Act of
14 2009, compliance”;

15 (ii) in paragraph (1)(A), by striking
16 “Office of the Comptroller of the Cur-
17 rency” and inserting “head of the agency
18 responsible for chartering and regulating
19 national banks”;

20 (iii) in paragraph (1)(B), by striking
21 “and” after the semicolon;

22 (iv) in paragraph (1)(C), by inserting
23 “and” after the semicolon;

1 (v) by inserting after subparagraph
2 (C) of paragraph (1) the following new
3 subparagraph:

4 “(D) savings associations and savings and
5 loan holding companies by the Director of the
6 Office of Thrift Supervision;” and

7 (vi) by amending paragraph (2) to
8 read as follows:

9 “(2) Subtitle E of the Consumer Financial Pro-
10 tection Agency Act of 2009, by the Agency in case
11 of a covered person under that Act.”;

12 (B) by striking subsection (c) and insert-
13 ing the following new subsection:

14 “(c) OVERALL ENFORCEMENT AUTHORITY OF FED-
15 ERAL TRADE COMMISSION.—Except to the extent that en-
16 forcement of the requirements imposed under this title is
17 specifically committed to some other Government agency
18 under subsection (a) and subject to section 1022 of the
19 Consumer Financial Protection Agency Act of 2009, the
20 Federal Trade Commission shall enforce such require-
21 ments. For the purpose of the exercise by the Federal
22 Trade Commission of its functions and powers under the
23 Federal Trade Commission Act, a violation of any require-
24 ment imposed under this title shall be deemed a violation
25 of a requirement imposed under that Act. All of the func-

1 tions and powers of the Federal Trade Commission under
2 the Federal Trade Commission Act are available to the
3 Commission to enforce compliance by any person with the
4 requirements imposed under this title, irrespective of
5 whether that person is engaged in commerce or meets any
6 other jurisdictional tests in the Federal Trade Commission
7 Act, including the power to enforce any rule prescribed
8 by the Agency under this title in the same manner as if
9 the violation had been a violation of a Federal Trade Com-
10 mission trade regulation rule.”; and

11 (C) in subsection (d), by striking “Board”
12 and inserting “Agency”.

13 (5) SECTION 704a.—Section 704A(a)(1) of the
14 Equal Credit Opportunity Act (15 U.S.C. 1691c–
15 1(a)(1)) is amended in by striking “Board” and in-
16 serting “Agency”.

17 (6) SECTION 705.—Section 705 of the Equal
18 Credit Opportunity Act (15 U.S.C. 1691d) is
19 amended—

20 (A) in subsection (f), by striking “Board”
21 each place such term appears and inserting
22 “Agency”; and

23 (B) in subsection (g), by striking “Board”
24 and inserting “Agency”.

1 (7) SECTION 706.—Section 706(e) of the Equal
2 Credit Opportunity Act (15 U.S.C. 1691e(e)) is
3 amended—

4 (A) by striking “Board” each place such
5 term appears and inserting “Agency”; and

6 (B) by striking “Federal Reserve System”
7 and inserting “Consumer Financial Protection
8 Agency”.

9 (8) SECTION 707.—Section 707 of the Equal
10 Credit Opportunity Act (15 U.S.C. 1691f) is amend-
11 ed by striking “Board” each place such term ap-
12 pears and inserting “Agency”.

13 (d) FAIR DEBT COLLECTION PRACTICES ACT.—

14 (1) SECTION 803.—Section 803 of the Fair
15 Debt Collection Practices Act (15 U.S.C. 1692a) is
16 amended—

17 (A) by redesignating paragraphs (1), (2),
18 (3), (4), (5), (6), (7), and (8) as paragraphs
19 (2), (3), (4), (5), (6), (7), (8), and (9), respec-
20 tively; and

21 (B) by inserting before paragraph (2) (as
22 so redesignated) the following new paragraph:

23 “(1) The term ‘Agency’ means the Consumer
24 Financial Protection Agency.”.

1 (2) SECTION 813.—Section 813(e) of the Fair
2 Debt Collection Practices Act (15 U.S.C. 1692k(e))
3 is amended by striking “Commission” and inserting
4 “Agency”.

5 (3) SECTION 814.—Section 814 of the Fair
6 Debt Collection Practices Act (15 U.S.C. 1692l) is
7 amended—

8 (A) by striking subsection (a) and insert-
9 ing the following new subsection:

10 “(a) FEDERAL TRADE COMMISSION.—Subject to sec-
11 tion 1022 of the Consumer Financial Protection Agency
12 Act of 2009, compliance with this title shall be enforced
13 by the Commission, except to the extent that enforcement
14 of the requirements imposed under this title is specifically
15 committed to another agency under subsection (b). For
16 purpose of the exercise by the Commission of its functions
17 and powers under the Federal Trade Commission Act, a
18 violation of this title shall be deemed an unfair or decep-
19 tive act or practice in violation of that Act. All of the func-
20 tions and powers of the Commission under the Federal
21 Trade Commission Act are available to the Commission
22 to enforce compliance by any person with this title, irre-
23 spective of whether that person is engaged in commerce
24 or meets any other jurisdictional tests in the Federal
25 Trade Commission Act, including the power to enforce the

1 provisions of this title in the same manner as if the viola-
2 tion had been a violation of a Federal Trade Commission
3 trade regulation rule.”;

4 (B) in subsection (b)—

5 (i) in the matter preceding paragraph
6 (1), by striking “Compliance” and insert-
7 ing “Subject to section 1022 of the Con-
8 sumer Financial Protection Agency Act of
9 2009, compliance”.

10 (ii) in paragraph (1)(A), by striking
11 “Office of the Comptroller of the Cur-
12 rency;” and inserting “head of the agency
13 responsible for chartering and regulating
14 national banks”;

15 (iii) in paragraph (1)(B), by striking
16 “and” after the semicolon;

17 (iv) in paragraph (1)(C), by inserting
18 “and” after the semicolon;

19 (v) by inserting after subparagraph
20 (C) of paragraph (1) the following new
21 subparagraph:

22 “(D) savings associations and savings and
23 loan holding companies by the Director of the
24 Office of Thrift Supervision;” and

1 (vi) by striking paragraph (2) and in-
2 serting the following new paragraph:

3 “(2) subtitle E of the Consumer Financial Pro-
4 tection Agency Act of 2009 by the Agency in the
5 case of a covered person under the Act”; and

6 (C) in subsection (d), by striking “Com-
7 mission” and inserting “Agency”.

8 (4) SECTION 815.—Section 815 (15 U.S.C.
9 1692m) is amended by striking “Commission” each
10 place such term appears and inserting “Agency”.

11 (5) SECTION 817.—Section 817 (15 U.S.C.
12 1692o) is amended by striking “Commission” each
13 place such term appears and inserting “Agency”.

14 (e) ELECTRONIC FUND TRANSFER ACT.—

15 (1) SECTION 903.—Section 903 of the Elec-
16 tronic Fund Transfer Act (15 U.S.C. 1693a) is
17 amended—

18 (A) by striking paragraph (3) and insert-
19 ing the following new paragraph:

20 “(3) the term ‘Agency’ means the Consumer Fi-
21 nancial Protection Agency;”; and

22 (B) in paragraph (6), by striking “Board”
23 and inserting “Agency”.

24 (2) SECTION 904.—Section 904 of the Elec-
25 tronic Fund Transfer Act (15 U.S.C. 1693b) is

1 amended by striking “Board” each place such term
2 appears and inserting “Agency”.

3 (3) SECTION 905.—Section 905 of the Elec-
4 tronic Fund Transfer Act (15 U.S.C. 1693c) is
5 amended by striking “Board” each place such term
6 appears and inserting “Agency”.

7 (4) SECTION 906.—Section 906(b) of the Elec-
8 tronic Fund Transfer Act (15 U.S.C. 1693d(b)) is
9 amended by striking “Board” and inserting “Agen-
10 cy”.

11 (5) SECTION 907.—Section 907(b) of the Elec-
12 tronic Fund Transfer Act (15 U.S.C. 1693e(b)) is
13 amended by striking “Board” and inserting “Agen-
14 cy”.

15 (6) SECTION 908.—Section 908(f)(7) of the
16 Electronic Fund Transfer Act (15 U.S.C.
17 1693f(f)(7)) is amended by striking “Board” and in-
18 serting “Agency”.

19 (7) SECTION 910.—Section 910(a)(1)(E) of the
20 Electronic Fund Transfer Act (15 U.S.C.
21 1693h(a)(1)(E)) is amended by striking “Board”
22 and inserting “Agency”.

23 (8) SECTION 911.—Section 911(b)(3) of the
24 Electronic Fund Transfer Act (15 U.S.C.

1 1693i(b)(3) is amended by striking “Board” and in-
2 sserting “Agency”.

3 (9) SECTION 915.—Section 915(d) of the Elec-
4 tronic Fund Transfer Act (15 U.S.C. 1693m(d)) is
5 amended—

6 (A) by striking “Board” each place such
7 term appears and inserting “Agency”; and

8 (B) by striking “Federal Reserve System”
9 and inserting “Consumer Financial Protection
10 Agency”.

11 (10) SECTION 917.—Section 917 of the Elec-
12 tronic Fund Transfer Act (15 U.S.C. 1693o) is
13 amended—

14 (A) in subsection (a)—

15 (i) by striking “Compliance” and in-
16 sserting “Subject to section 1022 of the
17 Consumer Financial Protection Agency Act
18 of 2009, compliance”;

19 (ii) in paragraph (1)(A), by striking
20 “Office of the Comptroller of the Cur-
21 rency” and inserting “head of the agency
22 responsible for chartering and regulating
23 national banks”; and

24 (iii) by striking paragraph (2) and in-
25 sserting:

1 “(2) subtitle E of the Consumer Financial Pro-
2 tection Agency Act of 2009, by the Agency in the
3 case of a covered person under that Act.”; and

4 (B) by striking subsection (c) and insert-
5 ing the following new subsection:

6 “(c) OVERALL ENFORCEMENT AUTHORITY OF THE
7 FEDERAL TRADE COMMISSION.—Except to the extent
8 that enforcement of the requirements imposed under this
9 title is specifically committed to some other Government
10 agency under subsection (a) and subject to section 1022
11 of the Consumer Financial Protection Agency Act of 2009,
12 the Federal Trade Commission shall enforce such require-
13 ments. For the purpose of the exercise by the Federal
14 Trade Commission of its functions and powers under the
15 Federal Trade Commission Act, a violation of any require-
16 ment imposed under this title shall be deemed a violation
17 of a requirement imposed under that Act. All of the func-
18 tions and powers of the Federal Trade Commission under
19 the Federal Trade Commission Act are available to the
20 Commission to enforce compliance by any person subject
21 to the jurisdiction of the Commission with the require-
22 ments imposed under this title, irrespective of whether
23 that person is engaged in commerce or meets any other
24 jurisdictional tests in the Federal Trade Commission
25 Act.”.

1 (11) SECTION 918.—Section 918 of the Elec-
2 tronic Fund Transfer Act (15 U.S.C. 1693p) is
3 amended by striking “Board” each place such term
4 appears and inserting “Agency”.

5 (12) SECTION 919.—Section 919 of the Elec-
6 tronic Fund Transfer Act (15 U.S.C. 1693q) is
7 amended by striking “Board” each place such term
8 appears and inserting “Agency”.

9 (13) SECTION 920.—Section 920 of the Elec-
10 tronic Fund Transfer Act (15 U.S.C. 1693r) is
11 amended by striking “Board” each place such term
12 appears and inserting “Agency”.

13 (f) AMENDMENTS TO HOEPA RELATING TO THE
14 TRUTH IN LENDING ACT.—Section 158 of the Home
15 Ownership and Equity Protection Act of 1994 (15 U.S.C.
16 1601 nt.) (relating to hearings on home equity lending)
17 is amended—

18 (1) in subsection (a), by striking “Board of
19 Governors of the Federal Reserve System, in con-
20 sultation with the Consumer Advisory Council of the
21 Board,” and inserting “Consumer Financial Protec-
22 tion Agency, in consultation with the Advisory
23 Board to the Agency”; and

1 (2) in subsection (b), by striking “Board of
2 Governors of the Federal Reserve System” and in-
3 serting “Consumer Financial Protection Agency”.

4 (g) AMENDMENT TO THE FAIR AND ACCURATE
5 CREDIT TRANSACTIONS ACT OF 2003 RELATING TO THE
6 FAIR CREDIT REPORTING ACT.—Section 214(b)(1) of the
7 Fair and Accurate Credit Transactions Act of 2003 (15
8 U.S.C. 1681s–3 nt.) is amended by striking “The Federal
9 banking agencies, the National Credit Union Administra-
10 tion, and the Commission, with respect to the entities that
11 are subject to their respective enforcement authority under
12 section 621 of the Fair Credit Reporting Act and” and
13 inserting “The Consumer Financial Protection Agency,
14 with respect to a person subject to the enforcement au-
15 thority of the Agency, and”.

16 **SEC. 185. AMENDMENTS TO THE EXPEDITED FUNDS AVAIL-**
17 **ABILITY ACT.**

18 (a) SECTION 605.—Section 605(f)(1) of the Expe-
19 dited Funds Availability Act (12 U.S.C. 4004(f)(1)) is
20 amended by inserting “, in consultation with the Director
21 of the Consumer Financial Protection Agency,” after
22 “Board”.

23 (b) SECTION 609.—Section 609(a) of the Expedited
24 Funds Availability Act (12 U.S.C. 4008(a)) is amended

1 by inserting “, in consultation with the Director of the
2 Consumer Financial Protection Agency,” after “Board”.

3 **SEC. 186. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**
4 **ANCE ACT.**

5 (a) SECTION 8.—Section 8(t) the Federal Deposit In-
6 surance Act (12 U.S.C. 1818(t)) is amended by adding
7 at the end the following new paragraph:

8 “(6) REFERRAL TO CONSUMER FINANCIAL PRO-
9 TECTION COMMISSION.—Each appropriate Federal
10 banking agency shall make a referral to the Con-
11 sumer Financial Protection Agency when the Fed-
12 eral banking agency has a reasonable belief that a
13 violation of an enumerated consumer law, as defined
14 in section 1022(e)(2) of the Consumer Financial
15 Protection Agency Act of 2009, by any insured de-
16 pository institution or institution-affiliated party
17 within the jurisdiction of that appropriate Federal
18 banking agency.”.

19 (b) SECTION 43.—Section 43 of the Federal Deposit
20 Insurance Act (12 U.S.C. 1831t) is amended—

21 (1) in subsection (c), by striking “Federal
22 Trade Commission” and inserting “Agency”;

23 (2) in subsection (d), by striking “Federal
24 Trade Commission” and inserting “Agency”;

25 (3) in subsection (e)—

1 (A) in paragraph (1), by striking “Federal
2 Trade Commission” and inserting “Agency”;
3 and

4 (B) by adding at the end the following new
5 paragraph:

6 “(5) AGENCY.—The term ‘Agency’ means the
7 Consumer Financial Protection Agency.”.

8 (e) SECTION 43(f).—Section 43(f) of the Federal De-
9 posit Insurance Act (12 U.S.C. 1831t(f)) is amended—

10 (1) by striking paragraph (1) and inserting the
11 following new paragraph:

12 “(1) LIMITED ENFORCEMENT AUTHORITY.—
13 Compliance with the requirements of subsections (b),
14 (c) and (e), and any regulation prescribed or order
15 issued under such subsection, shall be enforced
16 under the Consumer Financial Protection Agency
17 Act of 2009 by the Agency.”; and

18 (2) in paragraph (2), by striking subparagraph
19 (C) and inserting the following new subparagraph:

20 “(C) LIMITATION ON STATE ACTION
21 WHILE FEDERAL ACTION PENDING.—If the
22 Agency has instituted an enforcement action for
23 a violation of this section, no appropriate State
24 supervisory may, during the pendency of such
25 action, bring an action under this section

1 against any defendant named in the complaint
2 of the Agency for any violation of this section
3 that is alleged in that complaint.”.

4 **SEC. 187. AMENDMENTS TO THE GRAMM-LEACH-BLILEY**
5 **ACT.**

6 (a) SECTION 504.—Section 504(a)(1) of the Gramm-
7 Leach-Bliley Act (15 U.S.C. 6804(a)(1)) is amended—

8 (1) by striking “The Federal banking agencies,
9 the National Credit Union Administration, the Sec-
10 retary of the Treasury,” and inserting “The Con-
11 sumer Financial Protection Agency and”; and

12 (2) by striking “, and the Federal Trade Com-
13 mission”.

14 (b) SECTION 505.—

15 (1) Section 505(a) of the Gramm-Leach-Bliley
16 Act (15 U.S.C. 6805(a)) is amended—

17 (A) in the matter preceding paragraph (1),
18 by striking “This subtitle and the regulations
19 prescribed thereunder shall be enforced by” and
20 inserting “Subject to section 1022 of the Con-
21 sumer Financial Protection Agency Act of
22 2009, this subtitle and the regulations pre-
23 scribed under this title shall be enforced by the
24 Consumer Financial Protection Agency,”; and

1 (B) by inserting after paragraph (7) the
2 following new paragraph:

3 “(8) Under the Consumer Financial Protection
4 Agency Act of 2009, by the Consumer Financial
5 Protection Agency in the case of financial institu-
6 tions and other covered persons subject to the juris-
7 diction of the Agency under that Act, but not with
8 respect to the standards under section 501.”.

9 (2) Section 505(b)(1) of the Gramm-Leach-Bliley
10 Act (15 U.S.C. 6805(b)(1)) is amended by in-
11 serting “, other than the Consumer Financial Pro-
12 tection Agency,” after “described in subsection (a)”.

13 **SEC. 188. AMENDMENTS TO THE HOME MORTGAGE DISCLO-**
14 **SURE ACT OF 1975.**

15 (a) SECTION 303.—Section 303 of the Home Mort-
16 gage Disclosure Act of 1975 (12 U.S.C. 2802) is amend-
17 ed—

18 (1) by redesignating paragraphs (1), (2), (3),
19 (4), (5), and (6) as paragraphs (2), (3), (4), (5),
20 (6), and (7), respectively; and

21 (2) by inserting before paragraph (2) (as so re-
22 designated) the following new paragraph:

23 “(1) The term ‘Agency’ means the Consumer
24 Financial Protection Agency.”.

1 (b) UNIVERSAL AMENDMENT RELATING TO AGEN-
2 CY.—Except as provided in subsections (c), (d), (e), and
3 (f), the Home Mortgage Disclosure Act of 1975 (12
4 U.S.C. 2801–11) is amended by striking “Board” each
5 place such term appears and inserting “Agency”.

6 (c) SECTION 304.—Section 304 of the Home Mort-
7 gage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is
8 amended—

9 (1) in subsection (b)—

10 (A) by striking “and” after the semicolon
11 at the end of paragraph (3);

12 (B) by striking “and gender” in paragraph
13 (4), and inserting “age, and gender”;

14 (C) by striking the period at the end of
15 paragraph (4) and inserting a semicolon; and

16 (D) by inserting after paragraph (4) the
17 following new paragraphs:

18 “(5) the number and dollar amount of mort-
19 gage loans grouped according to the following meas-
20 urements:

21 “(A) the total points and fees payable at
22 origination in connection with the mortgage as
23 determined by the Agency, taking into account
24 15 U.S.C. 1602(aa)(4);

1 “(B) the difference between the annual
2 percentage rate associated with the loan and a
3 benchmark rate or rates for all loans;

4 “(C) the term in months of any prepay-
5 ment penalty or other fee or charge payable on
6 repayment of some portion of principal or the
7 entire principal in advance of scheduled pay-
8 ments; and

9 “(D) such other information as the Agency
10 may require; and

11 “(6) the number and dollar amount of mort-
12 gage loans and completed applications grouped ac-
13 cording to the following measurements:

14 “(A) the value of the real property pledged
15 or proposed to be pledged as collateral;

16 “(B) the actual or proposed term in
17 months of any introductory period after which
18 the rate of interest may change;

19 “(C) the presence of contractual terms or
20 proposed contractual terms that would allow the
21 mortgagor or applicant to make payments other
22 than fully-amortizing payments during any por-
23 tion of the loan term;

24 “(D) the actual or proposed term in
25 months of the mortgage loan;

1 “(E) the channel through which applica-
2 tion was made, including retail, broker, and
3 other relevant categories;

4 “(F) as the Agency may determine to be
5 appropriate, a unique identifier that identifies
6 the loan originator as set forth in Section 1503
7 of the Secure and Fair Enforcement for Mort-
8 gage Licensing Act of 2008;

9 “(G) as the Agency may determine to be
10 appropriate, a universal loan identifier that cor-
11 responds to the real property pledged or pro-
12 posed to be pledged as collateral;

13 “(H) as the Agency may determine to be
14 appropriate, the parcel number that cor-
15 responds to the real property pledged or pro-
16 posed to be pledged as collateral;

17 “(I) the credit score of mortgage appli-
18 cants and mortgagors in such form as the
19 Agency may proscribe; and

20 “(J) such other information as the Agency
21 may require.”;

22 (2) by striking subsection (h) and inserting the
23 following new subsection:

24 “(h) SUBMISSION TO AGENCIES.—The data required
25 to be disclosed under subsection (b) shall be submitted to

1 the Agency and to the appropriate agency for each institu-
2 tion reporting under this title. Notwithstanding the re-
3 quirement of section 304(a)(2)(A) for disclosure by census
4 tract, the Agency, in cooperation with other appropriate
5 regulators, including—

6 “(1) the head of the agency responsible for
7 chartering and regulating national banks for na-
8 tional banks and Federal branches, Federal agencies
9 of foreign banks, and savings associations;

10 “(2) the Federal Deposit Insurance Corporation
11 for depository institutions insured by the Federal
12 Deposit Insurance Corporation (other than members
13 of the Federal Reserve System, Federal savings as-
14 sociations, and savings and loan holding companies)
15 and insured State branches of foreign banks;

16 “(3) the Director of the Office of Thrift Super-
17 vision for Federal savings associations and savings
18 and loan holding companies;

19 “(4) the National Credit Union Administration
20 Board for credit unions; and

21 “(5) the Secretary of Housing and Urban De-
22 velopment for other lending institutions not regu-
23 lated by the agencies referred to in paragraphs (1)
24 through (4), shall develop regulations prescribing the
25 format for such disclosures, the method for submis-

1 sion of the data to the appropriate regulatory agen-
2 cy, and the procedures for disclosing the information
3 to the public. These regulations shall also require
4 the collection of data required to be disclosed under
5 subsection (b) with respect to loans sold by each in-
6 stitution reporting under this title, and, in addition,
7 shall require disclosure of the class of the purchaser
8 of such loans. Any reporting institution may submit
9 in writing to the Agency or to the appropriate agen-
10 cy such additional data or explanations as it deems
11 relevant to the decision to originate or purchase
12 mortgage loans.”;

13 (3) in subsection (i), by striking “subsection
14 (b)(4)” and inserting “paragraphs (4), (5), and (6)
15 of subsections (b)”;

16 (4) in subsection (j)—

17 (A) by striking “(as” where such term ap-
18 pears in paragraph (1) and inserting “(con-
19 taining loan-level and application-level informa-
20 tion relating to disclosures required under sub-
21 sections (a) and (b) and as otherwise”;

22 (B) by striking “in the format in which
23 such information is maintained by the institu-
24 tion” where such term appears in paragraph

1 (2)(A), and inserting “in such formats as the
2 Agency may require”;

3 (C) by inserting “credit score or similar
4 measurement,” after “number,” where such
5 term appears in paragraph (2)(B)(i); and

6 (D) by striking paragraph (3) and insert-
7 ing the following new paragraph:

8 “(3) CHANGE OF FORM NOT REQUIRED.—A de-
9 pository institution meets the disclosure requirement
10 of paragraph (1) if the institution provides the infor-
11 mation required under such paragraph in such for-
12 mats as the Agency may require.”; and

13 (5) by striking paragraph (2) of subsection (m)
14 and inserting the following new paragraph:

15 “(2) FORM OF INFORMATION.—In complying
16 with paragraph (1), a depository institution shall
17 provide the person requesting the information with
18 a copy of the information requested in such formats
19 as the Agency may require.”.

20 (d) SECTION 305.—Section 305 of the Home Mort-
21 gage Disclosure Act of 1975 (12 U.S.C. 2804) is amend-
22 ed—

23 (1) by striking subsection (b) and inserting the
24 following new subsection:

1 “(b) POWERS OF CERTAIN OTHER AGENCIES.—Com-
2 pliance with the requirements imposed under this title
3 shall be enforced under—

4 “(1) section 8 of the Federal Deposit Insurance
5 Act, in the case of—

6 “(A) national banks, and Federal branches
7 and Federal agencies of foreign banks, by the
8 head of the agency responsible for chartering
9 and regulating national banks;

10 “(B) member banks of the Federal Reserve
11 System (other than national banks), branches
12 and agencies of foreign banks (other than Fed-
13 eral branches, Federal agencies, and insured
14 State branches of foreign banks), commercial
15 lending companies owned or controlled by for-
16 eign banks, and organizations operating under
17 section 25 or 25(a) of the Federal Reserve Act,
18 by the Board;

19 “(C) depository institutions insured by the
20 Federal Deposit Insurance Corporation (other
21 than members of the Federal Reserve System,
22 Federal savings associations, and savings and
23 loan holding companies) and insured State
24 branches of foreign banks, by the Board of Di-

1 rectors of the Federal Deposit Insurance Cor-
2 poration; and

3 “(D) Federal savings associations, and
4 savings and loan holding companies, by the Di-
5 rector of the Office of Thrift Supervision;

6 “(2) subtitle E of the Consumer Financial Pro-
7 tection Agency Act of 2009, by the Agency in the
8 case of a covered person under that Act;

9 “(3) the Federal Credit Union Act, by the Ad-
10 ministrator of the National Credit Union Adminis-
11 tration with respect to any credit union; and

12 “(4) other lending institutions, by the Secretary
13 of Housing and Urban Development. The terms
14 used in paragraph (1) that are not defined in this
15 title or otherwise defined in section 3(s) of the Fed-
16 eral Deposit Insurance Act (12 U.S.C. 1813(s))
17 shall have the meaning given to them in section 1(b)
18 of the International Banking Act of 1978 (12 U.S.C.
19 3101).

20 The terms used in paragraph (1) that are not defined in
21 this title or otherwise defined in section 3(s) of the Federal
22 Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the
23 meaning given to them in section 1(b) of the International
24 Banking Act of 1978”; and

1 (2) by inserting at the end of section 305 the
2 following new subsection:

3 “(d) OVERALL ENFORCEMENT AUTHORITY OF THE
4 CONSUMER FINANCIAL PROTECTION AGENCY.—Subject
5 to section 1022 of the Consumer Financial Protection
6 Agency Act of 2009, enforcement of the requirements im-
7 posed under this title is committed to each of the agencies
8 under subsection (b). The Agency may exercise its authori-
9 ties under the Consumer Financial Protection Agency Act
10 of 2009 to exercise principal authority to examine and en-
11 force compliance by any person with the requirements
12 under this title.”.

13 (e) SECTION 306.—Subsection 306(b) of the Home
14 Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)) is
15 amended to read as follows:

16 “(b) The Agency may, by regulation, exempt from the
17 requirements of this title any State chartered depository
18 institution within any State or subdivision of any state if
19 the Agency determines that, under the law of such State
20 or subdivision, that institution is subject to requirements
21 substantially similar to those imposed under this title, and
22 that such law contains adequate provisions for enforce-
23 ment. Notwithstanding any other provision of this sub-
24 section, compliance with the requirements imposed under
25 this subsection shall be enforced by the head of the agency

1 responsible for chartering and regulating national banks
2 under section 8 of the Federal Deposit Insurance Act in
3 the case of national banks and savings association the de-
4 posits of which are insured by the Federal Deposit Insur-
5 ance Corporation.”.

6 (f) SECTION 307.—Section 307 of the Home Mort-
7 gage Disclosure Act of 1975 (12 U.S.C. 2806) is amended
8 to read as follows:

9 **“SEC. 307. RESEARCH AND IMPROVED METHODS.**

10 “(a) ENHANCED COMPLIANCE IN ECONOMICAL MAN-
11 NER.—

12 “(1) IN GENERAL.—The Director of the Con-
13 sumer Financial Protection Agency, with the assist-
14 ance of the Secretary, the Director of the Bureau of
15 the Census, the Board of Governors of the Federal
16 Reserve System, the Federal Deposit Insurance Cor-
17 poration, and such other persons as the Consumer
18 Financial Protection Agency deems appropriate,
19 shall develop or assist in the improvement of, meth-
20 ods of matching addresses and census tracts to fa-
21 cilitate compliance by depository institutions in as
22 economical a manner as possible with the require-
23 ments of this title.

1 “(1) The Consumer Financial Protection Agen-
2 cy shall have authority to prescribe rules with re-
3 spect to mortgage loans in accordance with section
4 553 of title 5, United States Code. Such rulemaking
5 shall relate to unfair or deceptive acts or practices
6 regarding mortgage loans, which may include unfair
7 or deceptive acts or practices involving loan modi-
8 fication and foreclosure rescue services. Any viola-
9 tion of a rule prescribed under this subsection shall
10 be treated as a violation of a rule prohibiting unfair,
11 deceptive, or abusive acts or practices under the
12 Consumer Financial Protection Agency Act of
13 2009.”;

14 (2) by striking paragraph (2);

15 (3) by striking paragraph (3); and

16 (4) by striking paragraph (4) and inserting the
17 following new paragraph:

18 “(2) The Consumer Financial Protection Agen-
19 cy shall enforce the rules issued under paragraph (1)
20 in the same manner, by the same means, and with
21 the same jurisdiction, powers, and duties as though
22 all applicable terms and provisions of the Consumer
23 Financial Protection Agency Act of 2009 were incor-
24 porated into and made part of this section.”.

1 (b) Section 626(b) of title VI of division D of the
2 Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 nt.)
3 is amended—

4 (1) by striking “Federal Trade Commission”
5 and inserting “Consumer Financial Protection Agen-
6 cy”;

7 (2) by striking “the Commission” and inserting
8 “the Consumer Financial Protection Agency”; and

9 (3) by striking “primary Federal regulatory”
10 and inserting “Consumer Financial Protection Agen-
11 cy”.

12 **SEC. 190. AMENDMENTS TO THE REAL ESTATE SETTLE-**
13 **MENT PROCEDURES ACT OF 1974.**

14 (a) SECTION 3.—Section 3 of the Real Estate Settle-
15 ment Procedures Act of 1974 (12 U.S.C. 2602) is amend-
16 ed by adding at the end the following new paragraph—

17 “(9) the term ‘Agency’ means the Consumer Fi-
18 nancial Protection Agency.”.

19 (b) SECTION 4.—Section 4 of the Real Estate Settle-
20 ment Procedures Act of 1974 (12 U.S.C. 2603) is amend-
21 ed—

22 (1) in subsection (a), by striking the first sen-
23 tence and inserting the following: “The Agency shall
24 publish a single, integrated disclosure for mortgage
25 loan transactions, including real estate settlement

1 cost statements, which include the disclosure re-
2 quirements of this title, in conjunction with the dis-
3 closure requirements of the Truth in Lending Act
4 (15 U.S.C. 1601 note et seq.) that, taken together,
5 may apply to transactions subject to both or either
6 law. The purpose of such model disclosure shall be
7 to facilitate compliance with the disclosure require-
8 ments of those titles, and to aid the borrower or les-
9 see in understanding the transaction by utilizing
10 readily understandable language to simplify the tech-
11 nical nature of the disclosures.”;

12 (2) by striking “Secretary” each place it ap-
13 pears and inserting “Agency”; and

14 (3) by striking “form” each place it appears
15 and inserting “forms”.

16 (c) SECTION 5.—Section 5 of the Real Estate Settle-
17 ment Procedures Act of 1974 (12 U.S.C. 2604) is amend-
18 ed—

19 (1) by striking “Secretary” each place such
20 term appears, and inserting “Agency”; and

21 (2) by striking the first sentence of subsection
22 (a), and inserting “The Agency shall prepare and
23 distribute booklets jointly complying with the re-
24 quirements of the Truth in Lending Act (15 U.S.C.
25 1601 note et seq.) and the provisions of this title,

1 in order to help persons borrowing money to finance
2 the purchase of residential real estate better to un-
3 derstand the nature and costs of real estate settle-
4 ment services.”.

5 (d) SECTION 6.—Section 6 of the Real Estate Settle-
6 ment Procedures Act of 1974 (12 U.S.C. 2605) is amend-
7 ed by striking “Secretary” and inserting “Agency”; and
8 by striking “by regulations that shall take effect not later
9 than April 20, 1991,”.

10 (e) SECTION 7.—Section 7 of the Real Estate Settle-
11 ment Procedures Act of 1974 (12 U.S.C. 2606) is amend-
12 ed by striking “Secretary” and inserting “Agency”.

13 (f) SECTION 8.—Section 8(d)(4) of the Real Estate
14 Settlement Procedures Act of 1974 (12 U.S.C.
15 2607(d)(4)) is amended—

16 (1) by striking “The Secretary,” and inserting
17 “The Agency, the Secretary,”; and

18 (2) by adding at the end the following new sen-
19 tence: “However, to the extent that a Federal law
20 authorizes the Agency and other Federal and State
21 agencies to enforce or administer the law, the Agen-
22 cy shall have primary authority to enforce or admin-
23 ister that Federal law in accordance with section
24 1022 of the Consumer Financial Protection Agency
25 Act of 2009.”.

1 (g) SECTION 10.—Section 10(d) of the Real Estate
2 Settlement Procedures Act of 1974 (12 U.S.C. 2609(d))
3 is amended by striking “Secretary” and inserting “Agen-
4 cy”.

5 (h) SECTION 16.—Section 16 of the Real Estate Set-
6 tlement Procedures Act of 1974 (12 U.S.C. 2614) is
7 amended by inserting “the Agency,” before “the Sec-
8 retary”.

9 (i) SECTION 18.—Section 18 of the Real Estate Set-
10 tlement Procedures Act of 1974 (12 U.S.C. 2616) is
11 amended by striking “Secretary” and inserting “Agency”.

12 (j) SECTION 19.—Section 19 of the Real Estate Set-
13 tlement Procedures Act of 1974 (12 U.S.C. 2617) is
14 amended by striking “Secretary” each place where it ap-
15 pears and inserting “Agency”.

16 **SEC. 191. AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-**
17 **VACY ACT OF 1978.**

18 (a) AMENDMENTS TO SECTION 1101.—Section 1101
19 of the Right to Financial Privacy Act of 1978 (12 U.S.C.
20 3401) is amended—

21 (1) by striking paragraph (1) and inserting the
22 following new paragraph:

23 “(1) ‘financial institution’ means any bank, sav-
24 ings association, card issuer as defined in section
25 103(n) of the Truth in Lending Act, credit union, or

1 consumer finance institution located in any State or
2 territory of the United States, the District of Colum-
3 bia, Puerto Rico, Guam, American Samoa, or the
4 Virgin Islands;” and

5 (2) in paragraph (7)—

6 (A) by redesignating subparagraphs (F),
7 (G), (H), and (I) as subparagraphs (G), (H),
8 (I), and (J), respectively; and

9 (B) by inserting after subparagraph (E)
10 the following new subparagraph:

11 “(F) the Consumer Financial Protection
12 Agency;”.

13 (b) AMENDMENTS TO SECTION 1112.—Section
14 1112(e) of the Right to Financial Privacy Act (12 U.S.C.
15 3412) is amended by striking “and the Commodity Fu-
16 tures Trading Commission is permitted” and inserting
17 “the Commodity Futures Trading Commission, and the
18 Consumer Financial Protection Agency is permitted”.

19 (c) AMENDMENTS TO SECTION 1113.—Section 1113
20 of the Right to Financial Privacy Act (12 U.S.C. 3413)
21 is amended by adding at the end the following new sub-
22 section—

23 “(r) DISCLOSURE TO THE CONSUMER FINANCIAL
24 PROTECTION AGENCY.—Nothing in this chapter shall
25 apply to the examination by or disclosure to the Consumer

1 Financial Protection Agency of financial records or infor-
2 mation in the exercise of its authority with respect to a
3 financial institution.”.

4 **SEC. 192. AMENDMENTS TO THE SECURE AND FAIR EN-**
5 **FORCEMENT FOR MORTGAGE LICENSING ACT**
6 **OF 2008.**

7 (a) SECTION 1503.—Section 1503 of the Secure and
8 Fair Enforcement for Mortgage Licensing Act of 2008 (12
9 U.S.C. 5102) is amended—

10 (1) by striking paragraph (1) and inserting the
11 following new paragraph:

12 “(1) AGENCY.—The term ‘Agency’ means the
13 Consumer Financial Protection Agency.”; and

14 (2) by striking paragraph (9) and inserting the
15 following new paragraph:

16 “(9) DIRECTOR.—The term ‘Director’ means
17 the Director of the Consumer Financial Protection
18 Agency.”.

19 (b) UNIVERSAL AMENDMENTS RELATING TO AGEN-
20 CY.—The Secure and Fair Enforcement for Mortgage Li-
21 censing Act of 2008 (12 U.S.C. 5101 et seq.) is amend-
22 ed—

23 (1) by striking “a Federal banking agency”
24 each place such term appears and inserting “the
25 Agency”;

1 (2) by striking “Federal banking agencies”
2 each place such term appears and inserting “Agen-
3 cy”; and

4 (3) by striking “Secretary” each place such
5 term appears and inserting “Director”.

6 (c) SECTION 1507.—Section 1507 of the Secure and
7 Fair Enforcement for Mortgage Licensing Act of 2008 (12
8 U.S.C. 5106) is amended—

9 (1) in subsection (a)—

10 (A) by striking paragraph (1) and insert-
11 ing the following new paragraph:

12 “(1) IN GENERAL.—The Agency shall develop
13 and maintain a system for registering employees of
14 a subsidiary that is owned and controlled by a de-
15 pository institution, and regulated by the Agency as
16 a registered loan originator with the Nationwide
17 Mortgage Licensing System and Registry. The sys-
18 tem shall be implemented before the end of a the 1-
19 year period beginning July 30, 2009.”; and

20 (B) by striking “appropriate Federal bank-
21 ing agency and the Farm Credit Administra-
22 tion” where such term appears in paragraph
23 (2) and inserting “Agency”;

24 (2) in subsection (b), by striking “Federal
25 banking agencies, through the Financial Institutions

1 Examination Council and the Farm Credit Adminis-
2 tration”, and inserting “Agency”; and

3 (3) in subsection (c), by striking “Federal
4 banking agencies”, and inserting “Agency”.

5 (d) SECTION 1508.—

6 (1) IN GENERAL.—Section 1508 of the Secure
7 and Fair Enforcement for Mortgage Licensing Act
8 of 2008 (12 U.S.C. 5107) is amended by adding at
9 the end the following new subsection—

10 “(f) REGULATIONS.—

11 “(1) IN GENERAL.—The Agency may prescribe
12 regulations setting minimum net worth or surety
13 bond requirements for residential mortgage loan
14 originators and minimum requirements for recovery
15 funds paid into by loan originators.

16 “(2) FACTORS TAKEN INTO ACCOUNT.—Such
17 regulations shall take into account the need to pro-
18 vide originators adequate incentives to originate af-
19 fordable and sustainable mortgage loans as well as
20 the need to ensure a competitive origination market
21 that maximizes consumers’ access to affordable and
22 sustainable mortgage loans.”.

23 (2) CLERICAL AMENDMENT.—The heading for
24 section 1508 of the Secure and Fair Enforcement
25 for Mortgage Licensing Act of 2008 is amended by

1 striking “**SECRETARY OF HOUSING AND URBAN**
2 **DEVELOPMENT**” and inserting “**CONSUMER FI-**
3 **NANCIAL PROTECTION AGENCY**”.

4 (e) SECTION 1510.—Section 1510 of the Secure and
5 Fair Enforcement for Mortgage Licensing Act of 2008 (12
6 U.S.C. 5109) is amended to read as follows:

7 **“SEC. 1510. FEES.**

8 “The Agency, the Farm Credit Administration, and
9 the Nationwide Mortgage Licensing System and Registry
10 may charge reasonable fees to cover the costs of maintain-
11 ing and providing access to information from the Nation-
12 wide Mortgage Licensing System and Registry, to the ex-
13 tent that such fees are not charged to consumers for ac-
14 cess to such system and registry.”.

15 (f) SECTION 1513.—Section 1513 of the Secure and
16 Fair Enforcement for Mortgage Licensing Act of 2008 (12
17 U.S.C. 5112) is amended to read as follows:

18 **“SEC. 1513. LIABILITY PROVISIONS.**

19 “The Agency, any State official or agency, or any or-
20 ganization serving as the administrator of the Nationwide
21 Mortgage Licensing System and Registry or a system es-
22 tablished by the Director under section 5108 of this title,
23 or any officer or employee of any such entity, shall not
24 be subject to any civil action or proceeding for monetary
25 damages by reason of the good faith action or omission

1 of any officer or employee of any such entity, while acting
2 within the scope of office or employment, relating to the
3 collection, furnishing, or dissemination of information con-
4 cerning persons who are loan originators or are applying
5 for licensing or registration as loan originators.”.

6 (g) SECTION 1514.—The heading for section 1514
7 of the Secure and Fair Enforcement for Mortgage Licens-
8 ing Act of 2008 (12 U.S.C. 5113) is amended by striking
9 “**UNDER HUD BACKUP LICENSING SYSTEM**” and in-
10 serting “**BY THE AGENCY**”.

11 **SEC. 193. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.**

12 (a) SECTION 263.—Section 263 of the Truth in Sav-
13 ings Act (12 U.S.C. 4302) is amended in subsection (b)
14 by striking “Board” each place such term appears and
15 inserting “Agency”.

16 (b) SECTION 265.—Section 265 of the Truth in Sav-
17 ings Act (12 U.S.C. 4304) is amended by striking
18 “Board” each place such term appears and inserting
19 “Agency”.

20 (c) SECTION 266.—Section 266(e) of the Truth in
21 Savings Act is amended (12 U.S.C. 4305) by striking
22 “Board” and inserting “Agency”.

23 (d) SECTION 269.—Section 269 of the Truth in Sav-
24 ings Act (12 U.S.C. 4308) is amended by striking

1 “Board” each place such term appears and inserting
2 “Agency”.

3 (e) SECTION 270.—Section 270 of the Truth in Sav-
4 ings Act (12 U.S.C. 4309) is amended—

5 (1) in subsection (a)—

6 (A) by striking “Compliance” and insert-
7 ing “Subject to section 1022 of the Consumer
8 Financial Protection Agency Act of 2009, com-
9 pliance”;

10 (B) by striking subparagraph (A) of para-
11 graph (1) and inserting the following new sub-
12 paragraph:

13 “(A) by the head of the agency responsible
14 for chartering and regulating national banks for
15 national banks, and Federal branches and Fed-
16 eral agencies of foreign banks;”; and

17 (C) by adding at the end, the following
18 new paragraph:

19 “(3) subtitle E of the Consumer Financial Pro-
20 tection Agency Act of 2009, by the Agency in the
21 case of a covered person under that Act.”; and

22 (2) in subsection (c), by striking “Board” and
23 inserting “Agency”.

24 (f) SECTION 272.—Section 272 of the Truth in Sav-
25 ings Act (12 U.S.C. 4311) is amended—

1 (1) in subsection (a), by striking “Board” and
2 inserting “Agency”; and

3 (2) in subsection (b), by striking “regulation
4 prescribed by the Board” each place it appears and
5 inserting “regulation prescribed by the Agency”.

6 (g) SECTION 273.—Section 273 of the Truth in Sav-
7 ings Act (12 U.S.C. 4312) is amended in the last sentence
8 by striking “Board” and inserting “Agency”.

9 (h) SECTION 274.—Section 274 of the Truth in Sav-
10 ings Act (12 U.S.C. 4313) is amended—

11 (1) in paragraph (2) by striking “Board” and
12 inserting “Agency”; and

13 (2) by striking paragraph (4) and inserting the
14 following new paragraph:

15 “(4) AGENCY.—The term ‘Agency’ means the
16 Consumer Financial Protection Agency.”.

17 **SEC. 194. EFFECTIVE DATE.**

18 The amendments made by sections 183 through 193
19 shall take effect on the designated transfer date.

1 **TITLE J—IMPROVEMENTS TO**
2 **THE FEDERAL TRADE COM-**
3 **MISSION ACT**

4 **SEC. 201. AMENDMENTS TO THE FEDERAL TRADE COMMIS-**
5 **SION ACT.**

6 (a) Section 5(a) of the Federal Trade Commission
7 Act (15 U.S.C. 45(a)) is amended by adding at the end
8 the following new paragraph:

9 “(5) In any investigation or proceeding in which
10 it appears to the Commission that an unfair or de-
11 ceptive act or practice is being committed in connec-
12 tion with the marketing, sale, provision or delivery
13 of a consumer financial product or service, the Com-
14 mission shall consult and coordinate with the Con-
15 sumer Financial Protection Agency, as the agencies
16 deem to be appropriate.”.

17 (b) Section 5(m)(1)(A) of the Federal Trade Com-
18 mission Act (15 U.S.C. 45(m)(1)(A)) is amended—

19 (1) by inserting “this Act or” after “violates”
20 the first place it appears;

21 (2) by inserting a comma after “chapter” and
22 after “section”); and

23 (3) by inserting “a violation of this Act or is”
24 before “prohibited”.

1 (c) Section 5 of the Federal Trade Commission Act
2 (15 U.S.C. 45) is amended by adding at the end thereof
3 the following new subsection:

4 “(o) UNLAWFUL ASSISTANCE.—It is unlawful for any
5 person, knowingly or recklessly, to provide substantial as-
6 sistance to another in violating any provision of this Act
7 or of any other Act enforceable by the Commission that
8 relates to unfair or deceptive acts or practices. Any such
9 violation shall constitute an unfair or deceptive act or
10 practice described in section 5(a)(1) of this Act.”.

11 (d) Section 18 of the Federal Trade Commission Act
12 (15 U.S.C. 57a) is amended—

13 (1) in subsection (a)(1)(B), by adding after
14 “pursuant to this section” the following: “or with re-
15 gard to the marketing, sale, provision or delivery to
16 an individual, for personal, family or household pur-
17 poses, of a consumer financial product or service
18 that is subject to the jurisdiction of the Consumer
19 Financial Protection Agency under the Consumer
20 Financial Protection Agency Act of 2009”;

21 (2) by amending subsection (b) to read as fol-
22 lows:

23 “(b) PROCEDURE APPLICABLE.—When prescribing a
24 rule under subsection (a)(1)(B) of this section, the Com-
25 mission shall proceed in accordance with section 553 of

1 Title 5 (without regard to any reference in such section
2 to sections 556 and 557 of such title).”;

3 (3) by striking subsections (c), (d)(1), (d)(2),
4 (f), (i), and (j), and redesignating subsections (e),
5 (g) and (h) as (d), (e) and (f);

6 (4) by redesignating paragraph (d)(3) as sub-
7 section (c); and

8 (5) in subsection (e)—

9 (A) in paragraph (1)(B), by striking “the
10 transcript required by subsection (c)(5) of this
11 section,”;

12 (B) in paragraph (2), by striking every-
13 thing following “error”;

14 (C) in paragraph (5), by striking subpara-
15 graph (C).

○