

RESPONSIBLE CONSUMER FINANCIAL PROTECTION
REGULATIONS ACT OF 2011

—————
JUNE 16, 2011.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. BACHUS, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1121]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1121) to replace the Director of the Bureau of Consumer Financial Protection with a five person Commission, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Responsible Consumer Financial Protection Regulations Act of 2011".

SEC. 2. ESTABLISHMENT OF THE COMMISSION.

Section 1011 of the Consumer Financial Protection Act of 2010 is amended—

- (1) by striking subsections (b), (c), and (d);
- (2) by redesignating subsection (e) as subsection (j); and
- (3) by inserting after subsection (a) the following new subsections:

“(b) ESTABLISHMENT OF THE COMMISSION.—

“(1) IN GENERAL.—There is hereby established a commission (hereinafter referred to in this section as the ‘Commission’) that shall serve as the head of the Bureau.

“(2) AUTHORITY TO PRESCRIBE REGULATIONS.—The Commission may prescribe such regulations and issue such orders in accordance with this title as the Commission may determine to be necessary for carrying out this title and all other laws within the Commission’s jurisdiction and shall exercise any authorities granted under this title and all other laws within the Commission’s jurisdiction.

- “(c) COMPOSITION OF THE COMMISSION.—
- “(1) IN GENERAL.—The Commission shall be composed of the Vice Chairman for Supervision of the Federal Reserve System and 4 additional members who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—
- “(A) are citizens of the United States;
- “(B) have strong competencies and experiences related to consumer financial protection; and
- “(C) should want to protect service members and their families who are sacrificing their lives for this country from abusive financial practices.
- “(2) STAGGERING.—The members of the Commission appointed under paragraph (1) shall serve staggered terms, which initially shall be established by the President for terms of 1, 2, 4, and 5 years, respectively.
- “(3) TERMS.—
- “(A) IN GENERAL.—Each member of the Commission appointed under paragraph (1), including the Chair, shall serve for a term of 5 years.
- “(B) REMOVAL FOR CAUSE.—The President may remove any member of the Commission appointed under paragraph (1) only for inefficiency, neglect of duty, or malfeasance in office.
- “(C) VACANCIES.—Any member of the Commission appointed under paragraph (1) appointed to fill a vacancy occurring before the expiration of the term to which that member’s predecessor was appointed (including the Chair) shall be appointed only for the remainder of the term.
- “(D) CONTINUATION OF SERVICE.—Each member of the Commission appointed under paragraph (1) may continue to serve after the expiration of the term of office to which that member was appointed until a successor has been appointed by the President and confirmed by the Senate, except that a member may not continue to serve more than 1 year after the date on which that member’s term would otherwise expire.
- “(E) OTHER EMPLOYMENT PROHIBITED.—No member of the Commission appointed under paragraph (1) shall engage in any other business, vocation, or employment.
- “(4) ROLES AND RESPONSIBILITIES OF COMMISSIONERS.—One member of the Commission shall have as their primary responsibility the oversight of the Bureau’s activities pertaining to protecting consumers, with a focus on consumers who are older, minorities, youth, or veterans, from unfair, deceptive, and abusive lending practices. The designated commissioner shall be responsible for—
- “(A) ensuring the Bureau conducts regular outreach to consumers regarding industry lending activities;
- “(B) researching and reporting to the full Commission, on a regular basis, the impact of new loan and credit products and services on consumers; and
- “(C) ensuring the Bureau coordinates with State-level consumer protection agencies on enforcement measures that protect consumers from unfair, deceptive, and abusive lending practices.
- “(d) AFFILIATION.—With respect to members appointed pursuant to subsection (c)(1), not more than 2 shall be members of any one political party.
- “(e) CHAIR OF THE COMMISSION.—
- “(1) APPOINTMENT.—The Chair of the Commission shall be appointed by the President from among the members of the Commission appointed under paragraph (1).
- “(2) AUTHORITY.—The Chair shall be the principal executive officer of the Bureau, and shall exercise all of the executive and administrative functions of the Bureau, including with respect to—
- “(A) the appointment and supervision of personnel employed under the Bureau (other than personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chair);
- “(B) the distribution of business among personnel appointed and supervised by the Chair and among administrative units of the Bureau; and
- “(C) the use and expenditure of funds.
- “(3) LIMITATION.—In carrying out any of the Chair’s functions under the provisions of this subsection the Chair shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.
- “(4) REQUESTS OR ESTIMATES RELATED TO APPROPRIATIONS.—Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chair without the prior approval of the Commission.
- “(f) NO IMPAIRMENT BY REASON OF VACANCIES.—No vacancy in the members of the Commission shall impair the right of the remaining members of the Commission

to exercise all the powers of the Commission. Three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only 3 members serving on the Commission because of vacancies in the Commission, 2 members of the Commission shall constitute a quorum for the transaction of business. If there are only 2 members serving on the Commission because of vacancies in the Commission, 2 members shall constitute a quorum for the 6-month period beginning on the date of the vacancy which caused the number of Commission members to decline to 2.

“(g) SEAL.—The Commission shall have an official seal.

“(h) COMPENSATION.—

“(1) CHAIR.—The Chair shall receive compensation at the rate prescribed for level I of the Executive Schedule under section 5313 of title 5, United States Code.

“(2) OTHER MEMBERS OF THE COMMISSION.—The 3 other members of the Commission appointed under subsection (c)(1) shall each receive compensation at the rate prescribed for level II of the Executive Schedule under section 5314 of title 5, United States Code.

“(i) INITIAL QUORUM ESTABLISHED.—During any time period prior to the confirmation of at least two members of the Commission, one member of the Commission shall constitute a quorum for the transaction of business. Following the confirmation of at least 2 additional commissioners, the quorum requirements of subsection (f) shall apply.”.

SEC. 3. CONFORMING AMENDMENTS.

(a) CONSUMER FINANCIAL PROTECTION ACT OF 2010.—

(1) IN GENERAL.—The Consumer Financial Protection Act of 2010 is amended—

- (A) in section 1002, by striking paragraph (10);
- (B) in section 1012(c)(4), by striking “Director” each place such term appears and inserting “Commission of the Bureau”;
- (C) in section 1013(c)(3)—
 - (i) by striking “Assistant Director of the Bureau for” and inserting “Head of the Office of”; and
 - (ii) in subparagraph (B), by striking “Assistant Director” and inserting “Head of the Office”;
- (D) in section 1013(g)(2)—
 - (i) by striking “ASSISTANT DIRECTOR” and inserting “HEAD OF THE OFFICE”; and
 - (ii) by striking “an assistant director” and inserting “a Head of the Office of Financial Protection for Older Americans”;
- (E) in section 1016(a), by striking “Director of the Bureau” and inserting “Chair of the Commission”;
- (F) in section 1017(c)(1), by striking “Director and other employees” and inserting “members of the Commission and other employees”;
- (G) in section 1027(l)(1), by striking “Director and the”; and
- (H) in section 1066(a), by striking “Director of the Bureau is” and inserting “first member of the Commission is”.

(2) GLOBAL AMENDMENTS.—The Consumer Financial Protection Act of 2010 is amended—

- (A) by striking “Director of the” each place such term appears, other than in—
 - (i) subparagraphs (A) and (E) of section 1017(4);
 - (ii) section 1043;
 - (iii) section 1061(b)(3);
 - (iv) section 1062;
 - (v) section 1063(f);
 - (vi) subparagraphs (E) and (G) of section 1064(i)(2); and
 - (vii) section 1065(a); and
- (B) by striking “Director” each place such term appears and inserting “Bureau”, other than in—
 - (i) section 1063(f)(2); and
 - (ii) section 1065(a).

(b) DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.—The Dodd-Frank Wall Street Reform and Consumer Protection Act is amended—

- (1) in section 111(b)(1)(D), by striking “Director” and inserting “Chair of the Commission”; and
- (2) in section 1447, by striking “Director of the Bureau” each place such term appears and inserting “Bureau”.

(c) ELECTRONIC FUND TRANSFER ACT.—Section 921(a)(4)(C) of the Electronic Fund Transfer Act, as added by section 1075(a)(2) of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau of Consumer Financial Protection” and inserting “Bureau of Consumer Financial Protection”.

(d) EXPEDITED FUNDS AVAILABILITY ACT.—The Expedited Funds Availability Act, as amended by section 1086 of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau” each place such term appears and inserting “Bureau”.

(e) FEDERAL DEPOSIT INSURANCE ACT.—Section 2 of the Federal Deposit Insurance Act, as amended by section 336(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by striking “Director of the Consumer Financial Protection Bureau” each place such term appears and inserting “Chair of the Commission of the Bureau of Consumer Financial Protection”.

(f) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978.—Section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)(4)), as amended by section 1091 of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Consumer Financial Protection Bureau” and inserting “Chair of the Commission of the Bureau of Consumer Financial Protection”.

(g) FINANCIAL LITERACY AND EDUCATION IMPROVEMENT ACT.—Section 513 of the Financial Literacy and Education Improvement Act, as amended by section 1013(d) of the Consumer Financial Protection Act of 2010, is amended by striking “Director” each place such term appears and inserting “Chair of the Commission”.

(h) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 307 of the Home Mortgage Disclosure Act of 1975, as amended by section 1094(6) of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau of Consumer Financial Protection” each place such term appears and inserting “Bureau of Consumer Financial Protection”.

(i) INTERSTATE LAND SALES FULL DISCLOSURE ACT.—The Interstate Land Sales Full Disclosure Act, as amended by section 1098A of the Consumer Financial Protection Act of 2010, is amended—

(1) by amending section 1402(1) to read as follows:

“(1) ‘Chair’ means the Chair of the Commission of the Bureau of Consumer Financial Protection;”;

(2) in section 1416(a), by striking “Director of the Bureau of Consumer Financial Protection” and inserting “Chair”; and

(3) by striking “Director” each place such term appears and inserting “Bureau”.

(j) REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.—Section 5 of the Real Estate Settlement Procedures Act of 1974, as amended by section 1450 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended—

(1) by striking “The Director of the Bureau of Consumer Financial Protection (hereafter in this section referred to as the ‘Director’)” and inserting “The Bureau of Consumer Financial Protection”; and

(2) by striking “Director” each place such term appears and inserting “Bureau”.

(k) S.A.F.E. MORTGAGE LICENSING ACT OF 2008.—The S.A.F.E. Mortgage Licensing Act of 2008, as amended by section 1100 of the Consumer Financial Protection Act of 2010, is amended—

(1) by striking “Director” each place such term appears in headings and text and inserting “Bureau”; and

(2) in section 1503, by striking paragraph (10).

(l) TITLE 44, UNITED STATES CODE.—Section 3513(c) of title 44, United States Code, as amended by section 1100D(b) of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau” and inserting “Bureau”.

PURPOSE AND SUMMARY

H.R. 1121, the Responsible Consumer Financial Protection Regulations Act of 2011, would amend Section 1011 of the Dodd-Frank Act Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (P.L. 111–203), by replacing the Director of the Consumer Financial Protection Bureau (CFPB) with a five-person Commission. The bill would make the leadership structure of the CFPB a collegial body, like that of other federal agencies charged with consumer or investor protection, such as the Federal Trade Commission, the Securities and Exchange Commission, and the Federal Deposit In-

insurance Corporation. Like the collegial boards that head these agencies, the CFPB Commission would be empowered to prescribe regulations and issue orders to implement laws within its jurisdiction. One of the five seats on the CFPB Commission would be filled by the Vice Chairman for Supervision of the Federal Reserve System. The President would appoint the remaining four Commissioners: no more than two of the four may be from the same political party; and each of the four must have strong competencies and experiences related to consumer financial protection. In addition, one Commissioner is required to have as his or her primary responsibility the oversight of the Bureau's activities pertaining to the protection of older consumers, minorities, youth, and veterans. Although the Chair of the Commission would fulfill the executive and administrative functions of the CFPB, the Chair's discretion would be bounded by policies set by the whole Commission.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1121 was introduced by Chairman Bachus to replace the Director of the CFPB with a five-person Commission. The CFPB was created under Title X of the Dodd-Frank Act. The Dodd-Frank Act effectively places the CFPB under the control of a single person—its Director. Under the statute, the CFPB's Director is appointed by the President and confirmed by the Senate. Once appointed and confirmed, the Director is given broad discretion to identify and ban financial products and services that he or she finds to be “unfair, deceptive, or abusive.” The Director has complete authority to adopt policies for carrying out the CFPB's functions. Among other things, the Director may set policies on adopting rules and issuing orders and guidance; enter into contracts; establish the CFPB's internal organization; and hire and supervise personnel.

H.R. 1121 would amend the CFPB's organizational structure to promote sound, stable policymaking at the Bureau. Consideration of CFPB's rules, policies, and enforcement actions by a Commission ensures that multiple perspectives are brought to bear on decisions made by the CFPB, and that different points of view will be considered by the CFPB. As illustrated in other federal financial agencies—such as the Federal Deposit Insurance Corporation or the Federal Reserve Board—the commission structure offers more stability, ensures continuity in knowledge, provides for the continuous presence of experienced members at all times, and prevents gaps in agency effectiveness. Moreover, a commission structure promotes predictability in rulemaking by preventing a new CFPB Director from unilaterally and abruptly reversing the decisions made by a previous Director.

H.R. 1121 also requires four of the Commission's appointees to have strong competencies and experiences related to consumer financial protection. The fifth Commissioner will be the Vice Chairman for Supervision of the Federal Reserve System—a prudential regulator. By making one member of the Commission a prudential regulator, the legislation will ensure that the CFPB's rules and regulations are rational and balanced and that the Commissioners consider the effect of the rules on the safe and sound operations of regulated financial institutions. The structure of the CFPB Commission will discourage the Bureau from implementing hastily pro-

mulgated rules that could reduce the availability or drive up the cost of credit.

HEARINGS

The Subcommittee on Financial Institutions and Consumer Credit held a hearing on March 16, 2011 entitled "Oversight of the Consumer Financial Protection Bureau." There was one witness:

- Ms. Elizabeth Warren, Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau, Department of the Treasury

The Subcommittee on Financial Institutions and Consumer Credit held a legislative hearing on April 6, 2011 entitled, "Legislative Proposals to Improve the Structure of the Consumer Financial Protection Bureau." The following witnesses testified:

- Ms. Leslie R. Andersen, President and Chief Executive Officer, Bank of Bennington on behalf of the American Bankers Association
- Ms. Lynette W. Smith, President and Chief Executive Officer, Washington Gas Light FCU on behalf of the National Association of Federal Credit Unions
- Mr. Jess Sharp, Executive Director, Center for Capital Markets Competitiveness, U.S. Chamber of Commerce
- Mr. Hilary Shelton, Director, NAACP Washington Bureau and Senior VP for Advocacy and Policy, NAACP
- Mr. Noah H. Wilcox, President and Chief Executive Officer, Grand Rapids State Bank on behalf of the Independent Community Bankers of America
- Mr. Rod Staatz, President and Chief Executive Officer, SECU of Maryland on behalf of the Credit Union National Association
- Mr. Richard Hunt, President, Consumer Bankers Association
- Prof. Adam J. Levitin, Georgetown University Law Center

COMMITTEE CONSIDERATION

The Subcommittee on Financial Institutions and Consumer Credit met in open session on May 4, 2011 and ordered H.R. 1121, the Responsible Consumer Financial Protection Regulations Act of 2011, favorably reported to the Full Committee by a record vote of 13 yeas and 7 nays (Record vote no. FI-5).

The Committee on Financial Services met in open session on May 12, 2011 and ordered H.R. 1121, the Responsible Consumer Financial Protection Regulations Act of 2011, as amended, favorably reported to the House by a record vote of 33 yeas and 24 nays (Record vote no. FC-32).

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Chairman Bachus to report the bill, as amended, to the House with a favorable recommendation was agreed to by a record vote of 33 yeas and 24 nays (Record vote no. FC-32). The names of Members voting for and against follow:

RECORD VOTE NO. FC-32

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)	X		
Mr. Hensarling	X			Ms. Waters	X		
Mr. King (NY)	X			Mrs. Maloney	X		
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas	X			Ms. Velazquez		X	
Mr. Paul				Mr. Watt		X	
Mr. Manzullo	X			Mr. Ackerman		X	
Mr. Jones	X			Mr. Sherman		X	
Mrs. Biggert	X			Mr. Meeks		X	
Mr. Gary G. Miller (CA)	X			Mr. Capuano		X	
Mrs. Capito	X			Mr. Hinojosa		X	
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)			
Mr. McHenry	X			Mr. Baca		X	
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. McCotter	X			Mr. David Scott (GA)		X	
Mr. McCarthy (CA)	X			Mr. Al Green (TX)		X	
Mr. Pearce	X			Mr. Cleaver		X	
Mr. Posey	X			Ms. Moore		X	
Mr. Fitzpatrick	X			Mr. Ellison			
Mr. Westmoreland	X			Mr. Perlmutter		X	
Mr. Luetkemeyer	X			Mr. Donnelly		X	
Mr. Huizenga	X			Mr. Carson		X	
Mr. Duffy	X			Mr. Himes		X	
Ms. Hayworth	X			Mr. Peters		X	
Mr. Renacci	X			Mr. Carney		X	
Mr. Hurt	X						
Mr. Dold	X						
Mr. Schweikert	X						
Mr. Grimm	X						
Mr. Canseco	X						
Mr. Stivers	X						
Mr. Fincher	X						

During consideration of H.R. 1121, the following amendments were considered:

1. An amendment offered by Mr. Royce, no. 1, to make the Fed's Vice-Chairman for Supervision a permanent member of the CFPB Commission, was agreed to by a record vote of 32 yeas and 22 nays (Record vote no. FC-29).

RECORD VOTE NO. FC-29

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)	X		
Mr. Hensarling	X			Ms. Waters	X		
Mr. King (NY)	X			Mrs. Maloney	X		
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas	X			Ms. Velazquez		X	
Mr. Paul				Mr. Watt		X	
Mr. Manzullo	X			Mr. Ackerman			
Mr. Jones		X		Mr. Sherman		X	
Mrs. Biggert	X			Mr. Meeks			
Mr. Gary G. Miller (CA)	X			Mr. Capuano		X	
Mrs. Capito	X			Mr. Hinojosa		X	
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)			
Mr. McHenry	X			Mr. Baca			
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. McCotter	X			Mr. David Scott (GA)		X	
Mr. McCarthy (CA)	X			Mr. Al Green (TX)		X	

RECORD VOTE NO. FC-29—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Pearce	X	.....	.....	Mr. Cleaver .....	.....	X	.....
Mr. Posey	X	.....	.....	Ms. Moore .....	.....	X	.....
Mr. Fitzpatrick	X	.....	.....	Mr. Ellison .....	.....	.....	.....
Mr. Westmoreland	X	.....	.....	Mr. Perlmutter .....	.....	X	.....
Mr. Luetkemeyer	X	.....	.....	Mr. Donnelly .....	.....	X	.....
Mr. Huizenga	X	.....	.....	Mr. Carson .....	.....	X	.....
Mr. Duffy	X	.....	.....	Mr. Himes .....	.....	X	.....
Ms. Hayworth	X	.....	.....	Mr. Peters .....	.....	X	.....
Mr. Renacci	X	.....	.....	Mr. Carney .....	.....	X	.....
Mr. Hurt	X	.....	.....		
Mr. Dold	X	.....	.....		
Mr. Schweikert	X	.....	.....		
Mr. Grimm	X	.....	.....		
Mr. Canseco	X	.....	.....		
Mr. Stivers	X	.....	.....		
Mr. Fincher	X	.....	.....		

2. An amendment offered by Mr. Duffy, no. 2a, as amended by an amendment offered by Mr. Miller of North Carolina, no. 2b, to an amendment offered by Ms. Velazquez, no. 2, to add that the criteria of minorities or youth also be considered by one Commissioner as his or her responsibility oversight of the Bureau's activities pertaining to consumer protection, was agreed to by a record vote of 30 yeas and 25 nays (Record vote no. FC-30).

RECORD VOTE NO. FC-30

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X	.....	.....	Mr. Frank (MA) .....	.....	X	.....
Mr. Hensarling	X	.....	.....	Ms. Waters .....	.....	X	.....
Mr. King (NY)	X	.....	.....	Mrs. Maloney .....	.....	X	.....
Mr. Royce	X	.....	.....	Mr. Gutierrez .....	.....	.....	.....
Mr. Lucas	X	.....	.....	Ms. Velazquez .....	.....	X	.....
Mr. Paul .....	.....	.....	.....	Mr. Watt .....	.....	X	.....
Mr. Manzullo	X	.....	.....	Mr. Ackerman .....	.....	.....	.....
Mr. Jones .....	.....	X	.....	Mr. Sherman .....	.....	X	.....
Mrs. Biggert	X	.....	.....	Mr. Meeks .....	.....	.....	.....
Mr. Gary G. Miller (CA)	X	.....	.....	Mr. Capuano .....	.....	X	.....
Mrs. Capito	X	.....	.....	Mr. Hinojosa .....	.....	X	.....
Mr. Garrett	X	.....	.....	Mr. Clay .....	.....	X	.....
Mr. Neugebauer	X	.....	.....	Mrs. McCarthy (NY) .....	.....	.....	.....
Mr. McHenry	X	.....	.....	Mr. Baca .....	.....	X	.....
Mr. Campbell .....	.....	X	.....	Mr. Lynch .....	.....	X	.....
Mrs. Bachmann	X	.....	.....	Mr. Miller (NC) .....	.....	X	.....
Mr. McCotter	X	.....	.....	Mr. David Scott (GA) .....	.....	X	.....
Mr. McCarthy (CA)	X	.....	.....	Mr. Al Green (TX) .....	.....	X	.....
Mr. Pearce	X	.....	.....	Mr. Cleaver .....	.....	X	.....
Mr. Posey	X	.....	.....	Ms. Moore .....	.....	X	.....
Mr. Fitzpatrick	X	.....	.....	Mr. Ellison .....	.....	.....	.....
Mr. Westmoreland	X	.....	.....	Mr. Perlmutter .....	.....	X	.....
Mr. Luetkemeyer	X	.....	.....	Mr. Donnelly .....	.....	X	.....
Mr. Huizenga	X	.....	.....	Mr. Carson .....	.....	X	.....
Mr. Duffy	X	.....	.....	Mr. Himes .....	.....	X	.....
Ms. Hayworth .....	.....	X	.....	Mr. Peters .....	.....	X	.....
Mr. Renacci	X	.....	.....	Mr. Carney .....	.....	X	.....
Mr. Hurt	X	.....	.....		
Mr. Dold	X	.....	.....		
Mr. Schweikert	X	.....	.....		
Mr. Grimm	X	.....	.....		
Mr. Canseco	X	.....	.....		
Mr. Stivers	X	.....	.....		
Mr. Fincher	X	.....	.....		

3. An amendment offered by Mrs. Maloney, no. 3, as amended by an amendment offered by Mr. Watt, no. 3a, to require that the Chair of the Bureau be a person who is credited with originating the idea for the Bureau, who advocated for its creation, who is currently standing up the Bureau, and who wants to make prices clear and protect service members, was not agreed to by a record vote of 15 yeas, 38 nays and 3 present (Record vote no. FC-31).

RECORD VOTE NO. FC-31

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)		X	
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)		X		Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez			
Mr. Lucas		X		Ms. Velazquez	X		
Mr. Paul				Mr. Watt	X		
Mr. Manzullo		X		Mr. Ackerman			
Mr. Jones		X		Mr. Sherman		X	
Mrs. Biggert		X		Mr. Meeks	X		
Mr. Gary G. Miller (CA)		X		Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa	X		
Mr. Garrett		X		Mr. Clay	X		
Mr. Neugebauer		X		Mrs. McCarthy (NY)			
Mr. McHenry		X		Mr. Baca	X		
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann		X		Mr. Miller (NC)			X
Mr. McCotter		X		Mr. David Scott (GA)		X	
Mr. McCarthy (CA)		X		Mr. Al Green (TX)			X
Mr. Pearce		X		Mr. Cleaver			X
Mr. Posey		X		Ms. Moore		X	
Mr. Fitzpatrick		X		Mr. Ellison			
Mr. Westmoreland		X		Mr. Perlmutter	X		
Mr. Luetkemeyer		X		Mr. Donnelly		X	
Mr. Huizenga		X		Mr. Carson	X		
Mr. Duffy		X		Mr. Himes	X		
Ms. Hayworth		X		Mr. Peters	X		
Mr. Renacci		X		Mr. Carney	X		
Mr. Hurt		X					
Mr. Dold		X					
Mr. Schweikert		X					
Mr. Grimm		X					
Mr. Canseco		X					
Mr. Stivers		X					
Mr. Fincher		X					

The following amendments and motion were also considered by the Committee:

1. An amendment offered by Mr. Miller of North Carolina, no. 2b, to an amendment offered by Mr. Duffy, no. 2a, to delete “and” and add “, or” after youth was agreed to by Unanimous Consent.

2. An amendment offered by Ms. Velazquez, no. 2, as amended by an amendment offered by Mr. Duffy, no. 2a, as amended, to require that one Commissioner shall have as his or her primary responsibility the oversight of the Bureau’s activities pertaining to consumer protection focusing on older consumers, veterans, minorities, or youth was agreed to by voice vote.

3. An amendment offered by Mr. Watt, no. 3a, to an amendment offered by Mrs. Maloney, no. 3, to add “first” before “Chair” on line 1, was agreed to by Unanimous Consent.

4. An amendment offered by Mr. Ellison, no. 4a, to an amendment offered by Mr. Ellison, no. 4, to change the location of the

amendment text from page 4, line 15 to page 3 after line 3, was agreed to by Unanimous Consent.

5. An amendment offered by Mr. Ellison, no. 4, as amended by an amendment offered by Mr. Ellison, no. 4a, to require that members of the Commission should want to protect service members and their families, was agreed to by voice vote.

6. An amendment offered by Mr. Ellison, no. 5, to require Senate confirmation votes within 90 days of a nomination being submitted by the President, was not agreed to by voice vote.

7. A motion offered by Mr. Hensarling, to move the previous question on H.R. 1121, was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held a hearing and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The purpose of H.R. 1121 is to amend the CFPB's organizational structure to promote sound, stable policymaking at the Bureau. The bill makes the leadership structure of the CFPB a collegial body, like that of other Federal agencies charged with consumer or investor protection, such as the FTC, the SEC, and the FDIC. Specifically, H.R. 1121 replaces the Director of the CFPB with a five-person Commission with one member of the Commission to be the Vice Chairman for Supervision of the Federal Reserve System. In addition, H.R. 1121 requires four of the appointees to the Commission to have strong competencies and experiences related to consumer financial protection.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

MAY 24, 2011.

Hon. SPENCER BACHUS,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1121, the Responsible Consumer Financial Protection Regulations Act of 2011.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1121—Responsible Consumer Financial Protection Regulations Act of 2011

Summary: H.R. 1121 would replace the Director of the Consumer Financial Protection Bureau (CFPB) with a commission made up of a chairman and four additional members appointed by the President and confirmed by the Senate. The commission would be responsible for developing regulations to carry out the laws that fall within the jurisdiction of the CFPB. The CFPB is permanently authorized to spend amounts transferred from the Federal Reserve. Because that activity is not subject to appropriation, CFPB expenditures constitute direct spending.

Based on information from the CFPB, CBO estimates that enacting H.R. 1121 would increase direct spending by \$71 million over the 2012–2021 period. Because the bill would affect direct spending, pay-as-you-go procedures apply. CBO estimates that the bill would not affect revenues or spending subject to appropriation.

H.R. 1121 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1121 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2016	2012–2021
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	5	7	7	7	7	7	7	8	9	9	34	73
Estimated Outlays	4	6	7	7	7	7	7	8	9	9	31	71

Note: Components may not sum to totals because of rounding.

Basis of estimate: CBO assumes that the bill will be enacted near the end of fiscal year 2011, that the new commissioners will be hired by the end of the first quarter of fiscal year 2012, and that spending will follow historical patterns for similar activities.

H.R. 1121 would replace the director and deputy director of the CFPB with a five-member commission. Based on information from the CFPB, CBO estimates that the agency would hire an additional 20 employees in fiscal year 2012 to provide legal, research, and administrative support to the commissioners; currently, the CFPB

projects that the director's office would be supported by a staff of 10 employees that would provide similar services.

The agency plans to reach full staffing levels (about 1,500 employees) over the next several years; of that total, approximately 300 positions are expected to transfer from other regulatory agencies near the end of fiscal year 2011. The new staff will carry out the authority that will be transferred to the bureau in July to enforce federal laws related to consumer financial protection and to establish a number of new offices that will focus on fair lending, financial education, and financial protection for older Americans and servicemembers. To carry out those authorities, CBO estimates that the bureau will spend \$114 million in 2011 and an average of about \$420 million per year over the 2011–2021 period.

Based on information from the CFPB and other agencies with similar organizational structures, CBO estimates that enacting H.R. 1121 would increase direct spending by \$71 million over the 2012–2021 period (about 2 percent of CBO's estimate of the 11-year costs for the bureau). Those additional costs represent expenses for salaries, benefits, and overhead for new positions that would not be created under current law.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

By Fiscal Year, in Millions of Dollars													
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011– 2016	2011– 2021
	NET INCREASE IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	4	6	7	7	7	7	7	8	9	9	31	71

Intergovernmental and private-sector impact: H.R. 1121 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Susan Willie; Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 1121 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the “Responsible Consumer Financial Protection Regulations Act of 2011.”

Section 2. Establishment of the commission

Section Two amends Section 1011 of the Dodd-Frank Act. Subsections (b), (c), and (d) of Section 1011, which provide for the CFPB to be headed by a Director, are stricken. Instead, a Commission, with responsibility for exercising the Bureau’s authorities, is established to run the CFPB.

The Commission will be composed of four members appointed by the President, with the advice and consent of the Senate, plus the Vice Chairman for Supervision of the Federal Reserve System. The appointed members of the Commission shall serve five-year, staggered terms. One member of the Commission will focus on protecting consumers who are older, minorities, youth, or veterans from unfair, deceptive, and abusive practices. Not more than two appointed Commission members shall be members of any one political party.

The Chair of the Commission will be appointed by the President from among the four appointed Commission members. The Chair “should want to protect service members and their families from abusive financial practices.” The Chair will exercise all the CFPB’s executive and administrative functions. The Chair will, however, be governed by the general policies, findings, and determinations of the Commission in carrying out his or her duties.

Section 3. Conforming amendments

Section Three makes conforming amendments to the following laws: Consumer Financial Protection Act of 2010, Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Electronic Funds Transfer Act, Expedited Funds Availability Act, Federal Deposit Insurance Act, Federal Financial Institutions Examination Council Act of 1978, Financial Literacy and Education Improvement Act, Home Mortgage Disclosure Act of 1975, Interstate Land Sales Full Disclosure Act, Real Estate Settlement Procedures Act of 1974, and S.A.F.E. Mortgage Licensing Act of 2008.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CONSUMER FINANCIAL PROTECTION ACT OF 2010

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

SEC. 1001. SHORT TITLE.

This title may be cited as the “Consumer Financial Protection Act of 2010”.

SEC. 1002. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title, the following definitions shall apply:

(1) * * *

* * * * *
(10) DIRECTOR.—The term “Director” means the Director of the Bureau.

* * * * *

Subtitle A—Bureau of Consumer Financial Protection

SEC. 1011. ESTABLISHMENT OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION.

(a) * * *

(b) DIRECTOR AND DEPUTY DIRECTOR.—

(1) IN GENERAL.—There is established the position of the Director, who shall serve as the head of the Bureau.

(2) APPOINTMENT.—Subject to paragraph (3), the Director shall be appointed by the President, by and with the advice and consent of the Senate.

(3) QUALIFICATION.—The President shall nominate the Director from among individuals who are citizens of the United States.

(4) COMPENSATION.—The Director shall be compensated at the rate prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(5) DEPUTY DIRECTOR.—There is established the position of Deputy Director, who shall—

(A) be appointed by the Director; and

(B) serve as acting Director in the absence or unavailability of the Director.

(c) TERM.—

(1) IN GENERAL.—The Director shall serve for a term of 5 years.

(2) EXPIRATION OF TERM.—An individual may serve as Director after the expiration of the term for which appointed, until a successor has been appointed and qualified.

(3) REMOVAL FOR CAUSE.—The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.

(d) SERVICE RESTRICTION.—No Director or Deputy Director may hold any office, position, or employment in any Federal reserve

bank, Federal home loan bank, covered person, or service provider during the period of service of such person as Director or Deputy Director.

(b) *ESTABLISHMENT OF THE COMMISSION.—*

(1) *IN GENERAL.—There is hereby established a commission (hereinafter referred to in this section as the “Commission”) that shall serve as the head of the Bureau.*

(2) *AUTHORITY TO PRESCRIBE REGULATIONS.—The Commission may prescribe such regulations and issue such orders in accordance with this title as the Commission may determine to be necessary for carrying out this title and all other laws within the Commission’s jurisdiction and shall exercise any authorities granted under this title and all other laws within the Commission’s jurisdiction.*

(c) *COMPOSITION OF THE COMMISSION.—*

(1) *IN GENERAL.—The Commission shall be composed of the Vice Chairman for Supervision of the Federal Reserve System and 4 additional members who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—*

(A) are citizens of the United States;

(B) have strong competencies and experiences related to consumer financial protection; and

(C) should want to protect service members and their families who are sacrificing their lives for this country from abusive financial practices.

(2) *STAGGERING.—The members of the Commission appointed under paragraph (1) shall serve staggered terms, which initially shall be established by the President for terms of 1, 2, 4, and 5 years, respectively.*

(3) *TERMS.—*

(A) IN GENERAL.—Each member of the Commission appointed under paragraph (1), including the Chair, shall serve for a term of 5 years.

(B) REMOVAL FOR CAUSE.—The President may remove any member of the Commission appointed under paragraph (1) only for inefficiency, neglect of duty, or malfeasance in office.

(C) VACANCIES.—Any member of the Commission appointed under paragraph (1) appointed to fill a vacancy occurring before the expiration of the term to which that member’s predecessor was appointed (including the Chair) shall be appointed only for the remainder of the term.

(D) CONTINUATION OF SERVICE.—Each member of the Commission appointed under paragraph (1) may continue to serve after the expiration of the term of office to which that member was appointed until a successor has been appointed by the President and confirmed by the Senate, except that a member may not continue to serve more than 1 year after the date on which that member’s term would otherwise expire.

(E) OTHER EMPLOYMENT PROHIBITED.—No member of the Commission appointed under paragraph (1) shall engage in any other business, vocation, or employment.

(4) *ROLES AND RESPONSIBILITIES OF COMMISSIONERS.*—One member of the Commission shall have as their primary responsibility the oversight of the Bureau's activities pertaining to protecting consumers, with a focus on consumers who are older, minorities, youth, or veterans, from unfair, deceptive, and abusive lending practices. The designated commissioner shall be responsible for—

(A) ensuring the Bureau conducts regular outreach to consumers regarding industry lending activities;

(B) researching and reporting to the full Commission, on a regular basis, the impact of new loan and credit products and services on consumers; and

(C) ensuring the Bureau coordinates with State-level consumer protection agencies on enforcement measures that protect consumers from unfair, deceptive, and abusive lending practices.

(d) *AFFILIATION.*—With respect to members appointed pursuant to subsection (c)(1), not more than 2 shall be members of any one political party.

(e) *CHAIR OF THE COMMISSION.*—

(1) *APPOINTMENT.*—The Chair of the Commission shall be appointed by the President from among the members of the Commission appointed under paragraph (1).

(2) *AUTHORITY.*—The Chair shall be the principal executive officer of the Bureau, and shall exercise all of the executive and administrative functions of the Bureau, including with respect to—

(A) the appointment and supervision of personnel employed under the Bureau (other than personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chair);

(B) the distribution of business among personnel appointed and supervised by the Chair and among administrative units of the Bureau; and

(C) the use and expenditure of funds.

(3) *LIMITATION.*—In carrying out any of the Chair's functions under the provisions of this subsection the Chair shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(4) *REQUESTS OR ESTIMATES RELATED TO APPROPRIATIONS.*—Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chair without the prior approval of the Commission.

(f) *NO IMPAIRMENT BY REASON OF VACANCIES.*—No vacancy in the members of the Commission shall impair the right of the remaining members of the Commission to exercise all the powers of the Commission. Three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only 3 members serving on the Commission because of vacancies in the Commission, 2 members of the Commission shall constitute a quorum for the transaction of business. If there are only 2 members serving on the Commission because of vacancies in the Commission, 2 members shall constitute a quorum for the 6-month period begin-

ning on the date of the vacancy which caused the number of Commission members to decline to 2.

(g) SEAL.—The Commission shall have an official seal.

(h) COMPENSATION.—

(1) CHAIR.—The Chair shall receive compensation at the rate prescribed for level I of the Executive Schedule under section 5313 of title 5, United States Code.

(2) OTHER MEMBERS OF THE COMMISSION.—The 3 other members of the Commission appointed under subsection (c)(1) shall each receive compensation at the rate prescribed for level II of the Executive Schedule under section 5314 of title 5, United States Code.

(i) INITIAL QUORUM ESTABLISHED.—During any time period prior to the confirmation of at least two members of the Commission, one member of the Commission shall constitute a quorum for the transaction of business. Following the confirmation of at least 2 additional commissioners, the quorum requirements of subsection (f) shall apply.

(j) OFFICES.—The principal office of the Bureau shall be in the District of Columbia. The Director Bureau may establish regional offices of the Bureau, including in cities in which the Federal reserve banks, or branches of such banks, are located, in order to carry out the responsibilities assigned to the Bureau under the Federal consumer financial laws.

SEC. 1012. EXECUTIVE AND ADMINISTRATIVE POWERS.

(a) POWERS OF THE BUREAU.—The Bureau is authorized to establish the general policies of the Bureau with respect to all executive and administrative functions, including—

(1) * * *

(8) the distribution of business among personnel appointed and supervised by the Director Bureau and among administrative units of the Bureau;

(b) DELEGATION OF AUTHORITY.—The Director of the Bureau may delegate to any duly authorized employee, representative, or agent any power vested in the Bureau by law.

(c) AUTONOMY OF THE BUREAU.—

(1) * * *

(2) AUTONOMY.—Notwithstanding the authorities granted to the Board of Governors under the Federal Reserve Act, the Board of Governors may not—

(A) intervene in any matter or proceeding before the Director Bureau, including examinations or enforcement actions, unless otherwise specifically provided by law;

(4) RECOMMENDATIONS AND TESTIMONY.—No officer or agency of the United States shall have any authority to require the Director Commission of the Bureau or any other officer of the Bureau to submit legislative recommendations, or testimony or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or com-

ments to the Congress, if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the εDirector *Commission of the Bureau* or such officer, and do not necessarily reflect the views of the Board of Governors or the President.

* * * * *

SEC. 1013. ADMINISTRATION.

(a) PERSONNEL.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The εDirector *Bureau* may fix the number of, and appoint and direct, all employees of the Bureau, in accordance with the applicable provisions of title 5, United States Code.

(B) EMPLOYEES OF THE BUREAU.—The εDirector *Bureau* is authorized to employ attorneys, compliance examiners, compliance supervision analysts, economists, statisticians, and other employees as may be deemed necessary to conduct the business of the Bureau. Unless otherwise provided expressly by law, any individual appointed under this section shall be an employee as defined in section 2105 of title 5, United States Code, and subject to the provisions of such title and other laws generally applicable to the employees of an Executive agency.

(C) WAIVER AUTHORITY.—

(i) IN GENERAL.—In making any appointment under subparagraph (A), the εDirector *Bureau* may waive the requirements of chapter 33 of title 5, United States Code, and the regulations implementing such chapter, to the extent necessary to appoint employees on terms and conditions that are consistent with those set forth in section 11(1) of the Federal Reserve Act (12 U.S.C. 248(1)), while providing for—

(I) * * *

* * * * *

(ii) VETERANS PREFERENCES.—In implementing this subparagraph, the εDirector *Bureau* shall comply with the provisions of section 2302(b)(11), regarding veterans' preference requirements, in a manner consistent with that in which such provisions are applied under chapter 33 of title 5, United States Code. The authority under this subparagraph to waive the requirements of that chapter 33 shall expire 5 years after the date of enactment of this Act.

(2) COMPENSATION.—Notwithstanding any otherwise applicable provision of title 5, United States Code, concerning compensation, including the provisions of chapter 51 and chapter 53, the following provisions shall apply with respect to employees of the Bureau:

(A) The rates of basic pay for all employees of the Bureau may be set and adjusted by the εDirector *Bureau*.

(B) The εDirector *Bureau* shall at all times provide compensation (including benefits) to each class of employees that, at a minimum, are comparable to the compensa-

tion and benefits then being provided by the Board of Governors for the corresponding class of employees.

* * * * *

(b) SPECIFIC FUNCTIONAL UNITS.—

(1) RESEARCH.—The ζ Director *Bureau* shall establish a unit whose functions shall include researching, analyzing, and reporting on—

(A) * * *

* * * * *

(2) COMMUNITY AFFAIRS.—The ζ Director *Bureau* shall establish a unit whose functions shall include providing information, guidance, and technical assistance regarding the offering and provision of consumer financial products or services to traditionally underserved consumers and communities.

(3) COLLECTING AND TRACKING COMPLAINTS.—

(A) IN GENERAL.—The ζ Director *Bureau* shall establish a unit whose functions shall include establishing a single, toll-free telephone number, a website, and a database or utilizing an existing database to facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services. The ζ Director *Bureau* shall coordinate with the Federal Trade Commission or other Federal agencies to route complaints to such agencies, where appropriate.

* * * * *

(C) REPORTS TO THE CONGRESS.—The ζ Director *Bureau* shall present an annual report to Congress not later than March 31 of each year on the complaints received by the Bureau in the prior year regarding consumer financial products and services. Such report shall include information and analysis about complaint numbers, complaint types, and, where applicable, information about resolution of complaints.

* * * * *

(c) OFFICE OF FAIR LENDING AND EQUAL OPPORTUNITY.—

(1) * * *

(2) FUNCTIONS.—The Office of Fair Lending and Equal Opportunity shall have such powers and duties as the ζ Director *Bureau* may delegate to the Office, including—

(A) * * *

* * * * *

(3) ADMINISTRATION OF OFFICE.—There is established the position of ζ Assistant Director of the Bureau for *Head of the Office of Fair Lending and Equal Opportunity*, who—

(A) * * *

(B) shall carry out such duties as the ζ Director *Bureau* may delegate to such ζ Assistant Director *Head of the Office*.

(d) OFFICE OF FINANCIAL EDUCATION.—

(1) ESTABLISHMENT.—The ζ Director *Bureau* shall establish an Office of Financial Education, which shall be responsible for developing and implementing initiatives intended to educate

and empower consumers to make better informed financial decisions.

* * * * *
(3) COORDINATION.—The Office of Financial Education shall coordinate with other units within the Bureau in carrying out its functions, including—

(A) * * *
(B) working with the research unit established by the ζ Director *Bureau* to conduct research related to consumer financial education and counseling.

(4) REPORT.—Not later than 24 months after the designated transfer date, and annually thereafter, the ζ Director *Bureau* shall submit a report on its financial literacy activities and strategy to improve financial literacy of consumers to—

(A) * * *

* * * * *
(5) MEMBERSHIP IN FINANCIAL LITERACY AND EDUCATION COMMISSION.—Section 513(c)(1) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(c)(1)) is amended—

(A) * * *

* * * * *
(C) by inserting after subparagraph (B) the following new subparagraph:

“(C) the ζ Director of the *Bureau of Consumer Financial Protection*; and”.

(6) CONFORMING AMENDMENT.—Section 513(d) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(d)) is amended by adding at the end the following: “The ζ Director of the *Bureau of Consumer Financial Protection* shall serve as the Vice Chairman.”.

* * * * *
(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

(1) IN GENERAL.—The ζ Director *Bureau* shall establish an Office of Service Member Affairs, which shall be responsible for developing and implementing initiatives for service members and their families intended to—

(A) * * *

* * * * *
(2) COORDINATION.—

(A) REGIONAL SERVICES.—The ζ Director *Bureau* is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Service Member Affairs, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

(B) AGREEMENTS.—The ζ Director *Bureau* is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in

order to carry out the business of the Office of Service Member Affairs.

* * * * *

(g) OFFICE OF FINANCIAL PROTECTION FOR OLDER AMERICANS.—

(1) ESTABLISHMENT.—Before the end of the 180-day period beginning on the designated transfer date, the *ε*Director *Bureau* shall establish the Office of Financial Protection for Older Americans, the functions of which shall include activities designed to facilitate the financial literacy of individuals who have attained the age of 62 years or more (in this subsection, referred to as “seniors”) on protection from unfair, deceptive, and abusive practices and on current and future financial choices, including through the dissemination of materials to seniors on such topics.

(2) *ε*ASSISTANT DIRECTOR *HEAD OF THE OFFICE*.—The Office of Financial Protection for Older Americans (in this subsection referred to as the “Office”) shall be headed by *ε*an assistant director *a Head of the Office of Financial Protection for Older Americans*.

* * * * *

SEC. 1014. CONSUMER ADVISORY BOARD.

(a) ESTABLISHMENT REQUIRED.—The *ε*Director *Bureau* shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.

(b) MEMBERSHIP.—In appointing the members of the Consumer Advisory Board, the *ε*Director *Bureau* shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of depository institutions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and seek representation of the interests of covered persons and consumers, without regard to party affiliation. Not fewer than 6 members shall be appointed upon the recommendation of the regional Federal Reserve Bank Presidents, on a rotating basis.

(c) MEETINGS.—The Consumer Advisory Board shall meet from time to time at the call of the *ε*Director *Bureau*, but, at a minimum, shall meet at least twice in each year.

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

(1) be entitled to receive compensation at a rate fixed by the *ε*Director *Bureau* while attending meetings of the Consumer Advisory Board, including travel time; and

* * * * *

SEC. 1016. APPEARANCES BEFORE AND REPORTS TO CONGRESS.

(a) APPEARANCES BEFORE CONGRESS.—The *ε*Director of the Bureau *Chair of the Commission* shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the

Committee on Financial Services and the Committee on Energy and Commerce of the House of Representatives at semi-annual hearings regarding the reports required under subsection (b).

* * * * *

SEC. 1017. FUNDING; PENALTIES AND FINES.

(a) TRANSFER OF FUNDS FROM BOARD OF GOVERNORS.—

(1) **IN GENERAL.**—Each year (or quarter of such year), beginning on the designated transfer date, and each quarter thereafter, the Board of Governors shall transfer to the Bureau from the combined earnings of the Federal Reserve System, the amount determined by the ζ Director *Bureau* to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law, taking into account such other sums made available to the Bureau from the preceding year (or quarter of such year).

* * * * *

(4) BUDGET AND FINANCIAL MANAGEMENT.—

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

* * * * *

(D) ASSERTION OF INTERNAL CONTROLS.—The ζ Director *Bureau* shall provide to the Comptroller General of the United States an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Bureau, using the standards established in section 3512(c) of title 31, United States Code.

(E) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the ζ Director *Bureau* to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in subparagraph (A) or any jurisdiction or oversight over the affairs or operations of the Bureau.

* * * * *

(5) AUDIT OF THE BUREAU.—

(A) * * *

* * * * *

(C) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special pur-

poses. Upon the request of the Comptroller General, the ζ Director of the Bureau shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.

* * * * *

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds obtained by, transferred to, or credited to the Bureau Fund shall be immediately available to the Bureau and under the control of the ζ Director *Bureau*, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities. The compensation of the ζ Director and other employees *members of the Commission and other employees* of the Bureau and all other expenses thereof may be paid from, obtained by, transferred to, or credited to the Bureau Fund under this section.

* * * * *

(e) AUTHORIZATION OF APPROPRIATIONS; ANNUAL REPORT.—

(1) DETERMINATION REGARDING NEED FOR APPROPRIATED FUNDS.—

(A) IN GENERAL.—The ζ Director *Bureau* is authorized to determine that sums available to the Bureau under this section will not be sufficient to carry out the authorities of the Bureau under Federal consumer financial law for the upcoming year.

(B) REPORT REQUIRED.—When making a determination under subparagraph (A), the ζ Director *Bureau* shall prepare a report regarding the funding of the Bureau, including the assets and liabilities of the Bureau, and the extent to which the funding needs of the Bureau are anticipated to exceed the level of the amount set forth in subsection (a)(2). The ζ Director *Bureau* shall submit the report to the President and to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(2) AUTHORIZATION OF APPROPRIATIONS.—If the ζ Director *Bureau* makes the determination and submits the report pursuant to paragraph (1), there are hereby authorized to be appropriated to the Bureau, for the purposes of carrying out the authorities granted in Federal consumer financial law, \$200,000,000 for each of fiscal years 2010, 2011, 2012, 2013, and 2014.

* * * * *

(4) ANNUAL REPORT.—The ζ Director *Bureau* shall prepare and submit a report, on an annual basis, to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives regarding the financial operating plans and forecasts of the ζ Director *Bureau*, the fi-

financial condition and results of operations of the Bureau, and the sources and application of funds of the Bureau, including any funds appropriated in accordance with this subsection.

* * * * *

Subtitle B—General Powers of the Bureau

* * * * *

SEC. 1022. RULEMAKING AUTHORITY.

(a) * * *

(b) RULEMAKING, ORDERS, AND GUIDANCE.—

(1) GENERAL AUTHORITY.—The ζ Director *Bureau* may prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.

* * * * *

SEC. 1024. SUPERVISION OF NONDEPOSITORY COVERED PERSONS.

(a) * * *

(b) SUPERVISION.—

(1) * * *

* * * * *

(5) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the ζ Director *Bureau* to require reports from persons described in subsection (a)(1), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

* * * * *

SEC. 1025. SUPERVISION OF VERY LARGE BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) * * *

(b) SUPERVISION.—

(1) * * *

* * * * *

(4) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the ζ Director *Bureau* to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

* * * * *

SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) * * *

(b) REPORTS.—The ζ Director *Bureau* may require reports from a person described in subsection (a), as necessary to support the role of the Bureau in implementing Federal consumer financial

law, to support its examination activities under subsection (c), and to assess and detect risks to consumers and consumer financial markets.

(1) * * *

(2) PRESERVATION OF AUTHORITY.—Nothing in this subsection may be construed as limiting the authority of the εDirector Bureau from requiring from a person described in subsection (a), as permitted under paragraph (1), information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

* * * * *

SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.

(a) * * *

* * * * *

(1) EXCLUSION FOR ACTIVITIES RELATING TO CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—The εDirector and the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority, including authority to order penalties, over any activities related to the solicitation or making of voluntary contributions to a tax-exempt organization as recognized by the Internal Revenue Service, by any agent, volunteer, or representative of such organizations to the extent the organization, agent, volunteer, or representative thereof is soliciting or providing advice, information, education, or instruction to any donor or potential donor relating to a contribution to the organization.

* * * * *

Subtitle C—Specific Bureau Authorities

* * * * *

SEC. 1035. PRIVATE EDUCATION LOAN OMBUDSMAN.

(a) ESTABLISHMENT.—The Secretary, in consultation with the εDirector Bureau, shall designate a Private Education Loan Ombudsman (in this section referred to as the “Ombudsman”) within the Bureau, to provide timely assistance to borrowers of private education loans.

(b) PUBLIC INFORMATION.—The Secretary and the εDirector Bureau shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education student loan programs.

(c) FUNCTIONS OF OMBUDSMAN.—The Ombudsman designated under this subsection shall—

(1) in accordance with regulations of the εDirector Bureau, receive, review, and attempt to resolve informally complaints from borrowers of loans described in subsection (a), including, as appropriate, attempts to resolve such complaints in collabo-

ration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs;

* * * * *

(4) make appropriate recommendations to the ζ Director *Bureau*, the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

* * * * *

Subtitle F—Transfer of Functions and Personnel; Transitional Provisions

* * * * *

SEC. 1066. INTERIM AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to perform the functions of the Bureau under this subtitle until the ζ Director of the Bureau is *first member of the Commission* is confirmed by the Senate in accordance with section 1011.

* * * * *

Subtitle G—Regulatory Improvements

* * * * *

SEC. 1079. REVIEW, REPORT, AND PROGRAM WITH RESPECT TO EXCHANGE FACILITATORS.

(a) REVIEW.—The ζ Director *Bureau* shall review all Federal laws and regulations relating to the protection of consumers who use exchange facilitators for transactions primarily for personal, family, or household purposes.

(b) REPORT.—Not later than 1 year after the designated transfer date, the ζ Director *Bureau* shall submit to Congress a report describing—

(1) * * *

* * * * *

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

* * * * *

TITLE I—FINANCIAL STABILITY

* * * * *

Subtitle A—Financial Stability Oversight Council

SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.

(a) * * *

(b) MEMBERSHIP.—The Council shall consist of the following members:

(1) VOTING MEMBERS.—The voting members, who shall each have 1 vote on the Council shall be—

(A) * * *

* * * * *

(D) the ζ Director *Chair of the Commission* of the Bureau;

* * * * *

TITLE XIV—MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT

* * * * *

Subtitle D—Office of Housing Counseling

* * * * *

SEC. 1447. DEFAULT AND FORECLOSURE DATABASE.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development and the ζ Director of the Bureau *Bureau*, in consultation with the Federal agencies responsible for regulation of banking and financial institutions involved in residential mortgage lending and servicing, shall establish and maintain a database of information on foreclosures and defaults on mortgage loans for one- to four-unit residential properties and shall make such information publicly available, subject to subsection (e).

* * * * *

(c) REQUIREMENTS.—Information collected and made available through the database shall include—

(1) * * *

* * * * *

(6) such other information as the Secretary of Housing and Urban Development and the ζ Director of the Bureau *Bureau* consider appropriate.

* * * * *

(e) PRIVACY AND CONFIDENTIALITY.—In establishing and maintaining the database described in subsection (a), the Secretary of Housing and Urban Development and the ζ Director of the Bureau *Bureau* shall—

(1) * * *

* * * * *



SECTION 921 OF THE ELECTRONIC FUND TRANSFER ACT

SEC. 921. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.

(a) REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.—

(1) * * *

* * * * *

(4) CONSIDERATIONS; CONSULTATION.—In prescribing regulations under paragraph (3)(A), the Board shall—

(A) * * *

* * * * *

(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the ϵ Director of the Bureau of Consumer Financial Protection *Bureau of Consumer Financial Protection*.

* * * * *

EXPEDITED FUNDS AVAILABILITY ACT

[Section 3(d) of H.R. 1121 provides for an amendment to the Expedited Funds Availability Act. Effective on the designated transfer date (as determined under section 1062 of Public Law 111–203), such Act (as amended by such Public Law and the bill), reads as follows:]

TITLE VI—EXPEDITED FUNDS AVAILABILITY

SEC. 601. SHORT TITLE.

This title may be cited as the “Expedited Funds Availability Act”.

* * * * *

SEC. 603. EXPEDITED FUNDS AVAILABILITY SCHEDULES.

(a) * * *

* * * * *

(d) TIME PERIOD ADJUSTMENTS.—

(1) REDUCTION GENERALLY.—Notwithstanding any other provision of law, the Board, jointly with the ϵ Director of the Bureau of Consumer Financial Protection, shall, by regulation, reduce the time periods established under subsections (b), (c), and (e) to as short a time as possible and equal to the period of time achievable under the improved check clearing system for a receiving depository institution to reasonably expect to learn of the nonpayment of most items for each category of checks.

* * * * *

SEC. 604 SAFEGUARD EXCEPTIONS.

(a) NEW ACCOUNTS.—Notwithstanding section 603, in the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period (or such shorter period as the Board, jointly with the εDirector of the Bureau of Consumer Financial Protection, may establish) beginning on the date such account is established—

(1) * * *

* * * * *

(b) LARGE OR REDEPOSITED CHECKS; REPEATED OVERDRAFTS.—The Board, jointly with the εDirector of the Bureau of Consumer Financial Protection, may, by regulation, establish reasonable exceptions to any time limitation established under subsection (a)(2), (b), (c), or (e) of section 603 for—

(1) * * *

* * * * *

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—In accordance with regulations which the Board, jointly with the εDirector of the Bureau of Consumer Financial Protection, shall prescribe, subsections (a)(2), (b), (c), and (e) of section 603 shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person. Such reasons shall be included in the notice required under sub-section (f).

* * * * *

(d) EMERGENCY CONDITIONS.—Subject to such regulations as the Board, jointly with the εDirector of the Bureau of Consumer Financial Protection, may prescribe, subsections (a)(2), (b), (c), and (e) of section 603 shall not apply to funds deposited by check in any receiving depository institution in the case of—

(1) * * *

* * * * *

(e) PREVENTION OF FRAUD LOSSES.—

(1) IN GENERAL.—The Board, jointly with the εDirector of the Bureau of Consumer Financial Protection, may, by regulation or order, suspend the applicability of this title, or any portion thereof, to any classification of checks if the Board, jointly with the εDirector of the Bureau of Consumer Financial Protection, determines that—

(A) * * *

* * * * *

(3) REPORT TO CONGRESS.—

(A) NOTICE OF EACH SUSPENSION.—Within 10 days of prescribing any regulation or issuing any order under paragraph (1), the Board, jointly with the εDirector of the Bureau of Consumer Financial Protection, shall transmit a

report of such action to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) CONTENTS OF REPORT.—Each report under subparagraph (A) shall contain—

(i) * * *

(ii) evidence considered by the Board, jointly with the Director of the Bureau of Consumer Financial Protection, in making the determination under paragraph (1) with respect to such regulation or order; and

* * * * *

(f) NOTICE OF EXCEPTION; AVAILABILITY WITHIN REASONABLE TIME.—

(1) IN GENERAL.—If any exception contained in this section (other than subsection (a)) applies with respect to funds deposited in an account at a depository institution—

(A) * * *

(B) except where other time periods are specifically provided in this title, the availability of the funds deposited shall be governed by the policy of the receiving depository institution, but shall not exceed a reasonable period of time as determined by the Board, jointly with the Director of the Bureau of Consumer Financial Protection.

* * * * *

(2) TIME FOR NOTICE.—The notice required under paragraph (1)(A) with respect to a deposit to which an exception contained in this section applies shall be made by the time provided in the following subparagraphs:

(A) * * *

* * * * *

(C) In the case of a deposit to which subsection (d) or (e) applies, notice shall be provided by the depository institution in accordance with regulations of the Board, jointly with the Director of the Bureau of Consumer Financial Protection.

* * * * *

SEC. 605. DISCLOSURE OF FUNDS AVAILABILITY POLICIES.

(a) * * *

(b) PREPRINTED DEPOSIT SLIPS.—All preprinted deposit slips that a depository institution furnishes to its customers shall contain a summary notice, as prescribed by the Board, jointly with the Director of the Bureau of Consumer Financial Protection, in regulations, that deposited items may not be available for immediate withdrawal.

* * * * *

(d) POSTING OF NOTICE.—

(1) * * *

(2) GENERAL NOTICE AT AUTOMATED TELLER MACHINES.—In the case of any automated teller machine at which any funds are received for deposit in an account at any depository institution, the Board, jointly with the Director of the Bureau of

Consumer Financial Protection, shall prescribe, by regulations, that the owner or operator of such automated teller machine shall post or provide a general notice that funds deposited in such machine may not be immediately available for withdrawal.

* * * * *

(f) MODEL DISCLOSURE FORMS.—

(1) PREPARED BY BOARD AND BUREAU.—The Board, jointly with the çDirector of the Bureau of Consumer Financial Protection, shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language.

(2) USE OF FORMS TO ACHIEVE COMPLIANCE.—A depository institution shall be deemed to be in compliance with the requirements of this section if such institution—

(A) uses any appropriate model form or clause as published by the Board, jointly with the çDirector of the Bureau of Consumer Financial Protection, or

* * * * *

(3) VOLUNTARY USE.—Nothing in this title requires the use of any such model form or clause prescribed by the Board, jointly with the çDirector of the Bureau of Consumer Financial Protection, under this subsection.

(4) NOTICE AND COMMENT.—Model disclosure forms and clauses shall be adopted by the Board, jointly with the çDirector of the Bureau of Consumer Financial Protection, only after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

* * * * *

SEC. 609. REGULATIONS AND REPORTS BY BOARD.

(a) IN GENERAL.—After notice and opportunity to submit comment in accordance with section 553(c) of title 5, United States Code, the Board, jointly with the çDirector of the Bureau of Consumer Financial Protection, shall prescribe regulations—

(1) * * *

* * * * *

(e) CONSULTATIONS.—In prescribing regulations under subsections (a) and (b), the Board and the çDirector of the Bureau of Consumer Financial Protection, in the case of subsection (a), and the Board, in the case of subsection (b), shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.

* * * * *



FEDERAL DEPOSIT INSURANCE ACT

[Section 3(e) of H.R. 1121 provides for an amendment to section 2 of the Federal Deposit Insurance Act. Effective on the designated transfer date (as determined under section 1062 of Public Law 111-203), such Act (as amended by such Public Law and the bill), reads as follows:]

* * * * *

SEC. 2. MANAGEMENT.

(a) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The management of the Corporation shall be vested in a Board of Directors consisting of 5 members—

(A) * * *

(B) 1 of whom shall be the ζ Director of the Consumer Financial Protection Bureau *Chair of the Commission of the Bureau of Consumer Financial Protection*; and

* * * * *

(d) VACANCY.—

(1) * * *

(2) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the office of the Comptroller of the Currency or the office of ζ Director of the Consumer Financial Protection Bureau *Chair of the Commission of the Bureau of Consumer Financial Protection* and pending the appointment of a successor, or during the absence or disability of the Comptroller of the Currency or the ζ Director of the Consumer Financial Protection Bureau *Chair of the Commission of the Bureau of Consumer Financial Protection*, the acting Comptroller of the Currency or the acting ζ Director of the Consumer Financial Protection Bureau *Chair of the Commission of the Bureau of Consumer Financial Protection*, as the case may be, shall be a member of the Board of Directors in the place of the Comptroller or Director.

* * * * *

SECTION 1004 OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978

[Section 3(f) of H.R. 1121 provides for an amendment to section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978. Effective on the designated transfer date (as determined under section 1062 of Public Law 111-203), such Act (as amended by such Public Law and the bill), reads as follows:]

ESTABLISHMENT OF THE COUNCIL

SEC. 1004. (a) There is established the Financial Institutions Examination Council which shall consist of—

(1) * * *

* * * * *

(4) the ζ Director of the Consumer Financial Protection Bureau *Chair of the Commission of the Bureau of Consumer Financial Protection*,

* * * * *

SECTION 513 OF THE FINANCIAL LITERACY AND EDUCATION IMPROVEMENT ACT

SEC. 513. ESTABLISHMENT OF FINANCIAL LITERACY AND EDUCATION COMMISSION.

(a) * * *
* * * * *

(c) MEMBERSHIP.—
(1) COMPOSITION.—The Commission shall be composed of—
(A) * * *

* * * * *
(C) the ζDirector *Chair of the Commission* of the Bureau of Consumer Financial Protection; and
* * * * *

(d) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson. The ζDirector *Chair of the Commission* of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman.
* * * * *

HOME MORTGAGE DISCLOSURE ACT OF 1975

[Section 3(h) of H.R. 1121 provides for an amendment to section 307 of the Home Mortgage Disclosure Act of 1975. Effective on the designated transfer date (as determined under section 1062 of Public Law 111-203), such Act (as amended by such Public Law and the bill), reads as follows:]

TITLE III—HOME MORTGAGE DISCLOSURE

* * * * *

SEC. 307. COMPLIANCE IMPROVEMENT METHODS.

(a) IN GENERAL.—
(1) CONSULTATION REQUIRED.—The ζDirector of the Bureau of Consumer Financial Protection *Bureau of Consumer Financial Protection*, with the assistance of the Secretary, the Director of the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Bureau deems appropriate, shall develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.
* * * * *

(3) CONTRACTING AUTHORITY.—The ζDirector of the Bureau of Consumer Financial Protection *Bureau of Consumer Financial Protection* is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) RECOMMENDATIONS TO CONGRESS.—The ζDirector of the Bureau of Consumer Financial Protection *Bureau of Consumer Financial Protection* shall recommend to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on

Financial Services of the House of Representatives, such additional legislation as the ζDirector of the Bureau of Consumer Financial Protection *Bureau of Consumer Financial Protection* deems appropriate to carry out the purpose of this title.

* * * * *

INTERSTATE LAND SALES FULL DISCLOSURE ACT

[Section 3(i) of H.R. 1121 provides for amendments to the Interstate Land Sales Full Disclosure Act. Effective on the designated transfer date (as determined under section 1062 of Public Law 111-203), such Act (as amended by such Public Law and the bill), reads as follows:]

TITLE XIV—INTERSTATE LAND SALES

SHORT TITLE

SEC. 1401. This title may be cited as the “Interstate Land Sales Full Disclosure Act.”

DEFINITIONS

SEC. 1402. For the purposes of this title, the term—

ζ(1) “Secretary” means the Secretary of Housing and Urban Development;

(1) “Chair” means the Chair of the Commission of the Bureau of Consumer Financial Protection;

* * * * *

EXEMPTIONS

SEC. 1403. (a) * * *

(b) Unless the method of disposition is adopted for the purpose of evasion of this title, the provisions requiring registration and disclosure (as specified in section 1404(a)(1) and sections 1405 through 1408) shall not apply to—

(1) * * *

(2) the sale or lease of lots in a subdivision if, within the twelve-month period commencing on the date of the first sale or lease of a lot in such subdivision after the effective date of this subsection or on such other date within that twelve-month period as the ζDirector *Bureau* may prescribe, not more than twelve lots are sold or leased, and the sale or lease of the first twelve lots in such subdivision in any subsequent twelve-month period, if not more than twelve lots have been sold or leased in any preceding twelve-month period after the effective date of this subsection;

* * * * *

(8) the sale or lease of a lot in a subdivision containing fewer than three hundred lots if—

(A) * * *

(B) the lot is free and clear of liens (such as mortgages, deeds of trust, tax liens, mechanics liens, or judgments) at the time of the signing of the contract or agreement and until a deed is delivered to the purchaser or the lease ex-

pires. As used in this subparagraph, the term "liens" does not include (i) United States land patents and similar Federal grants or reservations, (ii) property reservations which lands developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, (iii) taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, or (iv) other interests described in regulations prescribed by the ζ Director *Bureau*;

* * * * *

(G) the developer executes a written affirmation to the effect that he has complied with the provisions of this paragraph, such affirmation to be given on a form provided by the ζ Director *Bureau*, which shall include the following: the name and address of the developer; the name and address of the purchaser or lessee; a legal description of the lot; and affirmation that the provisions of this paragraph have been complied with; a statement that the developer submits to the jurisdiction of this title with regard to the sale of lease; and the signature of the developer.

(c) The ζ Director *Bureau* may from time to time, pursuant to rules and regulations issued by him, exempt from any of the provisions of this title any subdivision or any lots in a subdivision, if he finds that the enforcement of this title with respect to such subdivision or lots is not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the public offering.

* * * * *

REGISTRATION OF SUBDIVISIONS

SEC. 1405. (a) A subdivision may be registered by filing with the ζ Director *Bureau* a statement of record, meeting the requirements of this title and such rules and regulations as may be prescribed by the ζ Director *Bureau* in furtherance of the provisions of this title. A statement of record shall be deemed effective only as to the lots specified therein.

(b) At the time of filing a statement of record, or any amendment thereto, the developer shall pay to the ζ Director *Bureau* a fee, not in excess of \$1,000, in accordance with a schedule to be fixed by the regulations of the ζ Director *Bureau*, which fees may be used by the ζ Director *Bureau* to cover all or part of the cost of rendering services under this title, and such expenses as are paid from such fees shall be considered non-administrative.

(c) The filing with the ζ Director *Bureau* of a statement of record, or of an amendment thereto, shall be deemed to have taken place upon the receipt thereof, accompanied by payment of the fee required by subsection (b).

(d) The information contained in or filed with any statement of record shall be made available to the public under such regulations

as the *Director Bureau* may prescribe and copies thereof shall be furnished to every applicant at such reasonable charge as the *Director Bureau* may prescribe.

INFORMATION REQUIRED IN STATEMENT OF RECORD

SEC. 1406. The statement of record shall contain the information and be accompanied by the documents specified hereinafter in this section—

(1) * * *

* * * * *

(11) such certified and uncertified financial statements of the developer as the *Director Bureau* may require; and

(12) such other information and such other documents and certifications as the *Director Bureau* may require as being reasonably necessary or appropriate for the protection of purchasers.

TAKING EFFECT OF STATEMENTS OF RECORD AND AMENDMENTS THERETO

SEC. 1407. (a) Except as hereinafter provided, the effective date of a statement of record, or any amendment thereto, shall be the thirtieth day after the filing thereof or such earlier date as the *Director Bureau* may determine, having due regard to the public interest and the protection of purchaser. If any amendment to any such statement is filed prior to the effective date of the statement, the statement shall be deemed to have been filed when such amendment was filed; except that such an amendment filed with the consent of the Secretary, or filed pursuant to an order of the *Director Bureau*, shall be treated as being filed as of the date of the filing of the statement of record. When a developer records additional lands to be offered for disposition, he may consolidate the subsequent statement of record with any earlier recording offering subdivided land for disposition under the same promotional plan. At the time of consolidation the developer shall include in the consolidated statement of record any material changes in the information contained in the earlier statement.

(b) If it appears to the *Director Bureau* that a statement of record, or any amendment thereto, is on its face incomplete or inaccurate in any material respect, the *Director Bureau* shall so advise the developer within a reasonable time after the filing of the statement or the amendment, but prior to the date the statement or amendment would otherwise be effective. Such notification shall serve to suspend the effective date of the statement or the amendment until thirty days after the developer files such additional information as the *Director Bureau* shall require. Any developer, upon receipt of such notice, may request a hearing, and such hearing shall be held within twenty days of receipt of such request by the *Director Bureau*.

(c) If, at any time subsequent to the effective date of a statement or record, a change shall occur affecting any material fact required to be contained in the statement, the developer shall promptly file an amendment thereto. Upon receipt of any such amendment, the *Director Bureau* may, if he determines such action to be necessary or appropriate in the public interest or for the protection of

purchasers, suspend the statement of record until the amendment becomes effective.

(d) If it appears to the *Director Bureau* at any time that a statement of record, which is in effect, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the *Director Bureau* may, after notice, and after opportunity for hearing (at a time fixed by the *Director Bureau*) within fifteen days after such notice, issue an order suspending the statement of record. When such statement has been amended in accordance with such order, the *Director Bureau* shall so declare and thereupon the order shall cease to be effective.

(e) The *Director Bureau* is hereby empowered to make an examination in any case to determine whether an order should issue under subsection (d). In making such examination, the *Director Bureau* or anyone designated by him shall have access to and may demand the production of any books and papers of, and may administer oaths and affirmations to and examine, the developer, any agents, or any other person, in respect of any matter relevant to the examination. If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the statement of record.

* * * * *

INFORMATION REQUIRED IN PROPERTY REPORT

SEC. 1408. (a) A property report relating to the lots in a subdivision shall contain such of the information contained in the statement of record, and any amendments thereto, as the *Director Bureau* may deem necessary, but need not include the documents referred to in paragraphs (7) to (11), inclusive, of section 1406. A property report shall also contain such other information as the *Director Bureau* may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of purchasers.

(b) The property report shall not be used for any promotional purposes before the statement of record becomes effective and then only if it is used in its entirety. No person may advertise or represent that the *Director Bureau* approves or recommends the subdivision or the sale or lease of lots therein. No portion of the property report shall be underscored, italicized, or printed in larger, or bolder type than the balance of the statement unless the *Director Bureau* requires or permits it.

CERTIFICATION OF SUBSTANTIALLY EQUIVALENT STATE LAW

SEC. 1409. (a)(1) A State shall be certified if the *Director Bureau* determines—

(A) * * *

* * * * *

(2) In the case of any State which is not certified under paragraph (1), such State shall be certified if the *Director Bureau* determines—

(A) * * *

* * * * *

(b) After the εDirector Bureau has certified a State under subsection (a), the εDirector Bureau shall accept for filing under sections 1405 through 1408 (and declare effective as the Federal statement of record and property report which shall be used in all States in which the lots are offered for sale or lease) disclosure materials found acceptable, and any related documentation required, by State authorities in connection with the sale or lease of lots located within the State. The εDirector Bureau may accept for such filing, and declare effective as the Federal statement of record and property report, such materials and documentation found acceptable by the State in connection with the sale or lease of lots located outside that State. Nothing in this subsection shall preclude the εDirector Bureau from exercising the authority conferred by subsections (d) and (e) of section 1407.

(c) If a State fails to meet the standards for certification pursuant to subsection (a), the εDirector Bureau shall notify the State in writing of the changes in State law, regulation, or administration that are needed in order to obtain certification.

(d) The εDirector Bureau shall periodically review the laws and regulations, and the administration thereof, of States certified under subsection (a), and may withdraw such certification upon a determination that such laws, regulations, and the administration thereof, taken as a whole, no longer meet the requirements of subsection (a).

(e) Nothing in this title may be construed to prevent or limit the authority of any State or local government to enact and enforce with regard to the sale of land any law, ordinance, or code not in conflict with this title. In administering this title, the εDirector Bureau shall cooperate with State authorities charged with the responsibility of regulating the sale or lease of lots which are subject to this title.

* * * * *

COURT REVIEW OF ORDERS

SEC. 1411. (a) Any person, aggrieved by an order or determination of the εDirector Bureau issued after a hearing, may obtain a review of such order or determination in the court of appeals of the United States, within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order or determination, a written petition praying that the order or determination of the εDirector Bureau be modified or be set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to the εDirector Bureau, and thereupon the εDirector Bureau shall file in the court the record upon which the order or determination complained of was entered, as provided in section 2112 of title 28, United States Code. No objection to an order or determination of the εDirector Bureau shall be considered by the court unless such objection shall have been urged before the εDirector Bureau. The finding of the εDirector Bureau as to the facts, if supported by substantial evidence, shall be conclusive. If

either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the *Director Bureau*, the court may order such additional evidence to be taken before the *Director Bureau* and to be adduced upon a hearing in such manner and upon such terms and conditions as to the court may seem proper. The *Director Bureau* may modify his findings as to the facts by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. Upon the filing of such petition, the jurisdiction of the court shall be exclusive and its judgment and decree, affirming, modifying, or setting aside, in whole or in part, any order of the *Director Bureau*, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

* * * * *

CONTRARY STIPULATION VOID

SEC. 1413. Any condition, stipulation, or provision binding any person acquiring any lot in a subdivision to waive compliance with any provision of this title of the rules and regulations of the *Director Bureau* shall be void.

* * * * *

INVESTIGATIONS, INJUNCTIONS, AND PROSECUTION OF OFFENSES

SEC. 1415. (a) Whenever it shall appear to the *Director Bureau* that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation prescribed pursuant thereto, he may, in his discretion, bring an action in any district court of the United States, or the United States District Court for the District of Columbia to enjoin such acts or practices, and, upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond. The *Director Bureau* may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, in his discretion, institute the appropriate criminal proceedings under this title.

(b) The *Director Bureau* may, in his discretion, make such investigations as he deems necessary to determine whether any person has violated or is about to violate any provision of this title or any rule or regulation prescribed pursuant thereto, and may require or permit any person to file with him a statement in writing, under oath or otherwise as the *Director Bureau* shall determine, as to all the facts and circumstances concerning the matter to be investigated. The *Director Bureau* is authorized, in his discretion, to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matters which he may deem necessary or proper to aid in the enforcement of the provisions of this title, in the prescribing of rules and regulations thereunder or in securing information to service as a basis for rec-

ommending further legislation concerning the matters to which this title relates.

(c) For the purpose of any such investigation, or any other proceeding under this title, the ζ Director *Bureau*, or any officer designated by him, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the ζ Director *Bureau* deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing.

(d) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the ζ Director *Bureau* may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records and documents. And such court may issue an order requiring such person to appear before the ζ Director *Bureau* or any officer designated by the ζ Director *Bureau*, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

ADMINISTRATION

SEC. 1416. (a) The authority and responsibility for administering this title shall be in the ζ Director of the Bureau of Consumer Financial Protection *Chair* who may delegate any of his functions, duties, and powers to employees of the Bureau of Consumer Financial Protection or to boards of such employees including functions, duties, and powers with respect to investigating, hearing, determining, ordering, or otherwise acting as to any work, business, or matter under this title. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Bureau in compliance with sections 3105, 3344, 5372, and 7521 of title 5 of the United States Code. The ζ Director *Bureau* shall by rule prescribed such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Bureau, to boards of officers or to himself, as shall be appropriate and in accordance with law.

* * * * *

(c) The ζ Director *Bureau* shall conduct all actions with respect to rulemaking or adjudication under this title in accordance with the provisions of chapter 5 of title 5, United States Code. Notice shall be given of any adverse action or final disposition and such notice and the entry of any order shall be accompanied by a written statement of supporting facts and legal authority.

UNLAWFUL REPRESENTATIONS

SEC. 1417. The fact that a statement of record with respect to a subdivision has been filed or is in effect shall not be deemed a finding by the *Director Bureau* that the statement of record is true and accurate on its face, or be held to mean the *Director Bureau* has in any way passed upon the merits of, or given approval to, such subdivision. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing.

* * * * *

CIVIL MONEY PENALTIES

SEC. 1418a. (a) IN GENERAL.—

(1) AUTHORITY.—Whenever any person knowingly and materially violates any of the provisions of this title or any rule, regulation, or order issued under this title, the *Director Bureau* may impose a civil money penalty on such person in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the *Director Bureau* imposes other administrative sanctions.

(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the *Director Bureau*, may not exceed \$1,000 for each violation, except that the maximum penalty for all violations by a particular person during any 1-year period shall not exceed \$1,000,000. Each violation of this title, or any rule, regulation, or order issued under this title, shall constitute a separate violation with respect to each sale or lease or offer to sell or lease. In the case of a continuing violation, as determined by the *Director Bureau*, each day shall constitute a separate violation.

(b) AGENCY PROCEDURES.—

(1) ESTABLISHMENT.—The *Director Bureau* shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). The standards and procedures—

(A) * * *

(B) may provide for review by the *Director Bureau* of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the *Director Bureau* reviews the determination or order, the *Director Bureau* may affirm, modify, or reverse that determination or order. If the *Director Bureau* does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the pen-

alty, injury to the public, benefits received, deterrence of future violations, and such other factors as the *Director Bureau* may determine in regulations to be appropriate.

* * * * *

(c) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the *Director Bureau* under subsection (b)(1), a person aggrieved by a final order of the *Director Bureau* assessing a penalty under this section may seek judicial review pursuant to section 1411.

(2) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the *Director Bureau*.

(d) ACTION TO COLLECT PENALTY.—If any person fails to comply with the determination or order of the *Director Bureau* imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (b) and (c), the *Director Bureau* may request the Attorney General of the United States to bring an action in any appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY SECRETARY.—The *Director Bureau* may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

* * * * *

(g) REGULATIONS.—The *Director Bureau* shall issue such regulations as the *Director Bureau* deems appropriate to implement this section.

(h) USE OF PENALTIES FOR ADMINISTRATION.—Civil money penalties collected under this section shall be paid to the Secretary and, upon approval in an appropriation Act, may be used by the *Director Bureau* to cover all or part of the cost of rendering services under this title.

SEC. 1419. The *Director Bureau* shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon him elsewhere in this title. For the purpose of his rules and regulations, the *Director Bureau* may classify persons and matters within his jurisdiction and prescribe different requirements for different classes of persons or matters.

JURISDICTION OF OFFENSES AND SUITS

SEC. 1420. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this title and under the this title and under the rules and regulations prescribed by the *Director Bureau* pursu-

ant thereto, and concurrent with State courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this title. Any such suit or action may be brought to enforce any liability or duty created by this title. Any such suit or action may be brought in the district where the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254 and 1291 of title 28, United State Code. No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where the United States or any officer or employee of the United States in his official capacity is a party. No costs shall be assessed for or against the *Director Bureau* in any proceeding under this title brought by or against him in the Supreme Court or such other courts.

* * * * *

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

[Section 3(j) of H.R. 1121 provides for amendments to section 5 of the Real Estate Settlement Procedures Act of 1974. Effective on the designated transfer date (as determined under section 1062 of Public Law 111-203), such Act (as amended by such Public Law and the bill), reads as follows:]

* * * * *

HOME BUYING INFORMATION BOOKLETS

SEC. 5. (a) PREPARATION AND DISTRIBUTION.—*The Director of the Bureau of Consumer Financial Protection (hereafter in this section referred to as the "Director") The Bureau of Consumer Financial Protection shall prepare, at least once every 5 years, a booklet to help consumers applying for federally related mortgage loans to understand the nature and costs of real estate settlement services. The Director Bureau shall prepare the booklet in various languages and cultural styles, as the Director Bureau determines to be appropriate, so that the booklet is understandable and accessible to homebuyers of different ethnic and cultural backgrounds. The Director Bureau shall distribute such booklets to all lenders that make federally related mortgage loans. The Director Bureau shall also distribute to such lenders lists, organized by location, of homeownership counselors certified under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) for use in complying with the requirement under subsection (c) of this section.*

(b) CONTENTS.—Each booklet shall be in such form and detail as the *Director Bureau* shall prescribe and, in addition to such other information as the *Director Bureau* may provide, shall include in plain and understandable language the following information:

(1) * * *

* * * * *

(6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled "Consumer Handbook on Adjustable Rate Mortgages", published by the Director Bureau, or to any suitable substitute of such booklet that the Director Bureau may subsequently adopt pursuant to such section.

* * * * *

S.A.F.E. MORTGAGE LICENSING ACT OF 2008

[Section 3(k) of H.R. 1121 provides for an amendments to the S.A.F.E. Mortgage Licensing Act of 2008. Effective on the designated transfer date (as determined under section 1062 of Public Law 111-203), such Act (as amended by such Public Law and the bill), reads as follows:]

TITLE V—S.A.F.E. MORTGAGE LICENSING ACT

SEC. 1501. SHORT TITLE.

This title may be cited as the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" or "S.A.F.E. Mortgage Licensing Act of 2008".

* * * * *

SEC. 1503. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) * * *

* * * * *

(6) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.—The term "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Director Bureau under section 1509.

* * * * *

(10) DIRECTOR.—The term "Director" means the Director of the Bureau of Consumer Financial Protection.

* * * * *

(12) STATE-LICENSED LOAN ORIGINATOR.—The term "State-licensed loan originator" means any individual who—

(A) * * *

* * * * *

(C) is licensed by a State or by the Director Bureau under section 1508 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

* * * * *

SEC. 1508. BUREAU OF CONSUMER FINANCIAL PROTECTION BACKUP AUTHORITY TO ESTABLISH LOAN ORIGINATOR LICENSING SYSTEM.

(a) **BACKUP LICENSING SYSTEM.**—If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this title or at any time thereafter, the *Director Bureau* determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 1505 and 1506 and subsection (d) of this section, or does not participate in the Nationwide Mortgage Licensing System and Registry, the *Director Bureau* shall provide for the establishment and maintenance of a system for the licensing and registration by the *Director Bureau* of loan originators operating in such State as State-licensed loan originators.

(b) **LICENSING AND REGISTRATION REQUIREMENTS.**—The system established by the *Director Bureau* under subsection (a) for any State shall meet the requirements of sections 1505 and 1506 for State-licensed loan originators.

(c) **UNIQUE IDENTIFIER.**—The *Director Bureau* shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the *Director Bureau* as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) **STATE LICENSING LAW REQUIREMENTS.**—For purposes of this section, the law in effect in a State meets the requirements of this subsection if the *Director Bureau* determines the law satisfies the following minimum requirements:

(1) * * *

* * * * *

(e) **TEMPORARY EXTENSION OF PERIOD.**—The *Director Bureau* may extend, by not more than 24 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 1505 and 1506 and subsection (d) if the *Director Bureau* determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

* * * * *

SEC. 1509. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.

If at any time the *Director Bureau* determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this title for a comprehensive licensing, supervisory, and tracking system for loan originators, the *Director Bureau* shall establish and maintain such a system to carry out the purposes of this title and the effective registration and regulation of loan originators.

* * * * *

SEC. 1512. CONFIDENTIALITY OF INFORMATION.

(a) SYSTEM CONFIDENTIALITY.—Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the εDirector Bureau under section 1509, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

* * * * *

(b) NONAPPLICABILITY OF CERTAIN REQUIREMENTS.—Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—

(1) * * *

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the εDirector Bureau with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

* * * * *

SEC. 1513. LIABILITY PROVISIONS.

The Bureau, any State official or agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the εDirector Bureau under section 1509, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

SEC. 1514. ENFORCEMENT UNDER HUD BACKUP LICENSING SYSTEM.

(a) SUMMONS AUTHORITY.—The εDirector Bureau may—

(1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the εDirector Bureau under section 1508; and

(2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the εDirector Bureau or any delegate of the εDirector Bureau at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an in-

vestigation of such loan originator for compliance with the requirements of this title.

(b) EXAMINATION AUTHORITY.—

(1) IN GENERAL.—If the *Director Bureau* establishes a licensing system under section 1508 for any State, the *Director Bureau* shall appoint examiners for the purposes of administering such section.

(2) POWER TO EXAMINE.—Any examiner appointed under paragraph (1) shall have power, on behalf of the *Director Bureau*, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the *Director Bureau* under section 1508 whenever the *Director Bureau* determines an examination of any loan originator is necessary to determine the compliance by the originator with this title.

(3) REPORT OF EXAMINATION.—Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the *Director Bureau*.

(4) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE.—In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the *Director Bureau* under section 1508, or with other types of investigations to determine compliance with applicable law and regulations, the *Director Bureau* and examiners appointed by the *Director Bureau* may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) ASSESSMENTS.—The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the *Director Bureau* under section 1508 shall be assessed by the *Director Bureau* against the loan originator to meet the Secretary's expenses in carrying out such examination.

(c) CEASE AND DESIST PROCEEDING.—

(1) AUTHORITY OF SECRETARY.—If the *Director Bureau* finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the *Director Bureau* under section 1508, the *Director Bureau* may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the *Director Bureau* may specify in such order. Any such order may, as the *Director Bureau* deems appropriate, require future compliance or steps to effect future com-

pliance, either permanently or for such period of time as the ζ Director *Bureau* may specify, with such provision or regulation with respect to any loan originator.

(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the ζ Director *Bureau* with the consent of any respondent so served.

(3) TEMPORARY ORDER.—Whenever the ζ Director *Bureau* determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion of the proceedings, the ζ Director *Bureau* may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as the ζ Director *Bureau* deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the ζ Director *Bureau* determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the ζ Director *Bureau* or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

(4) REVIEW OF TEMPORARY ORDERS.—

(A) REVIEW BY SECRETARY.—At any time after the respondent has been served with a temporary cease and desist order pursuant to paragraph (3), the respondent may apply to the ζ Director *Bureau* to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease and desist order entered without a prior hearing before the ζ Director *Bureau*, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the shall hold a hearing and render a decision on such application at the earliest possible time.

(B) JUDICIAL REVIEW.—Within—

(i) 10 days after the date the respondent was served with a temporary cease and desist order entered with a prior hearing before the ζ Director *Bureau*, or

(ii) 10 days after the ζ Director *Bureau* renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease and desist order entered without a prior hearing before the ζ Director *Bureau*,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending

the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease and desist order entered without a prior hearing before the *Director Bureau* may not apply to the court except after hearing and decision by the *Director Bureau* on the respondent's application under subparagraph (A).

* * * * *

(5) **AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS.**—In any cease and desist proceeding under paragraph (1), the *Director Bureau* may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the *Director Bureau* shall determine, any person who has violated this title or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) **AUTHORITY OF THE *Director Bureau* TO ASSESS MONEY PENALTIES.**—

(1) **IN GENERAL.**—The *Director Bureau* may impose a civil penalty on a loan originator operating in any State which is subject to a licensing system established by the *Director Bureau* under section 1508, if the *Director Bureau* finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of this title or any regulation prescribed by the *Director Bureau* under this title or order issued under subsection (c).

* * * * *

SEC. 1516. REPORTS AND RECOMMENDATIONS TO CONGRESS.

(a) **ANNUAL REPORTS.**—Not later than 1 year after the date of enactment of this title, and annually thereafter, the *Director Bureau* shall submit a report to Congress on the effectiveness of the provisions of this title, including legislative recommendations, if any, for strengthening consumer protections, enhancing examination standards, streamlining communication between all stakeholders involved in residential mortgage loan origination and processing, and establishing performance based bonding requirements for mortgage originators or institutions that employ such brokers.

(b) **LEGISLATIVE RECOMMENDATIONS.**—Not later than 6 months after the date of enactment of this title, the *Director Bureau* shall make recommendations to Congress on legislative reforms to the Real Estate Settlement Procedures Act of 1974, that the *Director Bureau* deems appropriate to promote more transparent disclosures, allowing consumers to better shop and compare mortgage loan terms and settlement costs.

SEC. 1517. STUDY AND REPORTS ON DEFAULTS AND FORECLOSURES.

(a) **STUDY REQUIRED.**—The *Director Bureau* shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as is available.

(b) **PRELIMINARY REPORT TO CONGRESS.**—Not later than 6 months after the date of enactment of this title, the *Director Bu-*

reau shall submit to Congress a preliminary report regarding the study required by this section.

(c) FINAL REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this title, the εDirector Bureau shall submit to Congress a final report regarding the results of the study required by this section, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to provide targeted assistance to populations with the highest risk of potential default or foreclosure.

* * * * *

TITLE 44, UNITED STATES CODE

[Section 3(l) of H.R. 1121 provides for an amendment to section 3513 of title 44, United States Code. Effective on the designated transfer date (as determined under section 1062 of Public Law 111–203), such Act (as amended by such Public Law and the bill), reads as follows:]

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CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

* * * * *

SUBCHAPTER I—FEDERAL INFORMATION POLICY

* * * * *

§ 3513. Director review of agency activities; reporting; agency response

(a) * * *

* * * * *

(c) COMPARABLE TREATMENT.—Notwithstanding any other provision of law, the Director shall treat or review a rule or order prescribed or proposed by the εDirector of the Bureau Bureau of Consumer Financial Protection on the same terms and conditions as apply to any rule or order prescribed or proposed by the Board of Governors of the Federal Reserve System.

* * * * *

MINORITY VIEWS

The Consumer Financial Protection Bureau (CFPB) is a very important part of the Wall Street Reform and Consumer Protection Act, as the title of the bill makes clear. Until passage of that Act, consumer protection in financial matters was in the hands of regulators who consistently treated consumer protection as a second class concern. Creating an independent bureau was intended to ensure that consumer interests are fully considered on the merits and not relegated to an afterthought.

H.R. 1121 proposes to alter fundamentally the structure of the CFPB, replacing the single Director with a 5-member commission. This formulation was considered and rejected by House conferees who recognized the need for a strong consumer protection regulator that could act decisively to protect consumers and support a well-informed, efficient market for consumer financial products. One of the primary responsibilities of the CFPB is to regulate the shadow banking system that often harms both consumers and responsible financial institutions. H.R. 1121 would lead to gridlock, exacerbate the regulatory disparity between banks and credit union and their less-regulated competitors, and leave consumers without crucial protections. We strongly oppose this legislation.

BARNEY FRANK.
LUIS V. GUTIERREZ.
GARY G. PETERS.
ANDRE CARSON.
WM. LACY CLAY.
EMANUEL CLEAVER.
GARY L. ACKERMAN.
CAROLYN MCCARTHY.
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