

115TH CONGRESS
1ST SESSION

S. 105

To amend the Consumer Financial Protection Act of 2010 to transition the Bureau of Consumer Financial Protection to a 5-member board of directors.

IN THE SENATE OF THE UNITED STATES

JANUARY 11, 2017

Mrs. FISCHER (for herself, Mr. JOHNSON, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Consumer Financial Protection Act of 2010 to transition the Bureau of Consumer Financial Protection to a 5-member board of directors.

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 Board Act of 2017”.

6 **SEC. 2. MANAGEMENT OF THE BUREAU.**

7 (a) IN GENERAL.—Section 1011 of the Consumer Fi-
8 nancial Protection Act of 2010 (12 U.S.C. 5491) is
9 amended—

1 (1) by striking subsections (b), (c), and (d);

2 (2) by redesignating subsection (e) as sub-
3 section (c); and

4 (3) by inserting after subsection (a) the fol-
5 lowing:

6 “(b) MANAGEMENT OF THE BUREAU.—

7 “(1) IN GENERAL.—The management of the
8 Bureau shall be vested in a Board of Directors con-
9 sisting of 5 members, who shall be appointed by the
10 President, by and with the advice and consent of the
11 Senate, from among individuals who—

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

13 “(B) have developed strong competency
14 and understanding of, and have experience
15 working with, financial products and services.

16 “(2) TERMS.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), each member of the Board,
19 including the Chairperson, shall serve for a
20 term of 5 years.

21 “(B) STAGGERED TERMS.—Three of the
22 initial members of the Board, including the
23 Chairperson, shall each serve an initial term of
24 30 months.

1 “(C) REMOVAL.—The President may re-
2 move any member of the Board for inefficiency,
3 neglect of duty, or malfeasance in office.

4 “(D) VACANCIES.—Any member of the
5 Board appointed to fill a vacancy occurring be-
6 fore the expiration of the term to which the
7 predecessor of that member was appointed (in-
8 cluding the Chairperson) shall be appointed
9 only for the remainder of the term.

10 “(E) CONTINUATION OF SERVICE.—Each
11 member of the Board may continue to serve
12 after the expiration of the term of office to
13 which that member was appointed until a suc-
14 cessor has been appointed by the President and
15 confirmed by the Senate, except that a member
16 may not continue to serve more than 1 year
17 after the date on which the term of that mem-
18 ber would otherwise expire.

19 “(F) SUCCESSIVE TERMS.—A member of
20 the Board may not be reappointed to a second
21 consecutive term, except that an initial member
22 of the Board appointed for less than a 5-year
23 term may be reappointed to a full 5-year term
24 and a future member appointed to fill an unex-

1 pired term may be reappointed for a full 5-year
2 term.

3 “(3) AFFILIATION.—Not more than 3 members
4 of the Board, and not more than 2 members of the
5 Board described in paragraph (2)(B), shall be mem-
6 bers of any 1 political party.

7 “(4) CHAIRPERSON OF THE BOARD.—

8 “(A) APPOINTMENT.—The President shall
9 appoint 1 of the 5 members of the Board to
10 serve as Chairperson of the Board.

11 “(B) AUTHORITY.—The Chairperson shall
12 be the principal executive officer of the Bureau,
13 and shall exercise all of the executive and ad-
14 ministrative functions of the Bureau, including
15 with respect to—

16 “(i) the supervision of personnel em-
17 ployed by the Bureau (other than per-
18 sonnel employed regularly and full time in
19 the immediate offices of members of the
20 Board other than the Chairperson);

21 “(ii) the distribution of business
22 among personnel appointed and supervised
23 by the Chairperson and among administra-
24 tive units of the Bureau; and

1 “(iii) the use and expenditure of
2 funds.

3 “(C) LIMITATION.—In carrying out any of
4 the functions of the Chairperson under this
5 paragraph, the Chairperson shall be governed
6 by general policies of the Bureau and by such
7 regulatory decisions, findings, and determina-
8 tions as the Bureau may by law be authorized
9 to make.

10 “(D) REQUESTS OR ESTIMATES RELATED
11 TO APPROPRIATIONS.—Any request or estimate
12 for regular, supplemental, or deficiency appro-
13 priations on behalf of the Bureau, including any
14 request for a transfer of funds under section
15 1017(a), may not be submitted by the Chair-
16 person without the prior approval of the Board.

17 “(E) VACANCY.—The President may des-
18 ignate a member of the Board to serve as Act-
19 ing Chairperson in the event of a vacancy in the
20 office of the Chairperson.

21 “(5) COMPENSATION.—

22 “(A) CHAIRPERSON.—The Chairperson
23 shall receive compensation at the rate pre-
24 scribed for level I of the Executive Schedule

1 under section 5312 of title 5, United States
2 Code.

3 “(B) OTHER MEMBERS OF THE BOARD.—
4 The 4 members of the Board other than the
5 Chairperson shall each receive compensation at
6 the rate prescribed for level II of the Executive
7 Schedule under section 5313 of title 5, United
8 States Code.

9 “(6) OTHER EMPLOYMENT PROHIBITED.—A
10 member of the Board may not engage in any other
11 business, vocation, or employment.”.

12 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

13 (1) CONSUMER FINANCIAL PROTECTION ACT OF
14 2010.—The Consumer Financial Protection Act of
15 2010 (12 U.S.C. 5481 et seq.) is amended—

16 (A) in section 1002 (12 U.S.C. 5481)—

17 (i) by striking paragraph (10) and in-
18 serting the following:

19 “(10) BOARD.—The term ‘Board’ means the
20 Board of Directors of the Bureau of Consumer Fi-
21 nancial Protection.”; and

22 (ii) by inserting after paragraph (29)
23 the following:

“(30) CHAIRPERSON.—The term ‘Chairperson’ means the Chairperson of the Board of Directors of the Bureau of Consumer Financial Protection.”;

(B) in section 1012 (12 U.S.C. 5492)—

(i) in subsection (a)(8), by striking “appointed and supervised by the Director” and inserting “appointed by the Board and supervised by the Chairperson”;

(ii) in subsection (b), by striking “Director” and inserting “Board”; and

(iii) in subsection (c)—

(I) in paragraph (2)(A), by striking “Director” and inserting “Board”; and

(II) in paragraph (4), by striking “the Director” each place that term appears and inserting “any member of the Board”;

(C) in section 1013 (12 U.S.C. 5493)—

(i) in subsections (a), (b), (d), and (e), by striking “Director” each place that term appears and inserting “Board”;

(ii) in subsection (a), by adding at the end the following:

“(6) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Board shall appoint not more than 1 employee of the Bureau for every 3 employees that are separated from service with the Bureau.

“(B) EXCEPTION.—The President may provide the Board with an exemption from the requirements of subparagraph (A) if the Board demonstrates that hiring employees in an amount greater than the limitation in subparagraph (A) is necessary—

“(i) as a result of a national security concern or an extraordinary emergency; or

“(ii) to perform a critical mission.”;

(iii) in subsection (c)—

(I) in paragraphs (1) and (2), by striking “Director” each place that term appears and inserting “Board”; and

(II) in paragraph (3)—

(aa) by striking “Assistant Director” each place that term appears and inserting “Head of Office”; and

1 (bb) by striking “the Direc-
 2 tor” each place that term ap-
 3 pears and inserting “the Board”;
 4 and

5 (iv) in subsection (g)—

6 (I) in paragraph (1), by striking
 7 “Director” and inserting “Board”;
 8 and

9 (II) in paragraph (2)—

10 (aa) in the paragraph head-
 11 ing, by striking “ASSISTANT DI-
 12 RECTOR” and inserting “HEAD
 13 OF THE OFFICE”; and

14 (bb) by striking “an assist-
 15 ant director” and inserting “the
 16 Head of the Office of Financial
 17 Protection for Older Americans”;

18 (D) in section 1014 (12 U.S.C. 5494), by
 19 striking “Director” each place that term ap-
 20 pears and inserting “Board”;

21 (E) in section 1016(a) (12 U.S.C.
 22 5496(a)), by striking “Director of the Bureau”
 23 and inserting “Chairperson”;

24 (F) in section 1017—

25 (i) in subsection (a)—

- 1 (I) in paragraph (1), by striking
- 2 “Director” and inserting “Board”;
- 3 (II) in paragraph (4)—
- 4 (aa) in subparagraph (A)—
- 5 (AA) by striking “Di-
- 6 rector shall” and inserting
- 7 “Board shall”;
- 8 (BB) by striking “Di-
- 9 rector,” and inserting
- 10 “Board,”; and
- 11 (CC) by striking “Di-
- 12 rector in” each place that
- 13 term appears and inserting
- 14 “Board in”;
- 15 (bb) in subparagraph (D),
- 16 by striking “Director” and in-
- 17 serting “Board”; and
- 18 (cc) in subparagraph (E), by
- 19 striking “Director to” and insert-
- 20 ing “Board to”; and
- 21 (III) in paragraph (5)(C), by
- 22 striking “Director of the Bureau” and
- 23 inserting “Chairperson”;
- 24 (ii) in subsection (c)(1)—

1 (I) by striking “Director,” and
 2 inserting “Board,”; and

3 (II) by striking “Director and”
 4 and inserting “the members of the
 5 Board and”; and

6 (iii) in subsection (e), by striking “Di-
 7 rector” each place that term appears and
 8 inserting “Board”;

9 (G) in subtitles B (12 U.S.C. 5511 et
 10 seq.), C (12 U.S.C. 5531 et seq.), and G (12
 11 U.S.C. 5601 et seq.), by striking “Director”
 12 each place that term appears and inserting
 13 “Board”;

14 (H) in section 1061(c)(2)(C)(i) (12 U.S.C.
 15 5581(c)(2)(C)(i)), by striking “the Board” and
 16 inserting “the National Credit Union Adminis-
 17 tration Board”; and

18 (I) in section 1066(a) (12 U.S.C. 5586(a)),
 19 by inserting “first” before “Director”.

20 (2) FINANCIAL STABILITY ACT OF 2010.—Sec-
 21 tion 111(b)(1)(D) of the Financial Stability Act of
 22 2010 (12 U.S.C. 5321(b)(1)(D)) is amended by
 23 striking “Director of the Bureau” and inserting
 24 “Chairperson of the Board of Directors of the Bu-
 25 reau”.

1 (3) MORTGAGE REFORM AND ANTI-PREDATORY
 2 LENDING ACT.—Section 1447 of the Mortgage Re-
 3 form and Anti-Predatory Lending Act (12 U.S.C.
 4 1701p-2) is amended by striking “Director” each
 5 place the term appears and inserting “Board of Di-
 6 rectors”.

7 (4) ELECTRONIC FUND TRANSFER ACT.—Sec-
 8 tion 920(a)(4)(C) of the Electronic Fund Transfer
 9 Act (15 U.S.C. 1693o-2(a)(4)(C)) is amended by
 10 striking “Director of the Bureau” and inserting
 11 “Board of Directors of the Bureau”.

12 (5) EXPEDITED FUNDS AVAILABILITY ACT.—
 13 The Expedited Funds Availability Act (12 U.S.C.
 14 4001 et seq.) is amended by striking “Director of
 15 the Bureau” each place that term appears and in-
 16 serting “Board of Directors of the Bureau”.

17 (6) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
 18 tion 2 of the Federal Deposit Insurance Act (12
 19 U.S.C. 1812) is amended—

20 (A) by striking “Director of the Consumer
 21 Financial Protection Bureau” each place that
 22 term appears and inserting “Chairperson of the
 23 Board of Directors of the Bureau of Consumer
 24 Financial Protection”; and

1 (B) in subsection (d)(2), by striking
 2 “Comptroller or Director” and inserting
 3 “Comptroller or Chairperson”.

4 (7) FEDERAL FINANCIAL INSTITUTIONS EXAM-
 5 INATION COUNCIL ACT OF 1978.—Section 1004(a)(4)
 6 of the Federal Financial Institutions Examination
 7 Council Act of 1978 (12 U.S.C. 3303(a)(4)) is
 8 amended by striking “Director of the Consumer Fi-
 9 nancial Protection Bureau” and inserting “Chair-
 10 person of the Board of Directors of the Bureau of
 11 Consumer Financial Protection”.

12 (8) FINANCIAL LITERACY AND EDUCATION IM-
 13 PROVEMENT ACT.—Section 513 of the Financial Lit-
 14 eracy and Education Improvement Act (20 U.S.C.
 15 9702) is amended by striking “Director” each place
 16 that term appears and inserting “Chairperson of the
 17 Board of Directors”.

18 (9) HOME MORTGAGE DISCLOSURE ACT OF
 19 1975.—Section 307 of the Home Mortgage Disclo-
 20 sure Act of 1975 (12 U.S.C. 2806) is amended by
 21 striking “Director of the Bureau of Consumer” each
 22 place that term appears and inserting “Board of Di-
 23 rectors of the Bureau of Consumer”.

(10) INTERSTATE LAND SALES FULL DISCLOSURE ACT.—The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) is amended—

(A) in section 1402(1) (15 U.S.C. 1701(1)), by striking “‘Director’ means the Director” and inserting “‘Board’ means the Board of Directors”;

(B) by striking “Director” each place that term appears and inserting “Board”;

(C) in section 1403(c) (15 U.S.C. 1702(c))—

(i) by striking “by him” and inserting “by the Board”; and

(ii) by striking “he” and inserting “the Board”;

(D) in section 1407 (15 U.S.C. 1706)—

(i) in subsection (c), by striking “he” and inserting “the Board”; and

(ii) in subsection (e), by striking “him” and inserting “the Board”;

(E) in section 1411 (15 U.S.C. 1710)—

(i) in subsection (a)—

(I) by striking “his findings” and inserting “its finding”; and

1 (II) by striking “his rec-
2 ommendation” and inserting “a rec-
3 ommendation”; and

4 (ii) in subsection (b), by striking
5 “Secretary’s order” and inserting “order of
6 the Board”;

7 (F) in section 1415 (15 U.S.C. 1714)—

8 (i) by striking “him” each place that
9 term appears and inserting “the Board”;

10 (ii) in subsection (a), by striking “he
11 may, in his discretion” and inserting “the
12 Board may, at the discretion of the
13 Board”; and

14 (iii) in subsection (b)—

15 (I) by striking “he” each time
16 that term appears and inserting “the
17 Board”; and

18 (II) by striking “in his discre-
19 tion” each time that term appears
20 and inserting “at the discretion of the
21 Board”;

22 (G) in section 1416(a) (15 U.S.C.
23 1715(a))—

1 (i) by striking “of the Bureau of Con-
 2 sumer Financial Protection” the first time
 3 that term appears;

4 (ii) by striking “his functions, duties,
 5 and powers” and inserting “the functions,
 6 duties, and powers of the Board”;

7 (iii) by striking “his administrative
 8 law judges” and inserting “the administra-
 9 tive law judges of the Bureau of Consumer
 10 Financial Protection”; and

11 (iv) by striking “himself” and insert-
 12 ing “the Board”;

13 (H) in section 1418a (15 U.S.C. 1717a)—

14 (i) in subsection (b)(4), by striking
 15 “The Secretary’s determination or order”
 16 and inserting “A determination or order of
 17 the Board”; and

18 (ii) in subsection (d), in the third sen-
 19 tence, by striking “the Secretary’s deter-
 20 mination or order” and inserting “a deter-
 21 mination or order of the Board”;

22 (I) in section 1419 (15 U.S.C. 1718)—

23 (i) by striking “him” and inserting
 24 “the Board”;

(ii) by striking “his rules and regulations” and inserting “the rules and regulations of the Board”; and

(iii) by striking “his jurisdiction” and inserting “the jurisdiction of the Bureau of Consumer Financial Protection”; and

(J) in section 1420 (15 U.S.C. 1719)—

(i) by inserting “or any member of the Board” before “in any proceeding”;

and

(ii) by striking “him” and inserting “the Board or any member of the Board”.

(11) REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.—Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended—

(A) by striking “Director of” and inserting “Board of Directors of”; and

(B) by striking “Director” each place that term appears and inserting “Board”.

(12) S.A.F.E. MORTGAGE LICENSING ACT OF 2008.—The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended—

(A) in section 1503(10) (12 U.S.C. 5102(10))—

1 (i) in the paragraph heading, by strik-
 2 ing “DIRECTOR” and inserting “BOARD”;
 3 and

4 (ii) by striking “‘Director’ means the
 5 Director” and inserting “‘Board’ means
 6 the Board of Directors”;

7 (B) by striking “Director” each place that
 8 term appears and inserting “Board”; and

9 (C) in section 1514 (12 U.S.C. 5113)—

10 (i) in subsection (b)(5), by striking
 11 “Secretary’s expenses” and inserting “ex-
 12 penses of the Board”;

13 (ii) in subsection (c)—

14 (I) in paragraph (1), in the para-
 15 graph heading, by striking “DIREC-
 16 TOR” and inserting “BOARD”;

17 (II) in paragraph (4)—

18 (aa) in subparagraph (A), in
 19 the paragraph heading, by strik-
 20 ing “DIRECTOR” and inserting
 21 “BOARD”; and

22 (bb) in subparagraph (C),
 23 by striking “Secretary’s ex-
 24 penses” and inserting “expenses
 25 of the Board”; and

1 (III) in paragraph (5), in the
 2 paragraph heading, by striking “DI-
 3 RECTOR” and inserting “BOARD”; and
 4 (iii) in subsection (d), in the sub-
 5 section heading, by striking “DIRECTOR”
 6 and inserting “BOARD”.

7 (13) TITLE 44.—Section 3513(c) of title 44,
 8 United States Code, is amended by striking “Direc-
 9 tor of the Bureau” and inserting “Board of Direc-
 10 tors of the Bureau”.

11 (14) DEEMING OF NAME.—Any reference in a
 12 law, regulation, document, paper, or other record of
 13 the United States to the Director of the Bureau of
 14 Consumer Financial Protection shall be deemed a
 15 reference to the Board of Directors of the Bureau
 16 of Consumer Financial Protection, unless otherwise
 17 specified in this Act.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall take effect on the date on which not less
 20 than 3 persons have been confirmed by the Senate to serve
 21 as members of the Board of Directors of the Bureau of
 22 Consumer Financial Protection.

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