

~~111TH CONGRESS 1ST SESSION~~ **DISCUSSION DRAFT**

~~H. R. 11~~

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

~~IN THE HOUSE OF REPRESENTATIVES~~

~~Mr. FRANK of Massachusetts (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on [REDACTED]~~

~~A BILL~~

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

~~Be it enacted by the Senate and House of Representatives of the United States of America
in Congress assembled,~~

SEPTEMBER 25, 2009

SECTION 1. SHORT TITLE.

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

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TITLE I—CONSUMER FINANCIAL PROTECTION AGENCY

SEC. 101. DEFINITIONS.

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

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

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

~~(3) ALTERNATIVE CONSUMER FINANCIAL PRODUCT OR SERVICE.—The term “alternative consumer financial product or service” means a consumer financial product or service that is of the same type or class as a standard consumer financial product or service, but that contains different or additional terms, fees, or features.~~

~~(4) APPOINTED BOARD MEMBER.—The term “appointed Board member” or “appointed Board members” means a member or members of the Board appointed by the President under section 112(a)(1).~~

(3) BANK HOLDING COMPANY.—The term “bank holding company” has the same meaning as in section 2(a) of the Bank Holding Company Act of 1956.

~~(54) BOARD.—The~~Except when used in connection with the term “Board of Governors”, the term “Board” means ~~the Board of~~ the Consumer Financial Protection Agency. Oversight Board.

~~(65)~~ BOARD OF GOVERNORS.—The term “Board of Governors” means the Board of Governors of the Federal Reserve System.

~~(76)~~ CONSUMER.—The term “consumer” means an individual or an agent, trustee, or representative acting on behalf of an individual.

~~(87)~~ CONSUMER FINANCIAL PRODUCT OR SERVICE.—The term “consumer financial product or service” means any financial product or service to be used by a consumer primarily for personal, family, or household purposes.

~~(98)~~ COVERED PERSON.—The term “covered person” means—

(A) any person who engages directly or indirectly in a financial activity, in connection with the provision of a consumer financial product or service; or

(B) any person who, in connection with the provision of a consumer financial product or service, provides a material service to ~~or processes a transaction on behalf of~~ a person described in subparagraph (A).

(~~10~~9) CREDIT.—The term “credit” means the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase.

(~~11~~10) CREDIT UNION.—The term “credit union” means a Federal credit union, ~~State credit union~~, or a ~~State-chartered~~ credit union as defined in section 101 of the Federal Credit Union Act (~~12 U.S.C. 1752~~).₂

(~~12~~11) DEPOSIT.—The term “deposit”—

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

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

(~~13~~12) DEPOSIT-TAKING ACTIVITY.—The term “deposit-taking activity” means—

(A) the acceptance of deposits, the maintenance of deposit accounts, or the provision of ~~other~~ services related to the acceptance of deposits, ~~or the maintenance of deposit accounts~~;₂

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

(C) the receipt of money or its equivalent, as the ~~Agency~~Director may determine by regulation or order, received or held by the covered person (or an agent for the person) for the purpose of facilitating a payment or transferring funds or value of funds by a consumer to a third party. For the purposes of this title, the ~~Agency~~Director may determine that the term “deposit-taking activity” includes the receipt of money or its equivalent in connection with the sale or issuance of any payment instrument or stored value product or service.

(~~14~~13) DESIGNATED TRANSFER DATE.—The term “designated transfer date” has the meaning provided in section 162.

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

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

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

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

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

(D) The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), except with respect to sections 615(e), ~~624, and 628.~~ and 628 of such Act and subject to section 124(i) of this Act.

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

(F) Subsections (c), (d), (e), and (f) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t).

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

(H) The Homeowners Protection Act of 1998.

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

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

(K) The Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. 5101 et seq.).

(L) The Truth in Lending Act (15 U.S.C. 1601 et seq.).

(M) The Truth in Savings Act (12 U.S.C. 4301 et seq.).

~~(16)~~ FEDERAL BANKING AGENCY.—The term “Federal banking agency” means the Board of Governors, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the National Credit Union Administration and the term “Federal banking agencies” means all of ~~those~~ such agencies.

(17) FAIR LENDING.—The term “fair lending” means fair, equitable, and nondiscriminatory access to credit for both individuals and communities.

(18) FINANCIAL ACTIVITY.—The term “financial activity” means any of the following activities:

(A) Deposit-taking activities.

(B) Extending credit and servicing loans, including—

(i) acquiring, purchasing, selling, brokering, or servicing loans or other extensions of credit;

(ii) engaging in any other activity usual in connection with ~~extending~~extensions of credit or servicing loans, including performing appraisals of real estate and personal property and selling or servicing credit insurance or mortgage insurance.

(C) Check cashing and check-guaranty services, including—

(i) authorizing a subscribing merchant to accept personal checks tendered by the merchant's customers in payment for goods and services; and

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

(D) ~~Collecting, analyzing, maintaining, and providing consumer report information or other account information by covered persons, including information relating to the credit history of consumers and providing the information to a credit grantor who is considering a consumer application for credit or who has extended credit to the borrower. (E)~~ Collection of debt related to any consumer financial product or service.

(~~F~~E) Providing real estate settlement services, including providing title insurance.

(~~G~~F) Leasing personal or real property or acting as agent, broker, or adviser in leasing such property if—

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

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

(iii) in the case of leases involving real property, at the inception of the initial lease, the transaction is intended to result in ownership of the leased property to be transferred to the lessee, subject to standards prescribed by the ~~Agency~~Director.

(~~H~~G) Acting as an investment adviser to any person (not subject to regulation by or ~~required to register~~registered with the Commodity Futures Trading Commission or the Securities and Exchange Commission).

(~~H~~I) Acting as financial adviser to any person, including—

(i) providing financial and other related advisory services;

(ii) providing educational courses, and instructional materials to consumers on individual financial management matters; ~~or~~

(iii) providing credit counseling, ~~tax planning or tax preparation services~~ to any person; or

(iv) providing services to assist a consumer with debt management or debt settlement, with modifying the terms of any extension of credit, or with avoiding foreclosure.

~~(J)~~ Financial data processing; by any technological means, including providing data processing ~~and data transmission services, facilities (including data processing and data transmission hardware, software, documentation, or operating personnel), databases, advice, and access to such services, facilities, or databases~~ by any technological means, if—(i), access to or use of databases or facilities, or advice regarding processing or archiving, if the data to be processed ~~or~~ furnished, stored, or archived are financial, banking, or economic, except that it shall not be considered a “financial activity” if with respect to financial data processing the person—

(i) unknowingly or incidentally transmits, processes, or stores financial data in a manner that such data is undifferentiated from other types of data that the person transmits, processes, or stores; ~~and~~

(ii) does not provide to any consumer a consumer financial product or service in connection with or relating to in any manner financial data processing; and

~~(ii) the hardware provided in connection therewith is offered only in conjunction with software designed and marketed for the processing and transmission of financial, banking, or economic data, and where the general purpose hardware does not constitute more than 30 percent of the cost of any packaged offering.~~

(iii) does not provide a material service to any covered person in connection with the provision of a consumer financial product or service.

~~(K)~~ Money transmitting.

~~(L) Sale or issuance~~ (K) Issuance of stored value.

~~(M)~~ Acting as a money services business.

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

~~(O)~~ Any other activity that the Agency Director defines, by regulation, as a financial activity ~~for the purposes of this title, except that the Agency shall not define engaging in the business of insurance as a financial activity (other than with respect to credit insurance, mortgage insurance, or title insurance, as described in this section).~~ after finding that—

(i) the activity has, or there is a substantial likelihood that the activity will have, a material adverse impact on the creditworthiness or financial well being of consumers;

(ii) the activity is incidental or complementary to any other financial activity regulated by the Agency; or

(iii) the activity is entered into or conducted as a subterfuge or with a purpose to evade any requirement under this title, the enumerated consumer laws, and the authorities transferred under subtitles F and H.

(19) FINANCIAL PRODUCT OR SERVICE.—The term “financial product or service” means any product or service that, directly or indirectly, results from or is related to engaging in 1 or more financial activities, except that the Director shall not define engaging in the business of insurance as a financial activity (other than with respect to credit insurance, mortgage insurance, or title insurance, as described in this section).

(20) FOREIGN EXCHANGE.—The term “foreign exchange” means the exchange, for compensation, of currency of the United States or of a foreign government for currency of another government.

(21) INSURED DEPOSITORY INSTITUTION.—The term “insured depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act.:

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

(A) receives currency, monetary value, or payment instruments for the purpose of exchanging or transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services, or other businesses that facilitate third-party transfers within the United States or to or from the United States; or

(B) issues payment instruments or stored value.

(23) MATERIAL SERVICE.—The term “material service” means any activity or service provided to a covered person described in subparagraph (A) of paragraph (8) under an agreement with such covered person that—

(A) involves direct interaction with a consumer, whether in person or via telecommunication device or other similar technology (except that the processing of transactions or transmission of data shall not be considered direct interaction for purposes of this subparagraph, other than as may be determined under subparagraph (B)); or

(B) is determined by the Director to assist or facilitate the provision of a consumer financial product or service that goes beyond a support service of a type provided to businesses generally or a similar ministerial service.

(24) MONEY TRANSMITTING.—The term “money transmitting” means the receipt by a covered person of currency, monetary value, or payment instruments for the purpose of transmitting the same to any third-party by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services.

(~~24~~25) PAYMENT INSTRUMENT.—The term “payment instrument” means a check, draft, warrant, money order, traveler’s check, electronic instrument, or other instrument, payment of money, or monetary value (other than currency).

(~~25~~26) PERSON.—The term “person” means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

(~~26~~27) PERSON REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—The term “person regulated by the Commodity Futures Trading Commission” means any futures commission merchant, commodity trading adviser, commodity pool operator, or introducing broker that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act, but only to the extent that the person acts in such capacity.

(~~27~~28) PERSON REGULATED BY THE SECURITIES AND EXCHANGE COMMISSION.—The term “person regulated by the Securities and Exchange Commission” means—

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

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

(C) an investment company that is required to be registered under the Investment Company Act of 1940—~~;~~

(D) a national securities exchange that is required to be registered under the Securities Exchange Act of 1934;

(E) a transfer agent that is required to be registered under the Securities Exchange Act of 1934; or

(F) a clearing corporation that is required to be registered under the Securities Exchange Act of 1934, and any employee, agent, or contractor acting on behalf of, registered with, or providing services to, any such person, but only to the extent that the person, or the employee agent, or contractor of such person, acts in a registered capacity.

(~~28~~29) PROVISION OF A CONSUMER FINANCIAL PRODUCT OR SERVICE.—The ~~term~~terms “provision of (~~or a consumer financial product or service~~)” and “providing” a consumer financial product or service” ~~means~~mean the advertisement, marketing, solicitation, sale, disclosure, delivery, or account maintenance or servicing of a consumer financial product or service.

(~~29~~30) RELATED PERSON.—

(A) IN GENERAL.—The term “related person”, when used in connection with a covered person that is not a bank holding company, credit union, depository institution, means—

(i) any director, officer, employee charged with managerial responsibility, or controlling stockholder of, or agent for, such covered person;

(ii) any shareholder, consultant, joint venture partner, and any other person as determined by the Director (by regulation or on a case-by-case basis) who materially participates in the conduct of the affairs of such covered person; and

(iii) any independent contractor (including any attorney, appraiser, or accountant), with respect to such covered person, who knowingly or recklessly participates in any—

(I) violation of any law or regulation; or

(II) breach of fiduciary duty.

(B) TREATMENT OF A RELATED PERSON AS A COVERED PERSON.—Any person who is a related person under subparagraph (A) shall be deemed to be a covered person for all purposes of this title, any enumerated consumer law, and any law for which authorities were transferred by subtitles F and H.

(31) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

~~(30) STANDARD CONSUMER FINANCIAL PRODUCT OR SERVICE.—The term “standard consumer financial product or service” means a consumer financial product or service containing terms, conditions, and features defined by the Agency. (31)(32)~~

STATE.—The term “State” means any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands.

~~(32)~~(33) STORED VALUE.—The term “stored value”

(A) means funds or monetary value represented in any electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically; and

(B) includes a prepaid debit card or product, (other than a card or product used solely for telephone services) or any other similar product, regardless of whether the amount of the funds or monetary value may be increased or reloaded.

Subtitle A—Establishment of the Agency

SEC. 111. ESTABLISHMENT OF THE CONSUMER FINANCIAL PROTECTION AGENCY.

(a) AGENCY ESTABLISHED.—There is established the Consumer Financial Protection Agency as an independent agency ~~in the executive branch~~ to regulate the provision of consumer financial products or services under this title, the enumerated consumer laws, and the authorities transferred under subtitles F and H.

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

SEC. 112. ~~BOARD.~~ DIRECTOR.

(a) ESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—There is hereby established the position of the Director of the Agency who shall be the head of the Agency.

(2) AUTHORITY TO PRESCRIBE REGULATIONS.—The Director may prescribe such regulations and issue such orders in accordance with this Act as the Director may determine to be necessary for carrying out this Act and all other laws within the Director's jurisdiction.

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

(b) APPOINTMENT; TERM.—

~~(1) 4 members of the Board who~~ APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate—~~(A)~~₂ from among individuals who are citizens of the United States; ~~and~~₁.

~~(B) who have a strong competencies and experiences related to consumer financial products or services; and~~

~~(2) the head of the agency responsible for chartering and regulating national banks.~~

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

~~(c) TERMS OF APPOINTED BOARD MEMBERS.—(1) IN GENERAL.—An appointed Board member, including the Director of the Agency, shall serve~~ TERM.—The Director shall be appointed for a term of 5 years.

~~(2) REMOVAL FOR CAUSE.—The President may remove any appointed Board member for inefficiency, neglect of duty, or malfeasance in office.~~ 3) REMOVAL.—The Director may be removed before the end of a term only for cause.

(4) VACANCY.—

~~(3) VACANCIES.—Any member of the Board appointed to fill a vacancy occurring~~A)
IN GENERAL.—A vacancy in the position of Director which occurs before the
expiration of the term to for which that member's predecessor was appointed (including
~~the Director of the Agency)~~a Director was appointed shall be filled in the manner
established in paragraph (1) and the Director appointed to fill such vacancy shall be
appointed only for the remainder of the~~such~~ term.

~~(4) CONTINUATION OF SERVICE.—Each appointed Board member may continue to~~
~~serve~~B) ACTING DIRECTOR.—

(i) IN GENERAL.—In the event of a vacancy in the position of Director or during the
absence or disability of the Director, an Acting Director shall be appointed in the manner
provided in section 3345, of title 5, United States Code.

(ii) AUTHORITY OF ACTING DIRECTOR.—Any individual serving as Acting
Director under this subparagraph shall be vested with all authority, duties, and privileges
of the Director.

(5) SERVICE AFTER END OF TERM.—An individual may serve as Director after the
expiration of the term of office to for which that member was appointed until a successor
Director has been appointed by the President and confirmed by the Senate. and qualified.

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

(c) PROHIBITION ON FINANCIAL INTERESTS.—The Director shall not have a
direct or indirect financial interest in any covered person.

(d) COMPENSATION.—~~(1) DIRECTOR.—~~The Director 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 APPOINTED BOARD MEMBERS.—The 3 other appointed Board~~
~~members shall each receive compensation at the rate prescribed for Level II of the~~
~~Executive Schedule under section 5314 of title 5, United States Code.~~

SEC. 113. CONSUMER FINANCIAL PROTECTION OVERSIGHT BOARD.

(a) ESTABLISHED.—There is hereby established the Consumer Financial Protection
Oversight Board as an instrumentality of the United States.

(b) DUTIES AND POWERS.—

(1) DUTY TO ADVISE DIRECTOR.—The Board shall advise the Director on—

(A) the consistency of a proposed regulation of the Director with prudential, market, or systemic objectives administered by the agencies that comprise the Board;

(B) the overall strategies and policies in carrying out the duties of the Director under this title; and

(C) actions the Director can take to enhance and ensure that all consumers are subject to robust financial protection.

(2) LIMITATION ON POWERS.—The Board may not exercise any executive authority, and the Director may not delegate to the Board any of the functions, powers, or duties of the Director.

(c) COMPOSITION.—The Board shall be comprised of 7 members as follows:

(1) The Chairman of the Board of Governors.

(2) The [head of the agency responsible for chartering and regulating national banks.](#)

(3) The Chairperson of the Federal Deposit Insurance Corporation.

(4) The Chairman of the National Credit Union Administration.

(5) The Chairman of the Federal Trade Commission.

(6) The Secretary of Housing and Urban Development.

(7) The Chairman of the liaison committee of representatives of State agencies to the Financial Institutions Examination Council.

(d) MEETINGS.—

(1) IN GENERAL.—The Board shall meet upon notice by the Director, but in no event shall the Board meet less frequently than once every 3 months.

(2) SPECIAL MEETINGS.—Any member of the Board may, upon giving written notice to the Director, require a special meeting of the Board.

(e) PROHIBITION ON ADDITIONAL COMPENSATION.— Members of the Board may not receive additional pay, allowances, or benefits by reason of their service on the Board.

SEC. 114. EXECUTIVE AND ADMINISTRATIVE POWERS.

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

- (1) establish ~~rules~~regulations for conducting the Agency's general business in a manner not inconsistent with this title;
- (2) bind the Agency and enter into contracts;
- (3) direct the establishment of and maintain divisions or other offices within the Agency in order to fulfill the responsibilities of this title, the enumerated consumer laws, and the authorities transferred under subtitles F and H, and to satisfy the requirements of other applicable law;
- (4) coordinate and oversee the operation of all administrative, enforcement, and research activities of the Agency;
- (5) adopt and use a seal;
- (6) determine the character of and the necessity for the Agency's obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid;
- (7) delegate authority, at the ~~Agency Director's~~Agency Director's ~~lawful~~ discretion, to ~~the Director or to a member of the Board or to~~ any officer or employee of the Agency to take action under any provision of this title or under other applicable law;
- (8) to implement this title and the Agency's authorities under the enumerated consumer laws and under subtitles F and H through ~~rules~~regulations, orders, guidance, interpretations, statements of policy, examinations, and enforcement actions; and
- (9) perform such other functions as may be authorized or required by law.

~~(b) TRANACTING BUSINESS.—~~

~~(1) QUORUM.—3 members of the Board shall constitute a quorum for the transaction of business, except that if only 3 members of the Board are serving because of vacancies, 2 members of the Board shall constitute a quorum for the transaction of business.~~

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

SEC. ~~114~~115. ADMINISTRATION.

(a) OFFICERS.—The ~~Agency Director~~Agency Director shall appoint the following officials:

- (1) A secretary, who shall be charged with maintaining the records of the Agency and performing such other activities as the ~~Board~~Agency Director directs.

(2) A general counsel, who shall be charged with overseeing the legal affairs of the Agency and performing such other activities as the ~~Board~~Director directs.

(3) An inspector general, who shall have the authority and functions of an inspector general of a designated Federal entity under the Inspector General Act of 1978 (5 U.S.C. App. 3).

(b) PERSONNEL.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The ~~Agency~~Director may fix the number of, and appoint and direct, all employees of the Agency.

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

(2) COMPENSATION.—

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

(B) BENEFITS.—The ~~Agency~~Director may provide additional benefits to Agency employees if the same type of benefits are then being provided by the Board of Governors or, if not then being provided, could be provided by the Board of Governors under applicable provisions of law, ~~rule~~, or ~~regulation~~ regulations.

(C) MINIMUM STANDARD.—The ~~Agency~~Director shall at all times provide compensation and benefits to classes of employees that, at a minimum, are equivalent to the compensation and benefits provided by the Board of Governors for the corresponding class of employees in any fiscal year.

(c) SPECIFIC FUNCTIONAL UNITS.—

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

(A) current and prospective developments in markets for consumer financial products or services, including market areas of alternative consumer financial products or services with high growth rates and areas of risk to consumers;

(B) consumer awareness, understanding, and use of disclosures and communications regarding consumer financial products or services, including language accessible materials for non-English speakers;

(C) consumer awareness and understanding of costs, risks, and benefits of consumer financial products or services; ~~and~~

(D) consumer behavior with respect to consumer financial products or services; and

(E) traditionally underserved consumer experiences regarding consumer financial products or services.

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

(3) CONSUMER COMPLAINTS.—

(A) IN GENERAL.—The ~~Agency~~Director shall establish a unit whose functions shall include—~~(A)~~ establishing a central database for collecting and tracking information on consumer complaints about consumer financial products or services and resolution of complaints; ~~and~~.

(B) ~~sharing data and coordinating~~COORDINATION.—In performing the functions described in paragraph (A), the Director shall coordinate with the Federal banking agencies, other Federal agencies, and other regulatory agencies or enforcement authorities.

(C) DATA SHARING REQUIRED.—To the extent permitted by law and the regulations prescribed by the Director regarding the confidential treatment of information, the Director shall share data relating to consumer complaints with Federal banking agencies, other Federal agencies, and State regulators.

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

(1) ESTABLISHMENT.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the Director shall establish within the Agency the Office of Fair Lending and Equal Opportunity.

(2) FUNCTIONS.— The Office of Fair Lending and Equal Opportunity shall have such powers and duties as the Director may delegate the Office which shall include the following functions:

(A) Providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities

that are enforced by the Agency, including the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act.

(B) Coordinating fair lending enforcement efforts of the Agency with other Federal agencies and State regulators, as appropriate, to promote consistent, efficient and effective enforcement of Federal fair lending laws.

(C) Working with private industry, fair lending, civil rights, consumer and community advocates on the promotion of fair lending compliance and education.

(D) Providing annual reports to the Congress on the Agency's efforts to fulfill its fair lending mandate.

(3) ADMINISTRATION OF OFFICE.—There is hereby established the position of Assistant Director of the Agency for Fair Lending and Equal Opportunity who—

(A) shall be appointed by the Director;

(B) shall carry out such duties as the Director may delegate to such Assistant Director; and

(C) shall serve as the Director of the Office of Fair Lending and Equal Opportunity.

SEC. ~~115~~116. CONSUMER ADVISORY BOARD.

(a) ESTABLISHMENT REQUIRED.—The ~~Agency~~Director shall establish a Consumer Advisory Board to advise and consult with the ~~Agency~~Director in the exercise of ~~its~~the functions of the Director and the Agency under this title, the enumerated consumer laws, and to provide information on emerging practices in the consumer financial products or services industry.

(b) MEMBERSHIP.—In appointing the members of the Consumer Advisory Board, the ~~Agency~~Director shall seek—

(1) to assemble experts in financial services, community development, fair lending and civil rights, and consumer financial products or services; and ~~seek representation of~~

(2) to represent the interests of covered persons and consumers.

(c) MEETINGS.—The Consumer Advisory Board shall meet from time to time at the call of the ~~Agency~~Director, 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 ~~Agency~~Director while attending meetings of the Consumer Advisory Board, including travel time; and
- (2) be allowed travel expenses, including transportation and subsistence, while away from their homes or regular places of business.

SEC. ~~116~~117. COORDINATION.

(a) COORDINATION WITH OTHER FEDERAL AGENCIES AND STATE REGULATORS.—The ~~Agency~~Director shall coordinate with the Securities and Exchange Commission, the Commodity Futures Trading Commission, and other Federal agencies and State regulators, as appropriate, to promote consistent regulatory treatment of and enforcement related to, consumer and investment products ~~and~~, services, and laws.

(b) COORDINATION OF CONSUMER EDUCATION INITIATIVES.—

(1) IN GENERAL.—The ~~Agency~~Director shall coordinate with each agency that is a member of the Financial Literacy and Education Commission established by the Financial Literacy and Education Improvement Act (20 U.S.C. 9701 et seq.) to assist each agency in enhancing its existing financial literacy and education initiatives to better achieve the goals in paragraph (2) and to ensure the consistency of such initiatives across Federal agencies.

(2) GOALS OF COORDINATION.—In coordinating with the agencies described in paragraph (1), the ~~Agency~~Director shall seek to improve efforts to educate consumers about financial matters generally, the management of their own financial affairs, and their judgments about the appropriateness of certain financial products.

(c) COORDINATION.—The Agency may coordinate investigations, compliance examinations, information sharing, and related activities in support of activities undertaken pursuant to the Fair Housing Act by other Federal agencies.

SEC. ~~117~~118. REPORTS TO THE CONGRESS.

(a) REPORTS REQUIRED.—The ~~Agency~~Director shall prepare and submit to the President and the appropriate committees of the Congress a report at the beginning of each regular session of the Congress, beginning with the session following the designated transfer date.

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

(1) a list of the significant ~~rules~~regulations and orders adopted by the ~~Agency~~Director, as well as other significant initiatives conducted by the ~~Agency~~Director, during the preceding year and the ~~Agency~~Director's plan for ~~rules~~regulations, orders, or other initiatives to be undertaken during the upcoming period;

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

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

(4) the actions taken regarding regulations, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions, including descriptions of the types of such covered persons, financial activities, and consumer financial products or services affected by such regulations, orders, and supervisory actions;

(5) an appraisal of significant actions, including actions under Federal or State law, by State attorneys general or State regulators relating to this title, the authorities transferred under subtitles F and H, and the enumerated consumer laws; and

(6) an analysis of the Agency's efforts to fulfill the fair lending mission of the Agency through the Office of Fair Lending and Equal Opportunity.

SEC. ~~118~~119. FUNDING; FEES AND ASSESSMENTS; PENALTIES AND FINES.

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

(1) TRANSFER REQUIRED.—Each year, beginning on the designated transfer date, the Board of Governors shall transfer funds in an amount equaling 10 percent of the Federal Reserve System's total system expenses (as reported in the Budget Review of the Board of Governors most recent Annual Report to Congress) to the Director for the purposes of carrying out the authorities granted in this title, under the enumerated consumer laws, and transferred under subtitles F and H.

(2) PROCEDURES.—The Board of Governors, in consultation with the Agency, shall make appropriate arrangements to transfer funds to the Director in accordance with this subsection.

(b) FEES AND ASSESSMENTS.—

(1) ASSESSMENT REQUIRED.—

(A) IN GENERAL.—Taking into account such other sums available to the Agency and subject to the provisions of this subsection and subsection (d), the Director shall assess fees on covered persons to meet the Agency's expenses for carrying out the duties and responsibilities of the Agency, including supervising such covered persons.

(B) BASIS FOR ASSESSMENT.—The Agency shall assess fees on covered persons pursuant to this subsection based on the size and complexity of the covered person, and the compliance record of the covered person under the enumerated consumer laws, the laws and authorities transferred under subtitles F and H, and this title.

(2) REGULATIONS.—

(A) IN GENERAL.—The Director shall prescribe regulations to govern the imposition and collection of fees and assessments.

(B) FACTORS REQUIRED TO BE ADDRESSED.—Regulations prescribed by the Director under this subsection shall specify and define—

(i) the basis of fees or assessments (such as the outstanding number of consumer credit accounts, off-balance sheet receivables attributable to the covered person, total consolidated assets, total assets under management, or volume of consumer financial transactions);

(ii) the amount and frequency of fees or assessments; and

(iii) such other factors that the Director determines are appropriate, which shall include a covered person's compliance record under the enumerated consumer laws, the authorities transferred under subtitles F and H, and this title.

(3) ASSESSMENTS ON DEPOSITORY INSTITUTION COVERED PERSONS.—

(A) DEPOSITORY INSTITUTION COVERED PERSON DEFINED.—For purposes of this section, the term “depository institution covered person” means a covered person that is an insured depository institution or credit union.

(B) ASSESSMENTS.—

(i) FEES REQUIRED.—The Director shall assess fees for supervision as are appropriate on depository institution covered persons, taking into account the size and complexity of the covered person, and the compliance record of the covered person under the enumerated consumer laws, the laws and authorities transferred under subtitles F and H, and this title.

(ii) BASIS FOR FEE AMOUNTS.—Fees assessed by the Director under this subparagraph may be established at levels necessary to meet the Agency's expenses for carrying out the duties and responsibilities of the Director and the Agency under this title with regard to depository institution covered persons.

(C) COORDINATION DURING IMPLEMENTATION PERIOD.—The Director and the agencies responsible for chartering and or supervising depository institution covered persons shall coordinate on the levels of fees assessed on depository institution covered

persons under this paragraph, so that levels of assessments under this subparagraph combined with levels of assessments by agencies responsible for chartering and or supervising depository institution covered persons shall be no more than the assessments such depository institution covered person was required to pay for the 12-month period ending on December 31, 2009.

(D) MARGINAL ASSESSMENT RATE.—

(i) IN GENERAL.—In setting assessment rates for depository institution covered persons, the Director shall not impose assessments that result in higher marginal assessment rates for depository institution covered persons with assets of less than \$25,000,000,000 than the marginal rates for depository institutions covered persons with assets that exceed that amount.

(ii) RULE OF CONSTRUCTION.— Clause (i) shall not be construed as limiting or impairing the authority of the Director to set assessments that would result in higher marginal assessment rates on the larger depository institution covered persons.

(E) LIMITATIONS ON ASSESSMENTS.—

(i) ASSESSMENTS FOR ADMINISTRATIVE COSTS.—Notwithstanding any provision in this title, no depository institution covered person shall be charged an assessment to be used for the supervision, examination, enforcement or regulation by the Agency of nondepository covered persons.

(ii) AMOUNTS PAID FOR CONSUMER COMPLIANCE SUPERVISION.— Notwithstanding any provision in this title, no depository institution covered person shall pay more for consumer compliance supervision than it paid before the date of enactment of this Act.

(4) ASSESSMENTS ON NONDEPOSITORY COVERED PERSONS.—

(A) NONDEPOSITORY COVERED PERSON DEFINED.—For purposes of this section, the term “nondepository covered person”—

(i) means a covered person that is not a credit union or insured depository institution; and

(ii) includes any bank holding company.

(B) ASSESSMENTS.—

(i) FEES REQUIRED.—The Director shall assess fees for fees for registration, examination, and supervision of nondepository covered persons.

(ii) BASIS FOR FEE AMOUNTS.— Fees assessed by the Director under this subparagraph may be established at levels necessary to meet the Agency’s expenses for

carrying out the duties and responsibilities of the Director and the Agency, including supervising such covered persons, taking into account such other sums available to the Agency.

(iii) REGISTRATION FEE MINIMUMS.—Registration fees imposed on a nondepository covered person under this paragraph shall, at a minimum, be imposed on such covered person at the time the person registers (or periodically renews any such registration) with the Agency, in accordance with regulations prescribed by the Director.

(C) NONDEPOSITORY COVERED PERSON ASSESSMENT NOT LESS THAN FOR DEPOSITORY COVERED PERSONS.—Assessment rates levied by the Director under this section on a nondepository institution covered persons shall be no less than assessments levied by the Agency under this section on a depository institution covered person with similar characteristics.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For the purposes of carrying out the authorities granted in this title ~~and~~, under the enumerated consumer laws, and the laws and authorities transferred under subtitles F and H, there are authorized to be appropriated to the ~~Agency~~ Director such sums as ~~are~~ may be necessary for any fiscal year.

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

(3) OTHER AVAILABLE FUNDS TAKEN INTO ACCOUNT.—Sums appropriated under this subsection shall take into account such other sums available to the Agency under this section.

(d) CONSUMER FINANCIAL PROTECTION AGENCY DEPOSITORY INSTITUTION FUND.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established in the Treasury a separate fund to be known as the “Consumer Financial Protection Agency Depository Institution Fund” (hereafter in this section referred to as the “CFPA Depository Fund”).

(B) AMOUNTS IN FUND NOT AVAILABLE FOR CERTAIN PURPOSES.—Other than pursuant to subsection (f), amounts on deposit in the CFPA Depository Fund shall not be used in the supervision and examination of nondepository institution covered persons.

(2) ALL TRANSFERRED FUNDS DEPOSITED.—All amounts transferred to the Agency under subsection (a) shall be deposited into the CFPA Depository Fund.

(3) ALL APPLICABLE SUPERVISORY FEES AND ASSESSMENTS DEPOSITED.—The Director shall deposit all amounts received from assessments under subsection (b)(3) in the CFPA Depository Fund.

(e) CONSUMER FINANCIAL PROTECTION AGENCY NONDEPOSITORY INSTITUTION FUND.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established in the Treasury a separate fund called the Consumer Financial Protection Agency Nondepository Institution Fund (hereafter in this section referred to as the “CFPA Nondepository Fund”).

(B) AMOUNTS IN FUND NOT AVAILABLE FOR CERTAIN PURPOSES.—Other than pursuant to subsection (f), amounts on deposit in the CFPA Nondepository Fund shall not be used for the supervision and examination of depository institution covered persons.

(2) ALL APPLICABLE SUPERVISORY FEES AND ASSESSMENTS DEPOSITED.—The Director shall deposit all amounts received from assessments under subsection (b)(4) in the CFPA Nondepository Fund.

(f) GENERAL PROVISIONS RELATING TO FUNDS.—

(1) MAINTENANCE OF FUNDS.—

(A) AGENCY FUNDS MAINTAINED BY TREASURY.—The Consumer Financial Protection Agency Depository Institution Fund established under subsection (d) and the Consumer Financial Protection Agency Nondepository Institution Fund established under subsection (e) shall each be—

(i) maintained and administered by the Secretary; and

(ii) maintained separately and not commingled.

(B) AGENCY’S AUTHORITY.—Any provision of this Act forbidding the commingling or use of the CFPA Depository Fund and the CFPA Nondepository Fund shall not be construed as limiting or impairing the authority of the Agency to use the same facilities and resources in the course of conducting supervisory and regulatory functions with respect to depository institutions and nondepository institutions, or to integrate such functions.

(C) ACCOUNTING REQUIREMENTS.—

(i) ACCOUNTING FOR USE OF FACILITIES AND RESOURCES.—The Agency shall keep a full and complete accounting of all costs and expenses associated with the use of any facility or resource used in the course of any function specified in subparagraph (B) and shall allocate, in the manner provided in subparagraph (D), any such costs and expenses incurred by the Agency—

(I) with respect to depository institution covered persons, to the CFPA Depository Fund; and

(II) with respect to nondepository covered persons, to the CFPA Nondepository fund.

(D) ALLOCATION OF ADMINISTRATIVE EXPENSES.—Any personnel, administrative, or other overhead expense of the Agency shall be allocated—

(i) fully to the CFPA Depository Fund if the expense was incurred directly as a result of the Agency’s responsibilities solely with respect to depository institution covered persons;

(ii) fully to the CFPA Nondepository Fund, if the expense was incurred directly as a result of the Agency’s responsibilities solely with respect to nondepository covered persons;

(iii) between the CFPA Depository Fund and the CFPA Nondepository Fund, in amounts reflecting the relative degree to which the expense was incurred as a result of the activities of depository institution covered persons, and nondepository covered persons; and

(iv) if the Director is unable to make a complete allocation under clause (i), (ii), or (iii), between the CFPA Depository Fund and the CFPA Nondepository Fund, in amounts reflecting the relative proportion that, as of the end of the preceding year—

(I) the aggregate assets of all depository institution covered persons bears to the aggregate assets of all covered persons; and

(II) the aggregate assets of all nondepository covered persons bears to the aggregate assets of all covered persons.

(E) AGENCY FUND.—The “Agency fund” means the Consumer Financial Protection Agency Depository Institution Fund established under subsection (d), and, the Consumer Financial Protection Agency Nondepository Institution Fund established under subsection (e), and the Consumer Financial Protection Agency Civil Penalty Fund established under subsection (g)

(2) INVESTMENT.—

(A) AMOUNTS IN FUNDS MAY BE INVESTED.—The Director may request the Secretary to invest the portion of any Agency fund that, in the Director’s judgment, is not required to meet the current needs of such fund.

(B) ELIGIBLE INVESTMENTS.—Investments pursuant to subparagraph (A) shall be made by the Secretary in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Agency fund involved, as determined by the Director.

~~(b) FEES AND ASSESSMENTS ON COVERED PERSONS.—~~

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

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

(3) USE OF FUNDS.—Funds obtained by, transferred to, or credited to any Agency fund shall be immediately available to the Agency, and remain available until expended, to pay the expenses of the Agency in carrying out the duties and responsibilities of the Director and the Agency, including the payment of compensation of the Director and officers and employees of the Agency.

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

(2) FEES, ASSESSMENTS AND OTHER FUNDS NOT GOVERNMENT FUNDS.—Funds obtained by or transferred to any Agency fund shall not be construed to be Government funds or appropriated monies.

~~(3) FEES AND ASSESSMENTS AS MISCELLANEOUS RECEIPTS.—All fees and assessments collected under this title, the authorities transferred under subtitles F and H, or any enumerated consumer law shall be deposited into the Treasury as miscellaneous receipts.~~

(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.—Notwithstanding any other provision of law, amounts in any Agency fund shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority.

~~(e)~~ (g) PENALTIES AND FINES.—

(1) ESTABLISHMENT OF VICTIMS RELIEF FUND.—There is established in the Treasury of the United States a fund to be known as the “Consumer Financial Protection Agency Civil Penalty Fund” (~~referred to~~ hereafter in this section referred to as the “Civil Penalty Fund”).

(2) DEPOSITS.— If the Agency obtains a civil penalty against any person in any judicial or administrative action under this title, ~~the authorities~~any law or authority transferred under subtitles F and H, or any enumerated consumer law, the Agency shall deposit into the Civil Penalty Fund the amount of the penalty collected.

(23) PAYMENT TO VICTIMS.—Amounts in the Civil Penalty Fund shall be available to the ~~Agency~~Director, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under this title, the law and authorities transferred under subtitles F and H, or any enumerated consumer law.

(h) EXCLUSION FOR SERVICE PROVIDERS.—No provision of this section shall apply to a covered person described in subparagraph (B) of section 101(8) (except to the extent that such person also acts in a capacity described in subparagraph (A) of such section).

SEC. 120. AMENDMENTS RELATING TO OTHER ADMINISTRATIVE PROVISIONS.

(a) ACT OF OCTOBER 28, 1974.—Section 111 of Public Law 93—495 (12 U.S.C. 250) is amended by inserting “the Consumer Financial Protection Agency,” after “Federal Deposit Insurance Corporation,”.

(b) PAPERWORK REDUCTION ACT.—Section 2(5) of the Paperwork Reduction Act (44 U.S.C. 3502(5)) by inserting “the Consumer Financial Protection Agency,” after “the Securities and Exchange Commission,”.

~~SEC. 119. EFFECTIVE DATE.~~

SEC. 120A. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.

Subtitle B—General Powers of the Director and Agency

SEC. 121. MANDATE AND OBJECTIVES.

(a) MANDATE.—The ~~Agency~~Director shall seek to promote transparency, simplicity, fairness, accountability, and equal access in the market for consumer financial products or services.

(b) OBJECTIVES.—The ~~Agency is authorized to~~Director may exercise ~~its~~the authorities granted in this title, in the enumerated consumer laws, and transferred under subtitles F and H for the purposes of ensuring that, with respect to consumer financial products or services—

- (1) consumers have ~~understand~~, and can use the information they need to make responsible decisions about consumer financial products or services;
- (2) consumers are protected from abuse, unfairness, deception, and discrimination;
- (3) markets for consumer financial products or services operate fairly and efficiently with ample room for sustainable growth and innovation; and
- (4) traditionally underserved consumers and communities have equal access to responsible financial services.

SEC. 122. AUTHORITIES.

(a) IN GENERAL.—The ~~Agency is authorized to~~Director may exercise ~~its~~the authorities granted in this title, in the enumerated consumer laws, and transferred under subtitles F and H, to administer, enforce, and otherwise implement the provisions of this title, the authorities transferred in subtitles F and H, and the enumerated consumer laws.

(b) RULEMAKING, ORDERS, AND GUIDANCE.—

(1) IN GENERAL.—The ~~Agency~~Director may prescribe ~~rules~~regulations and issue orders and guidance as may be necessary or appropriate to enable it to administer and carry out the purposes and objectives of this title, the authorities transferred under subtitles F and H, and the enumerated consumer laws, and to prevent evasions ~~thereof~~of this title, any such authority, and any such law.

(2) STANDARDS FOR RULEMAKING.—In ~~prescribing~~prescribing a ~~rule~~regulation under this title or pursuant to the authorities transferred under subtitles F and H or the enumerated consumer laws, the ~~Agency~~Director shall—

(A) consider the potential benefits and costs to consumers and covered persons, including the potential reduction of consumers' access to consumer financial products or services, resulting from such ~~rule~~regulation; and

(B) consult with the Federal banking agencies, State bank supervisors, or other Federal agencies, as appropriate, regarding the consistency of a proposed ~~rule~~regulation with prudential, civil rights, market, or systemic objectives administered by such agencies or supervisors.

(3) EXEMPTIONS.—

(A) IN GENERAL.—The ~~Agency~~Director, by ~~rule~~regulation or order, may conditionally or unconditionally exempt any covered person or any consumer financial product or service or any class of covered persons or consumer financial products or services, from any provision of this title, any enumerated consumer law, or from any ~~rule~~thereunderregulation under any such provision or law, as the ~~Agency~~Director deems

necessary or appropriate to carry out the purposes and objectives of this title taking into consideration the factors in subparagraph (B).

(B) FACTORS.—In issuing an exemption by ~~rule~~regulation or order as permitted in subparagraph (A), the ~~Agency~~Director shall as appropriate take into consideration the following—:

- (i) ~~The~~The total assets of the covered person~~;~~;
- (ii) ~~the~~The volume of transactions involving consumer financial products or services in which the covered person engages~~;~~;
- (iii) ~~the~~The extent to which the covered person engages in 1 or more financial activities~~;~~ and;
- (iv) ~~existing~~Existing laws or regulations which are applicable to the consumer financial product or service and the extent to which such laws or regulations provide consumers with adequate protections.

(C) RULE OF CONSTRUCTION.—No provision of this section shall be construed as altering, amending, or affecting any authority under sections 304(a), 304(i), 305(a), and 306(b) of the Home Mortgage Disclosure Act of 1975 and sections 703(a)(1), 703(a)(2), 703(a)(3), 705(f), and 705(g) of the Equal Credit Opportunity Act for determining whether a covered person should be provided an exemption.

(c) EXAMINATIONS AND REPORTS.—

(1) IN GENERAL.—The ~~Agency~~Director may on a periodic basis examine, or require reports from, a covered person for purposes of ensuring compliance with the requirements of this title, the enumerated consumer laws, and any regulations prescribed by the ~~Agency~~Director under this title or pursuant to the authorities transferred under subtitles F and H, and enforcing compliance with such requirements.

(2) EXAMINATION PROGRAM.—The Director shall exercise any authority of the Director under paragraph (1) in a manner designed to ensure that such authorities are exercised with respect to covered persons, without regard to charter or corporate form, based on the Director’s assessment of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable, the following factors:

(A) The asset size of the covered persons.

(B) The volume of transactions involving consumer financial products or services in which the covered persons engage.

(C) The risks to consumers created by the provision of such consumer financial products or services.

(D) In the case of State-chartered institutions, the extent to which such institutions are subject to oversight by State authorities for consumer protection.

(3) COORDINATION.—The Director shall coordinate the Agency’s supervisory activities with the supervisory activities of conducted by the Federal banking agencies and the State bank supervisors, including establishing their respective schedules for examining covered persons and requirements regarding reports to be submitted by covered persons.

(4) CONTENT OF REPORTS.—The reports authorized in paragraph (1) may include such information as necessary to keep the Agency informed as to—

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

(B) matters related to the provision of consumer financial products or services including the servicing or maintenance of accounts or extensions of credit.

~~(3)~~5 USE OF EXISTING REPORTS.—In general, the Agency shall, to the fullest extent possible, use—

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

(B) information that has been reported publicly.

~~(4) REPORTS FROM NONDEPOSITORY COVERED PERSONS.—The Agency may require reports regarding financial condition from covered persons which are not subject to the jurisdiction of a Federal banking agency or a comparable State regulator for the purpose of assessing the ability of such person to perform its obligations to consumers.~~

~~(5)~~6 ACCESS BY THE AGENCY TO REPORTS OF OTHER REGULATORS.—

(A) EXAMINATION AND FINANCIAL CONDITION REPORTS.—Upon providing reasonable assurances of confidentiality, the Agency shall have access to any report of examination or financial condition made by a Federal banking agency or other Federal agency having supervision of a covered person, and to all revisions made to any such report.

(B) PROVISION OF OTHER REPORTS TO AGENCY.—In addition to the reports described in paragraph (a), a Federal banking agency may, in its discretion, furnish to the Agency any other report or other confidential supervisory information concerning any

insured depository institution, any credit union, or other entity examined by such agency under authority of any Federal law.

(67) ACCESS BY OTHER REGULATORS TO REPORTS OF THE AGENCY.==

(A) EXAMINATION REPORTS.—Upon providing reasonable assurances of confidentiality, a Federal banking agency, a State regulator, or any other Federal agency having supervision of a covered person shall have access to any report of examination made by the Agency with respect to the covered person, and to all revisions made to any such report.

(7B) PROVISION OF OTHER REPORTS TO OTHER REGULATORS.—In addition to the reports described in paragraph (A), the Agency may, in the discretion of the Agency, furnish to a Federal banking agency any other report or other confidential supervisory information concerning any insured depository institution, any credit union, or other entity examined by the Agency under authority of any Federal law.

(8) PRESERVATION OF AUTHORITY.—No provision in paragraph (3) shall be construed as preventing the Agency from conducting an examination authorized by this title or under the authorities transferred under subtitles F and H or pursuant to any enumerated consumer law.

(d) EXCLUSIVE RULEMAKING AND EXAMINATION AUTHORITY.—Notwithstanding any other provision of Federal law other than subsection (f), to the extent that a Federal law authorizes the **Agency Director** and another Federal agency to prescribe regulations, issue guidance, conduct examinations, or require reports under that law for purposes of assuring compliance with this title, any enumerated consumer law, the laws for which authorities were transferred under subtitles F and H, and any regulations prescribed under this title or pursuant to any such authority, the **Agency Director** shall have the exclusive authority to prescribe regulations, issue guidance, conduct examinations, require reports, or issue exemptions with regard to any person subject to that law and with respect to any activity regulated under any enumerated consumer law.

(e) PRIMARY ENFORCEMENT AUTHORITY.—

(1) THE AGENCY TO HAVE PRIMARY ENFORCEMENT AUTHORITY.—To the extent that a Federal law authorizes the Agency and another Federal agency to enforce that law, the Agency shall have primary authority to enforce that Federal law with respect to any person in accordance with this subsection.

(2) REFERRAL.—Any Federal agency authorized to enforce a Federal law described in paragraph (1) may recommend in writing to the **Agency Director** that the Agency initiate an enforcement proceeding as the Agency is authorized by that Federal law or by this title. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

(3) BACKSTOP ENFORCEMENT AUTHORITY OF OTHER FEDERAL AGENCY.—If the Agency does not, before the end of the 120-day period beginning on the date on which the Agency receives a recommendation under paragraph (2), initiate an enforcement proceeding, the other agency may initiate an enforcement proceeding as permitted by that Federal law.

(f) PRESERVATION OF OTHER AUTHORITY.—

(1) ATTORNEY GENERAL.—No provision of this title shall be construed as affecting any authority of the Attorney General.

(2) SECRETARY OF THE TREASURY.— No provision of this title shall be construed as affecting any authority of the Secretary of the Treasury, including with respect to prescribing regulations, initiating enforcement proceedings, or taking other actions with respect to a person providing tax planning or tax preparation services.

(3) FAIR HOUSING ACT.—No provision of this title shall be construed as affecting any authority arising under the Fair Housing Act.

(g) EFFECT ON OTHER AUTHORITY.—No provision of this section or section 123 shall be construed as modifying or limiting the authority of any appropriate Federal banking agency or the Director or Agency to interpret, or take enforcement action under, any law or regulation the interpretation or enforcement of which is committed to the banking agency or the Director or Agency, which shall include, in the case of the Director and the Agency, this Act, the enumerated consumer laws, and the regulations prescribed under this Act or such laws.

SEC. 123. SIMULTANEOUS AND COORDINATED SUPERVISORY ACTION.

(a) EXAMINATIONS.—A Federal banking agency and the Agency shall, with respect to each insured depository institution, credit union, or other covered person supervised by the Federal banking agency and the Agency, respectively—

(1) coordinate the scheduling of examinations of the insured depository institution, and credit union, or other covered person;

(2) conduct simultaneous examinations of each insured depository institution, credit union or other covered person, unless such institution requests examinations to be conducted separately;

(3) share each draft report of examination with the other agency and permit the receiving agency a reasonable opportunity (which shall not be less than a period of 30 days after the date of receipt) to comment on the draft report before such report is made final; and

(4) prior to issuing a final report of examination or taking supervisory action, an agency shall take into consideration concerns, if any, raised in the comments made by the other agency.

(b) COORDINATION WITH STATE BANK SUPERVISORS.—The Agency shall pursue arrangements and agreements with State bank supervisors to coordinate examinations consistent with subsection (a).

(c) RESOLUTION OF CONFLICT IN SUPERVISION.—

(1) REQUEST OF DEPOSITORY INSTITUTION.—

(A) IN GENERAL.—If the proposed material supervisory determinations of the Agency and a Federal banking agency are conflicting, an insured depository institution, credit union, or other covered person may request the agencies to coordinate and present a joint statement of coordinated supervisory action.

(B) LIMITATION.—A request of an insured depository institution, credit union, or other covered person shall not be used to appeal a supervisory rating or determination by the Agency or a Federal banking agency.

(2) JOINT STATEMENT.—The agencies receiving request from an insured depository institution, credit union, or covered person under paragraph (1) shall provide a joint statement resolving the conflict under such subparagraph before the end of the 30 day period beginning on the date the agencies receive such request.

(d) APPEALS TO GOVERNING PANEL.—

(1) IN GENERAL.—If the agencies receiving a request from an insured depository institution, credit union, or covered person under subsection (c)(1) do not issue a joint statement under subsection (c)(2), or if either agency takes or attempts to take any supervisory action relating to the request for the joint statement without the consent of the other agency, the insured depository institution, credit union, or other covered person may institute an appeal to a governing panel under this subsection.

(2) TIMETABLE.—Any appeal under paragraph (1) with regard to a failure of agencies to issue a joint statement shall be filed before the end of the day period beginning at the end of the 30-day period during which such joint statement was due under subsection (c)(2).

(e) COMPOSITION OF GOVERNING PANEL.—The governing panel for an appeal under this section shall be composed of—

(1) 2 individuals—

(A) 1 of whom is a representative from the Agency;

(B) 1 of whom is a representative of the Federal banking agency which received the request to which the appeal relates; and

(C) neither of whom—

(i) have participated in the material supervisory determinations under appeal; and

(ii) report directly or indirectly to the individual who made the supervisory determinations under appeal; and

(2) 1 individual who is a representative from—

(A) the Federal banking agency that heads the Financial Institution Examination Council; or

(B) if the Financial Institutions Examination Council is headed by a Federal banking agency that is a party to the appeal, the Federal banking agency that is next scheduled to head the Financial Institutions Examination Council.

(f) CONDUCT OF APPEAL.—

(1) CONTENT OF FILING APPEAL.—The insured depository institution, credit union, or other covered person which institutes an appeal under subsection (d)(1) shall include in the filing of such appeal all the facts and legal arguments pertaining to the matter appealed.

(2) APPEARANCE.—The insured depository institution, credit union, or other covered person which institutes an appeal under this section may appear before the governing panel in person or by telephone, through counsel, employees or representatives of or for such institution, credit union, or other covered person.

(3) REQUESTS FOR ADDITIONAL INFORMATION.— Any governing panel convened under this section may request the insured depository institution, credit union, or other covered person, the Agency, or the Federal banking agency to produce additional information relevant to the appeal.

(4) FINAL WRITTEN DETERMINATIONS .—Any governing panel convened under this section, by a majority vote of the members of the panel, shall provide a final determination, in writing, within 30 days of the filing of an informationally complete appeal, or such longer period as the panel and the insured depository institution, credit union, or other covered person may jointly agree.

(5) PUBLIC INFORMATION.—A redacted copy of any determination by a governing panel convened under this section shall be made public upon the issuance of such determination.

(g) PROHIBITION AGAINST RETALIATION.—The Director and the Federal banking agencies shall prescribe regulations to provide safeguards from retaliation against any insured depository institution, credit union, or other covered person which institutes an appeal under this section, as well as against any officer or and employee of any such institution, credit union, or other person.

(h) MATERIAL SUPERVISORY DETERMINATION DEFINED.—For purposes of this section, the term “material supervisory determination”—

(1) includes any action relating to any supervision or examinations; and

(2) does not include—

(A) a determination by any Federal banking agency to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act or section 212 of the Federal Credit Union Act, as the case may be; or

(B) any regulation or guidance, or order of general applicability.

SEC. 124. LIMITATIONS ON AUTHORITY OF AGENCY AND DIRECTOR.

(a) EXCLUSION FOR MERCHANTS, RETAILERS, AND SELLERS OF NONFINANCIAL SERVICES.—

~~(f) EXCEPTIONS.—~~

(1) IN GENERAL.—Notwithstanding any provision of this title, the Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, under this title regarding credit or any other financial activity issued directly by a merchant, retailer, or seller of nonfinancial services to a consumer exclusively for the purpose of enabling that consumer to purchase goods or services directly from the merchant, retailer, or seller of nonfinancial services, in a case in which the good or service being provided is not itself a consumer financial product or service, except that the Director may exercise any rulemaking authority regarding such credit or other financial activity as may be authorized by the enumerated consumer laws or any law or authority transferred under subtitle F or H.

~~(1) DEPARTMENT OF JUSTICE.—Nothing in this title shall affect the authorities of the Department of Justice.~~

(2) RULE OF CONSTRUCTION.—No provision of this title shall be construed as modifying, limiting, or superseding the authority of the Federal Trade Commission or any other agency with respect to credit or any other financial activity issued directly by a merchant or retailer to a consumer exclusively for the purpose of enabling that consumer to purchase goods or services directly from the merchant or retailer.

~~(2)~~b) EXCLUSION FOR PERSONS REGULATED BY THE SECURITIES AND EXCHANGE COMMISSION.—

~~(A)~~1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Securities and Exchange Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Securities and Exchange Commission. The Director and Agency shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Securities and Exchange Commission.

~~(B)~~2) CONSULTATION AND COORDINATION.—Notwithstanding ~~subparagraph~~ ~~(A)paragraph (1)~~, the Securities and Exchange Commission shall consult and coordinate with the ~~Agency~~Director with respect to any rule (including any advance notice of proposed rulemaking) regarding an investment product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Agency under this title or under any other law.

~~(3)~~c) EXCLUSION FOR PERSONS REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—

~~(A)~~1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Commodity Futures Trading Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Commodity Futures Trading Commission. The Director and the Agency shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Commodity Futures Trading Commission.

~~(B)~~2) CONSULTATION AND COORDINATION.—Notwithstanding ~~subparagraph~~ ~~(A)paragraph (1)~~, the Commodity Futures Trading Commission shall consult and coordinate with the ~~Agency~~Director with respect to any rule (including any advance notice of proposed rulemaking) regarding a product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Agency under this title or under any other law.

(d) EXCLUSION FOR QUALIFIED RETIREMENT OR ELIGIBLE DEFERRED COMPENSATION PLANS AND ARRANGEMENTS.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Secretary of the Treasury, the Secretary of Labor, or the Commissioner of Internal Revenue to adopt regulations, initiate enforcement proceedings, or take any actions with respect to—

(A) any retirement or eligible deferred compensation plan or arrangement qualified under or meeting the requirements of section 401(a), 403(a), 403(b), 457(b), 408 or 408A of the Internal Revenue Code; or

(B) any educational savings arrangement under section 529 of such Code.

(2) LIMITATION ON AGENCY AUTHORITY.—

(A) IN GENERAL.—The Director and the Agency may not exercise any power to enforce this title with respect to services provided directly (or indirectly if the services relate to the operation of such plan or arrangement) to—

(i) any retirement or eligible deferred compensation plan or arrangement qualified under or meeting the requirements of section 401(a), 403(a), 403(b), 457(b), 408, or 408A of the Internal Revenue Code; or

(ii) any educational savings arrangement under section 529 of such Code.

(B) SERVICES DEFINED.—For purposes subparagraph (A), the term “services” shall include, for example, services for custody and investment of assets, administration, compliance, and participant assistance.

(e) EXCLUSION FOR ACCOUNTANTS, TAX PREPARERS, AND ATTORNEYS.—

(1) IN GENERAL.—Except as permitted in paragraph (2), the Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, over—

(A) any person that is a certified public accountant, permitted to practice as a certified public accounting firm, or certified or licensed for such purpose by a State, when such person or entity is providing customary and usual accounting activities to consumers;

(B) any person that performs income tax preparation activities for consumers; or

(C) any person that is an attorney licensed by a State, to the extent that the attorney is engaged in the practice of law under the laws of each State in which the attorney is licensed.

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) shall not apply to any person described in subparagraph (A), (B), or (C) of such paragraph to the extent such person is engaged in any financial activity described in any subparagraph of section 101(18) or is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H.

(f) EXCLUSION FOR REALTORS.—

(1) IN GENERAL.—Except as permitted in paragraph (2), the Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, over a person that is licensed or registered as a real estate

broker, real estate agent, in accordance with State law, but only to the extent that such person—

(A) acts as a real estate agent or broker for a buyer, seller, lessor, or lessee of real property;

(B) brings together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(C) negotiates, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(D) engages in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law;
or

(E) offers to engage in any activity, or act in any capacity, described in subparagraph (A),

(B), (C), or (D).

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) shall not apply to any person described in such paragraph to the extent such person is engaged in any financial activity described in any subparagraph of section 101(18) or is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H.

(g) EXCLUSION FOR AUTO DEALERS.—

(1) IN GENERAL.—Except as permitted in paragraph (2), the Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, over a person to the extent that such person—

(A) acts as an agent or broker for a buyer or seller of any automobile;

(B) facilitates the purchase or lease by a consumer of any automobile either by negotiating the purchase price or terms of the sale contract (other than in connection with providing financing or arranging for financing or a lease with respect to such transaction); or

(C) offers to engage in any activity described in subparagraphs (A) or (B).

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) shall not apply to any person described in such paragraph to the extent such person is engaged in any financial activity described in any subparagraph of section 101(18) or is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H.

(h) NO AUTHORITY TO IMPOSE USURY LIMIT.—No provision of this title shall be construed as conferring authority on the Director or the Agency to establish a usury limit applicable to an extension of credit offered or made by a covered person to a consumer, unless explicitly authorized by law.

(i) EXCLUSION FOR CONSUMER REPORTING AGENCIES.—

(1) IN GENERAL .—The Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, over any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act).

(2) EXCLUSION NOT APPLICABLE TO FINANCIAL ACTIVITIES.—Paragraph (1) shall not apply to any consumer reporting agency to the extent such consumer reporting agency is engaged in any financial activity described in any subparagraph of section 101(18) other than assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and the furnishing of such reports in accordance with section 604 of the Fair Credit Reporting Act.

SEC. ~~123~~125. COLLECTION OF INFORMATION; CONFIDENTIALITY
~~RULES.~~ REGULATIONS.

(a) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—In conducting research on the provision of consumer financial products or services, the ~~Agency~~Director shall have the power to gather information from time to time regarding the organization, business conduct, and practices of covered persons.

(2) SPECIFIC AUTHORITY.—In order to gather such information, the ~~Agency~~Director shall have the power—

(A) to gather and compile information;

(B) to require persons to file with the Agency, in such form and within such reasonable period of time as the ~~Agency~~Director may prescribe, by regulation or order, annual or special reports, or answers in writing to specific questions, furnishing information the ~~Agency~~Director may require; and

(C) to make public such information obtained by it under this section as is in the public interest in reports or otherwise in the manner best suited for public information and use.

(b) CONFIDENTIALITY ~~RULES~~REGULATIONS.—The ~~Agency~~Director shall prescribe regulations regarding the confidential treatment of information obtained from persons in connection with the exercise of ~~its authorities~~any authority of the Agency or

Director under this title and the enumerated consumer laws and the authorities transferred under subtitles F and H.

(c) PRIVACY CONSIDERATIONS.—In collecting information from any person, publicly releasing information held by the Agency, or requiring covered persons to publicly report information, the Director and the Agency shall take steps to ensure that proprietary, personal or confidential consumer information that are protected from public disclosure under section 552(b) or 552a of title 5, United States Code, or any other provision of law are not made public under this title.

SEC. ~~124~~126. MONITORING; ASSESSMENTS OF SIGNIFICANT ~~RULES~~REGULATIONS; REPORTS.

(a) MONITORING.—

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

(2) MEANS OF MONITORING.—Such monitoring may be conducted by examinations of covered persons, analysis of reports obtained from covered persons, assessment of consumer complaints, surveys and interviews of covered persons and consumers, and review of available databases.

(3) CONSIDERATIONS.—In allocating ~~its~~the resources of the Agency to perform the monitoring required by this section, the ~~Agency~~Director may consider, among other factors—

(A) likely risks and costs to consumers associated with buying or using a type of consumer financial product or service;

(B) consumers' understanding of the risks of a type of consumer financial product or service;

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

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

(E) extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers, if any; or

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

(4) REPORTS.—The Agency shall publish at least 1 report of significant findings of ~~its~~the monitoring required by paragraph (1) in each calendar year, beginning in the calendar year that is 1 year after the designated transfer date.

(b) ASSESSMENT OF SIGNIFICANT ~~RULES~~REGULATIONS.—

(1) IN GENERAL.—The Agency shall conduct an assessment of each significant regulation prescribed or order issued by the ~~Agency~~Director under this title, under the authorities transferred under subtitles F and H or pursuant to any enumerated consumer law that addresses, among other relevant factors, the effectiveness of the regulation in meeting the purposes and objectives of this Act and the specific goals stated by the ~~Agency~~.Director.

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

(3) REPORTS.—The Agency shall publish a report of ~~its~~an assessment under this subsection not later than 3 years after the effective date of the regulation or order, unless the ~~Agency~~Director determines that 3 years is not sufficient time to study or review the impact of the regulation, but in no event shall the Agency publish a report ~~thereof~~of such assessment more than 5 years after the effective date of the regulation or order.

(4) PUBLIC COMMENTED REQUIRED.—Before publishing a report of its assessment, the Agency shall invite, with sufficient time allotted, public comment on, and may hold public hearings on, recommendations for modifying, expanding, or eliminating the newly adopted significant regulation or order.

(c) INFORMATION GATHERING.—In conducting any monitoring or assessment required by this section, the Agency may gather information through a variety of methods, including by conducting surveys or interviews of consumers.

SEC. ~~125~~.127. AUTHORITY TO RESTRICT MANDATORY PREDISPUTE ARBITRATION.

(a) IN GENERAL.—The ~~Agency~~Director, by regulation, may prohibit or impose conditions or limitations on the use of ~~agreements~~any agreement between a covered person and a consumer ~~that require the for a consumer to arbitrate~~financial product or service providing for arbitration of any future dispute between the parties ~~arising under this title or any enumerated consumer law if the Agency~~if the Director finds that such a prohibition, or imposition of conditions, or limitations are in the public interest and for the protection of consumers.

(b) EFFECTIVE DATE.—Notwithstanding any other provision of law, any regulation prescribed by the Director under subsection (a) shall apply, consistent with the terms of the regulation, to any agreement between a consumer and a covered person entered into

after the end of the 180-day period beginning on the effective date of the regulation, as established by the Director.

SEC. 128. REGISTRATION AND SUPERVISION OF NONDEPOSITORY COVERED PERSONS.

(a) RISK-BASED PROGRAMS.—

(1) IN GENERAL.—The Agency shall develop risk-based programs to supervise covered persons that are not credit unions, depository institutions, or persons excluded under section 124 by prescribing registration requirements, reporting requirements, and examination standards and procedures.

(2) BASIS FOR PROGRAMS.—The risk-based supervisory programs established pursuant to paragraph (1) shall be based on—

(A) relevant registration and reporting information about such covered persons, as determined by the Agency; and

(B) the Agency's assessment of risks posed to consumers in the relevant geographic markets and markets for consumer financial products and services.

(b) REGISTRATION.—

(1) IN GENERAL.—The Director shall prescribe regulations regarding registration requirements for covered persons that are not credit unions or depository institutions.

(2) CONSULTATION WITH STATE AGENCIES.—In developing and implementing registration requirements under this subsection, the Agency shall consult with State agencies regarding requirements or systems for registration (including coordinated or combined systems), where appropriate.

(3) EXCEPTION FOR RELATED PERSONS.—The Agency shall not impose requirements regarding the registration of a related person.

(4) REGISTRATION INFORMATION.—Subject to regulations prescribed by the Director, the Agency shall publicly disclose the registration information about a covered person which is not a bank holding company, credit union, or depository institution for the purposes of facilitating the ability of consumers to identify the covered person as registered with the Agency.

(5) EXCLUSION FOR SERVICE PROVIDERS.—No provision of this subsection shall apply to a covered person described in subparagraph (B) of section 101(8) (except to the extent that such person also acts in a capacity described in subparagraph (A) of such section).

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—The Agency may require reports from covered persons that are not credit unions or depository institutions for the purposes of facilitating supervision of such covered persons.

(2) CONSISTENCY OF REPORTING REQUIREMENTS AND RISK-BASED STANDARDS.—The Agency shall impose reporting requirements under this subsection that are consistent with the risk-based standards developed and implemented under this section and the registration information pertaining to the relevant types or classes of covered persons.

(3) CONTENTS OF REPORTS.—Reporting requirements imposed under this paragraph may include information regarding—

(A) the nature of the covered person's business;

(B) the covered person's name, legal form, ownership and management structure, and related persons;

(C) the covered person's locations of operation;

(D) the covered person's types and number of consumer financial products and services provided by the covered person;

(E) compliance with any requirement imposed or enforced by the Agency, including any requirement relating to registration, licensing, fees, or assessments; and

(F) the financial condition of such covered person, including a related person, for the purpose of assessing the ability of such person to perform its obligation to consumers.

(4) EXCEPTION FOR RELATED PERSONS.—Other than reports permitted under paragraph (3)(F) or in connection with a supervisory action or examination or pursuant to the powers granted in subtitle E, the Agency shall not impose requirements regarding reports of any related person.

(d) EXAMINATIONS.—

(1) EXAMINATIONS REQUIRED.—The Agency shall conduct examinations of covered persons that are not credit unions or depository institutions as part of the programs implemented under paragraphs

(2) and (3) of section 122(c).

(2) EXAMINATION STANDARDS AND PROCEDURES.—The Director shall establish risk-based standards and procedures for conducting examinations of covered

persons required to be examined under paragraph (1), including the frequency and scope of such examinations, except that the Agency shall conduct examinations of such covered persons that are determined to pose the highest risk to consumers based on factors determined by the Director, such as the operations, sales practices, or Consumer Financial products or services provided by such covered persons.

(e) AUTHORITY TO COLLECT INFORMATION REGARDING FEES OR ASSESSMENTS.—To the extent permitted by Federal law, the Agency may obtain from the Secretary of the Treasury information relating to a covered person which is not a bank holding company, credit union, or depository institution, including information regarding compliance with a reporting or registration requirement under the subchapter II of chapter 53 of title 31, United States Code, for the purposes of, and only to the extent necessary in, investigating, determining, or enforcing compliance with a requirement relating to any fee or assessment imposed by the Agency under this title.

~~SEC. 126. EFFECTIVE DATE.~~

SEC. 129. EFFECTIVE DATE.

This subtitle shall take effect on the designated transfer date.

Subtitle C—Specific Authorities

SEC. 131. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR PRACTICES.

(a) IN GENERAL.—The Agency may take any action authorized under subtitle E to prevent a person from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.

~~(b) RULEMAKING REQUIRED.—~~

(b) REGULATIONS.—

(1) IN GENERAL.—The ~~Agency~~Director may prescribe regulations identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service or the offering of a consumer financial product or service.

(2) INCLUDES PREVENTION MEASURES.—Regulations prescribed under this section may include requirements for the purpose of preventing such acts or practices.

(c) UNFAIRNESS.—

(1) IN GENERAL.—The Director and the Agency shall have no authority under this section to declare an act or practice in connection with a transaction with a consumer for

a consumer financial product or service, or the offering of a consumer financial product or service, to be unlawful on the grounds that such act or practice is unfair unless the Agency has a reasonable basis to conclude that the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers and such substantial injury is not outweighed by countervailing benefits to consumers or to competition.

(2) ESTABLISHED PUBLIC POLICY AS FACTOR.—In determining whether an act or practice is unfair, the Agency may consider established public policies as evidence to be considered with all other evidence.

(d) CONSULTATION.—In prescribing a regulation under this section, the Agency Director shall consult with the Federal banking agencies, State bank supervisors, or other Federal agencies, as appropriate, concerning the consistency of the proposed regulation with prudential, market, or systemic objectives administered by such agencies.

SEC. 132. DISCLOSURES ~~AND COMMUNICATIONS~~.

(a) IN GENERAL.—The Agency Director may prescribe regulations to ensure the timely, appropriate and effective disclosure ~~or communication~~ to consumers of the costs, benefits, and risks associated with any consumer financial product or service.

(b) ~~REASONABLE DISCLOSURES AND COMMUNICATIONS~~ COORDINATION WITH OTHER LAWS.—In prescribing regulations under subsection (a), the Director shall take into account disclosure requirements under other laws in order to enhance consumer compliance and reduce regulatory burden.

(c) COMPLIANCE.—~~Subject to~~

(1) MODEL DISCLOSURES.—The Agency may provide model disclosures to facilitate compliance with the requirements of regulations prescribed under this section.

(2) PER SE COMPLIANCE.—Compliance by ~~the Agency, a covered person shall, with respect to disclosures or communications regarding any consumer financial product or service, make or provide to a consumer disclosures and communications that—~~

~~(1) balance communication of the benefits of the product or service with communication of significant risks and costs; (2) prominently disclose the significant risks and costs, in reasonable proportion to the disclosure of the benefits;~~ a covered person with the model disclosures issued by the Agency under this subsection shall per se constitute compliance with the disclosure requirements of this section.

(3) ~~communicate significant risks and costs in a clear, concise, and timely manner designed to promote a consumer's awareness and understanding of the risks and costs, as well as to use the information to make financial decisions; and~~

~~(4) comply with standards prescribed by the Agency. (c) BASIS FOR RULEMAKING. In prescribing~~ ADDITIONAL GUIDANCE.—The Agency may issue exemptions, no action letters, and other guidance to promote compliance with disclosures requirements of regulations prescribed under this section; the Agency shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.

(d) COMBINED MORTGAGE LOAN DISCLOSURE.— Within 1 year after the designated transfer date, the Agency Director shall propose for public comment regulations and model disclosures that combine the disclosures required under the Truth in Lending Act and the Real Estate Settlement Procedures Act into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Agency Director determines that any proposal issued by the Board of Governors and the Department of Housing and Urban Development carries out the same purpose.

SEC. 133. SALES PRACTICES.

The Agency Director may prescribe regulations and issue orders and guidance regarding the manner, settings, and circumstances for the provision of any consumer financial products or services to ensure that the risks, costs, and benefits of the products or services, both initially and over the term of the products or services, are fully and accurately represented to consumers.

SEC. 134. PILOT DISCLOSURES.

(a) PILOT DISCLOSURES.—The Agency shall establish standards and procedures for approval of pilot disclosures to be provided or made available by a covered person to consumers in connection with the provision of a consumer financial product or service, or the offering of a consumer financial product or service.

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

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

(d) EXCLUSION FOR SERVICE PROVIDERS.—No provision of this section shall apply to a covered person described in subparagraph (B) of section 101(8) (except to the extent that such person also acts in a capacity described in subparagraph (A) of such section).

SEC. 135. ADOPTING OPERATIONAL STANDARDS TO DETER UNFAIR, DECEPTIVE, OR ABUSIVE PRACTICES.

(a) **AUTHORITY TO PRESCRIBE STANDARDS.**—The States are encouraged to prescribe standards applicable to covered persons who are not insured depository institutions or credit unions to deter and detect unfair, deceptive, abusive, fraudulent, or illegal transactions in the provision of consumer financial products or services, including standards for—

- (1) background checks for principals, officers, directors, or key personnel of the covered person;
- (2) registration, licensing, or certification;
- (3) bond or other appropriate financial requirements to provide reasonable assurance of the ability of the covered person to perform its obligations to consumers;
- (4) creating and maintaining records of transactions or accounts; or
- (5) procedures and operations of the covered person relating to the provision of, or maintenance of accounts for, consumer financial products or services.

(b) **AGENCY AUTHORITY TO PRESCRIBE STANDARDS.**—

(1) IN GENERAL.—The ~~Agency~~Director may prescribe regulations establishing minimum standards under this section for any class of covered persons other than covered persons which are subject to the jurisdiction of a Federal banking agency or a ~~comparable~~ State ~~regulator~~bank supervisor.

(2) REGISTRATION AND LICENSING STANDARDS.—In addition to prescribing standards for the purposes described in subsection (a), the Director may prescribe registration or licensing standards for the purposes of imposing fees or assessments in accordance with this title.

(3) ENFORCEMENT OF STANDARDS.—The ~~Agency~~Director may enforce under subtitle E compliance with standards adopted by the ~~Agency~~Director or a State pursuant to this section for covered persons operating in that State.

(c) **CONSULTATION.**—In prescribing minimum standards under this section, the ~~Agency~~Director shall consult with the State authorities, the Federal banking agencies, or other Federal agencies, as appropriate, concerning the consistency of the proposed regulation with prudential, market, or systemic objectives administered by such State authorities or such agencies.

(d) EXCLUSION FOR SERVICE PROVIDERS.—No provision of this section shall apply to a covered person described in subparagraph (B) of section 101(8) (except to the

extent that such person also acts in a capacity described in subparagraph (A) of such section).

SEC. 136. ~~STANDARD CONSUMER FINANCIAL PRODUCTS OR SERVICES.~~

~~(a) CHARACTERISTICS OF STANDARD CONSUMER FINANCIAL PRODUCTS OR SERVICES.—Subject to regulations prescribed by the Agency under this section, a standard consumer financial product or service is a consumer financial product or service that—~~

~~(1) is or can be readily offered by covered persons that offer or seek to offer alternative consumer financial products or services;~~

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

~~(3) poses lower risks to consumers;~~

~~(4) facilitates comparisons with and assessment of the benefits and costs of alternative consumer financial products or services; and~~

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

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

~~(1) IN GENERAL.—The Agency may prescribe regulations or issue guidance regarding the offer of a standard consumer financial product or service at or before the time an alternative consumer financial product or service is offered to a consumer, including—~~

~~(A) warnings to consumers about the heightened risks of alternative consumer financial products or services; or~~

~~(B) providing the consumer with a meaningful opportunity to decline to obtain the standard consumer financial product or service.~~

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

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

~~(A) voluntarily offers or provides a consumer financial product or service that is of the same type, or in the same class, as a standard consumer financial product or service; or~~

~~(B) maintains an account or has a relationship with a consumer involving a product or service that is substantively similar to the standard product or service. SEC. 137.~~

DUTIES.

(a) IN GENERAL.—

(1) REGULATIONS ENSURING FAIR DEALING WITH CONSUMERS.—The ~~Agency~~Director shall prescribe regulations imposing duties on a covered person, or an employee of a covered person, or an agent or independent contractor for a covered person, who deals or communicates directly with consumers in the provision of a consumer financial product or service, as the ~~Agency~~Director deems appropriate or necessary to ensure fair dealing with consumers.

(2) CONSIDERATIONS FOR DUTIES.—In prescribing such regulations, the ~~Agency~~Director shall consider whether—

(A) the covered person, employee, agent, or independent contractor represents implicitly or explicitly that the person, employee, agent, or contractor is acting in the interest of the consumer with respect to any aspect of the transaction;

(B) the covered person, employee, agent, or independent contractor provides the consumer with advice with respect to any aspect of the transaction;

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

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

(E) any other factors as the ~~Agency~~Director considers appropriate.

(3) DUTIES RELATING TO COMPENSATION PRACTICES.—

(A) IN GENERAL.—The ~~Agency~~Director may prescribe regulations establishing duties regarding compensation practices applicable to a covered person, employee, agent, or independent contractor who deals or communicates directly with a consumer in the provision of a consumer financial product or service for the purpose of promoting fair dealing with consumers. ~~The Agency shall~~

(B) NO COMPENSATION CAPS.—The Director may not prescribe a limit on the total dollar amount of compensation paid to any person.

(b) ADMINISTRATIVE PROCEEDINGS.—

(1) IN GENERAL.—Any regulation prescribed by the [Agency Director](#) under this section shall be enforceable only by the Agency through an adjudication proceeding under subtitle E or by a State regulator through an appropriate administrative proceeding as permitted under State law.

(2) EXCLUSIVITY OF REMEDY.—No action may be commenced in any court to enforce any requirement of a regulation prescribed under this section, and no court may exercise supplemental jurisdiction over a claim asserted under a regulation prescribed under this section based on allegations or evidence of conduct that otherwise may be subject to such regulation.

(3) RULE OF CONSTRUCTION.—The Agency, the Attorney General, and any State attorney general or State regulator shall not be precluded from enforcing any other Federal or State law against a person with respect to conduct that may be subject to a regulation prescribed by the [Agency Director](#) under this section.

(c) EXCLUSIONS.—This section shall not be construed as authorizing the [Agency Director](#) to prescribe regulations applicable to—

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

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

[\(d\) EXCLUSION FOR SERVICE PROVIDERS.—In addition to the exclusions contained in subsection \(c\), no provision of this section shall apply to a covered person described in subparagraph \(B\) of section 101\(8\) \(except to the extent that such person also acts in a capacity described in subparagraph \(A\) of such section\).](#)

SEC. ~~138.~~[137.](#) CONSUMER RIGHTS TO ACCESS INFORMATION.

(a) IN GENERAL.—Subject to regulations prescribed by the [Agency Director](#), a covered person shall make available to a consumer, in an electronic form usable by the consumer, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data.

(b) EXCEPTIONS.—A covered person shall not be required by this section to make available to the consumer—

(1) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;

(2) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting, or making any report regarding other unlawful or potentially unlawful conduct;

(3) any information required to be kept confidential by any other law; or

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

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

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

(e) CONSULTATION ~~AND COORDINATION~~.—The ~~Agency~~Director shall, when prescribing any regulation under this section, consult ~~and coordinate~~ with the Federal banking agencies, State bank supervisors, and the Federal Trade Commission to ensure that the regulations—

(1) impose substantively similar requirements on covered persons;

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

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

SEC. ~~139~~138. PROHIBITED ACTS.

It shall be unlawful for any person ~~to~~—

(1) to advertise, market, offer, sell, enforce, or attempt to enforce, any term, agreement, change in terms, fee, or charge in connection with a ~~consumer financial~~Consumer Financial product or service that is not in conformity with this title or applicable regulation prescribed or order issued by the ~~Agency~~Director; Director or to engage in any unfair, deceptive, or abusive act or practice;

(2) to fail or refuse to pay any fee or assessment imposed by the Agency under this title, to fail or refuse to permit access to or copying of records, ~~or~~to fail or refuse to establish or maintain records, or to fail or refuse to make reports or provide information to the Agency, as required by this title, an enumerated consumer law, or pursuant to the authorities transferred by subtitles F and H, or any regulation prescribed or order issued by the ~~Agency~~Director this title or pursuant to any such authority; or

(3) to knowingly or recklessly provide substantial assistance to another person in violation of the provisions of section 131, or any regulation prescribed or order issued under such section, and any such person shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.

SEC. ~~140.~~139. EFFECTIVE DATE.

This subtitle shall take effect on the designated transfer date.

Subtitle D—Preservation of State Law

SEC. 141. RELATION TO STATE LAW.

(a) IN GENERAL.—

(1) RULE OF CONSTRUCTION.—This title shall not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title from complying with, the laws, regulations, orders, or interpretations, in effect in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this title and then only to the extent of the inconsistency.

(2) GREATER PROTECTION UNDER STATE LAW.—For the purposes of this subsection, a ~~State~~ statute, regulation, order, or interpretation in effect in any State is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords consumers is greater than the protection provided under this title, ~~as determined by the Agency~~. A determination regarding whether a ~~State~~ statute, regulation, order, or interpretation in effect in any State is inconsistent with the provisions of this title may be made by ~~regulation, order or guidance adopted by~~ the Agency on its own motion or in response to a nonfrivolous petition initiated by any interested person.

(b) RELATION TO OTHER PROVISIONS OF ENUMERATED CONSUMER LAWS THAT RELATE TO STATE LAW.—No provision of this title, except as provided in section 175, shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State ~~law~~ with respect to such Federal law.

SEC. 142. PRESERVATION OF ENFORCEMENT POWERS OF STATES.

(a) IN GENERAL.—

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

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

(b) CONSULTATION REQUIRED.—

(1) NOTICE.—

(A) IN GENERAL.—Before initiating any action in a court or other administrative or regulatory proceeding against any covered person to enforce any provision of this title, including any regulation prescribed by the ~~Agency~~[Director](#) under this title, a State attorney general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Agency, or the Agency's designee.

(B) EMERGENCY ACTION.—If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Agency immediately upon instituting the action or proceeding.

(C) CONTENTS OF NOTICE.—The notification required under this section shall, at a minimum, describe—

(i) the identity of the parties;

(ii) the alleged facts underlying the proceeding; and

(iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the [Director or](#) Agency or another Federal agency.

(2) AGENCY RESPONSE.—In any action described in paragraph (1), the Agency may—

(A) intervene in the action as a party;

(B) upon intervening—

(i) remove the action to the appropriate United States district court, if the action was not originally brought there; and

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

(C) appeal any order or judgment to the same extent as any other party in the proceeding may.

(c) REGULATIONS.—The ~~Agency~~Director shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators.

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

SEC. 143. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

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

“SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

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

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

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

“(B) any affiliate of a national bank;

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

“(D) any Federal branch established in accordance with the International Banking Act of 1978.

“(2) OTHER DEFINITIONS.—The terms ‘affiliate’, ‘subsidiary’, ‘includes’, and ‘including’ have the same meaning as in section 3 of the Federal Deposit Insurance Act.

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

“(A) accords rights to or protects the rights of its citizens in financial transactions concerning negotiation, sales, solicitation, disclosure, terms and conditions, advice, and remedies; or

“(B) prevents counterparties, successors, and assigns of financial contracts from engaging in unfair or deceptive acts and practices.

“(b) STATE CONSUMER LAWS OF GENERAL APPLICATION.—Notwithstanding any other provision of Federal law and except as provided in subsection (d), any consumer protection provision in State consumer laws of general application, including any law relating to unfair or deceptive acts or practices, any consumer fraud law and repossession, foreclosure, and collection law, shall apply to any national bank.

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

“(1) is applicable to State banks; and

“(2) was enacted pursuant to or in accordance with, and is not inconsistent with, an Act of Congress, including the Gramm-Leach-Bliley Act, the Consumer Credit Protection Act, and the Real Estate Settlement Procedures Act, that explicitly or by implication, permits States to exceed or supplement the requirements of any comparable Federal law, shall apply to any national bank.

“(d) EXCEPTIONS.—

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

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

“(B) the State consumer law is inconsistent with provisions of Federal law other than this title, but only to the extent of the inconsistency (as determined in accordance with the provision of the other Federal law).

“(2) RULE FOR DETERMINING INCONSISTENCY.—For purposes of paragraph (1)(B), a State consumer law is not inconsistent with Federal law if the protection the State consumer law affords consumers is greater than the protection provided under Federal law as determined by the [Agency Director](#).

“(e) NO NEGATIVE IMPLICATIONS FOR APPLICABILITY OF OTHER STATE LAWS.—No provision of this section shall be construed as altering or affecting the applicability, to national banks, of any State law which is not described in this section.

“(f) EFFECT OF TRANSFER OF TRANSACTION.— State consumer law applicable to a transaction at the inception of the transaction may not be preempted under Federal law solely because a national bank subsequently acquires the asset or instrument that is the subject of the transaction.

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

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

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

SEC. 144. VISITORIAL STANDARDS.

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

“(h) VISITORIAL POWERS.—

“(1) RULE OF CONSTRUCTION.—No provision of this title which relates to visitorial powers or otherwise limits or restricts the supervisory, examination, or regulatory authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction—

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

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

“(C) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a national bank, as authorized by such law, or to seek relief and recover damages for such residents from any violation of any such law by any national bank.

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

“(i) ENFORCEMENT ACTIONS.—The ability of the head of the agency responsible for chartering and regulating national banks to bring an enforcement action under this title or

section 5 of the Federal Trade Commission Act shall not be construed as precluding private parties from enforcing rights granted under Federal or State law in the courts.”.

SEC. 145. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.

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

“(j) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS.—

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

“(A) DEPOSITORY INSTITUTION, SUBSIDIARY, AFFILIATE.—The terms ‘depository institution’, ‘subsidiary’, and ‘affiliate’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.

“(B) NONDEPOSITORY INSTITUTION.—The term ‘nondepository institution’ means any entity that is not a depository institution.

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

SEC. 146. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.

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

“SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.

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

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

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

“(A) accords rights to or protects the rights of its citizens in financial transactions concerning negotiation, sales, solicitation, disclosure, terms and conditions, advice, and remedies; or

“(B) prevents counterparties, successors, and assigns of financial contracts from engaging in unfair or deceptive acts and practices.

“(b) STATE CONSUMER LAWS OF GENERAL APPLICATION.—Notwithstanding any other provision of Federal law and except as provided in subsection (c), any consumer protection provision in State consumer laws of general application, including any law relating to unfair or deceptive acts or practices, any consumer fraud law and repossession, foreclosure, and collection law, shall apply to any Federal savings association.

“(c) EXCEPTIONS.—

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

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

“(B) the State consumer law is inconsistent with provisions of Federal law other than this Act, but only to the extent of the inconsistency (as determined in accordance with the provision of the other Federal law).

“(2) RULE FOR DETERMINING INCONSISTENCY.—For purposes of paragraph (1)(B), a State consumer law is not inconsistent with Federal law if the protection the State consumer law affords consumers is greater than the protection provided under Federal law, as determined by the ~~Agency~~[Director](#).

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

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

“(A) is applicable to State savings associations (as defined in section 3 of the Federal Deposit Insurance Act); and

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

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

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

“(B) the State consumer law is inconsistent with provisions of Federal law other than this Act, but only to the extent of the inconsistency (as determined in accordance with the

provision of the other Federal law). For this purpose, a State consumer law is not inconsistent with Federal law if the protection the State consumer law affords consumers is greater than the protection provided under Federal law, as determined by the [Agency Director](#).

“(e) NO NEGATIVE IMPLICATIONS FOR APPLICABILITY OF OTHER STATE LAWS.—No provision of this section shall be construed as altering or affecting the applicability, to Federal savings associations, of any State law which is not described in this section.

“(f) EFFECT OF TRANSFER OF TRANSACTION.— State consumer law applicable to a transaction at the inception of the transaction may not be preempted under Federal law solely because a Federal savings association subsequently acquires the asset or instrument that is the subject of the transaction.

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

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

“6. State law preemption standards for Federal savings associations and subsidiaries clarified.”.

SEC. 147. VISITORIAL STANDARDS.

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

“(h) VISITORIAL POWERS.—

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

“(A) to require a Federal savings association to produce records relative to the investigation of violations of State consumer law, or Federal consumer laws;

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

“(C) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a Federal savings association, as authorized by such law, or

to seek relief and recover damages for such residents from any violation of any such law by any Federal savings association.

“(2) CONSULTATION.—The attorney general (or other chief law enforcement officer) of any State shall consult with the Director or any successor agency before acting under paragraph (1).

“(i) ENFORCEMENT ACTIONS.—The ability of the Director or any successor [officer or](#) agency to bring an enforcement action under this Act or section 5 of the Federal Trade Commission Act shall not be construed as precluding private parties from enforcing rights granted under Federal or State law in the courts.”.

SEC. 148. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.

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

“(j) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF FEDERAL SAVINGS ASSOCIATIONS.—

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

“(A) DEPOSITORY INSTITUTION, SUBSIDIARY, AFFILIATE.—The terms ‘depository institution’, ‘subsidiary’, and ‘affiliate’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.

“(B) NONDEPOSITORY INSTITUTION.—The term ‘nondepository institution’ means any entity that is not a depository institution.

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

SEC. 149. EFFECTIVE DATE.

This subtitle shall take effect on the designated transfer date.

Subtitle E—Enforcement Powers

SEC. 151. DEFINITIONS.

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

(1) CIVIL INVESTIGATIVE DEMAND AND DEMAND.—The terms “civil investigative demand” and “demand” mean any demand issued by the Agency.

(2) AGENCY INVESTIGATION.—The term “Agency investigation” means any inquiry conducted by an Agency investigator for the purpose of ascertaining whether any person is or has been engaged in any conduct that violates this title, any enumerated consumer law, or any regulation prescribed or order issued by the ~~Agency~~[Director](#) under this title or under the authorities transferred under subtitles F and H.

(3) AGENCY INVESTIGATOR.—The term “Agency investigator” means any attorney or investigator employed by the Agency who is charged with the duty of enforcing or carrying into effect any provisions of this title, any enumerated consumer law, the authorities transferred under subtitles F and H, or any regulation prescribed or order issued under this title or pursuant to any such authority by the ~~Agency~~[Director](#).

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

(5) DOCUMENTARY MATERIAL.—The term “documentary material” includes the original or any copy of any book, [document](#), record, report, memorandum, paper, communication, tabulation, chart, [log](#), [electronic file](#), or other ~~document~~ [data or data compilations stored in any medium](#).

(6) VIOLATION.—The term “violation” means any act or omission that, if proved, would constitute a violation of any provision of this title, any enumerated consumer law, any law for which authorities were transferred under subtitles F and H, or of any regulation prescribed or order issued by the ~~Agency~~[Director](#) under this title or pursuant to any such authority.

SEC. 152. INVESTIGATIONS AND ADMINISTRATIVE DISCOVERY.

(a) JOINT INVESTIGATIONS.

(1) IN GENERAL.—The Agency or, where appropriate, an Agency representative may engage in joint investigations and requests for information.

(2) FAIR LENDING.—The authority under paragraph (1) includes matters relating to fair lending, and where appropriate, joint investigations and requests for information with the Secretary of Housing and Urban Development, the Attorney General, or both.”

(b) SUBPOENAS.

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

(2) FAILURE TO OBEY.—In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Agency or an Agency investigator and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents or other material, or both.

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

(b)(c) DEMANDS.—

(1) IN GENERAL.—Whenever the Agency has reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to a violation, the Agency may, before the institution of any proceedings under this title or under any enumerated consumer law or pursuant to the authorities transferred under subtitles F and H, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to—

(A) produce such documentary material for inspection and copying or reproduction in the form or medium requested by the Agency;

(B) submit such tangible things;

(C) file written reports or answers to questions;

(D) give oral testimony concerning documentary material or other information; or

(E) furnish any combination of such material, answers, or testimony.

(2) REQUIREMENTS.—Each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.

(3) PRODUCTION OF DOCUMENTS.—Each civil investigative demand for the production of documentary material shall—

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

(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

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

(4) PRODUCTION OF THINGS.—Each civil investigative demand for the submission of tangible things shall—

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

(B) prescribe a return date or dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted; and

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

(5) DEMAND FOR WRITTEN REPORTS OR ANSWERS.—Each civil investigative demand for written reports or answers to questions shall—

(A) propound with definiteness and certainty the reports to be produced or the questions to be answered;

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

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

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

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

(B) identify a Agency investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

(7) SERVICE.—

(A) Any civil investigative demand may be served by any Agency investigator at any place within the territorial jurisdiction of any court of the United States.

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

(C) To the extent that the courts of the United States have authority to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such district court would have if such person were personally within the jurisdiction of such district court.

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

(A) delivering a duly executed copy of such demand or petition to the individual or to any partner, executive officer, managing agent, or general agent of such person, or to any agent of such person authorized by appointment or by law to receive service of process on behalf of such person;

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

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

(9) PROOF OF SERVICE.—

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

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

(10) PRODUCTION OF DOCUMENTARY MATERIAL.—The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

(11) SUBMISSION OF TANGIBLE THINGS.—The submission of tangible things in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the tangible things required by the demand and in the possession, custody, or control of the person to whom the demand is directed have been submitted to the custodian.

(12) SEPARATE ANSWERS.—Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand

designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

(13) TESTIMONY.—

(A) PROCEDURE.—

(i) OATH AND RECORDATION.—Any Agency investigator before whom oral testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by any individual acting under ~~his~~the direction of and in ~~his~~the presence of the investigator, record the testimony of the witness.

(ii) TRANSCRIPTIONS.—The testimony shall be taken stenographically and transcribed.

(iii) COPY TO CUSTODIAN.—After the testimony is fully transcribed, the Agency investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

(B) PARTIES PRESENT.—Any Agency investigator before whom oral testimony is to be taken shall exclude from the place where the testimony is to be taken all other persons except the person giving the testimony, ~~his or her~~the attorney for such person, the officer before whom the testimony is to be taken, an investigator or representative of an agency with which the Agency is engaged in a joint investigation, and any stenographer taking such testimony.

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

(D) ATTORNEY REPRESENTATION.—

(i) IN GENERAL.—Any person compelled to appear under a civil investigative demand for oral testimony pursuant to this section may be accompanied, represented, and advised by an attorney.

(ii) CONFIDENTIAL ADVICE.—The attorney may advise the person summoned, in confidence, either upon the request of such person or upon the initiative of the attorney, with respect to any question asked of such person.

(iii) OBJECTIONS.—The person summoned or the attorney may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection.

(iv) REFUSAL TO ANSWER.—An objection may properly be made, received, and entered upon the record when it is claimed that the person summoned is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination, but such person shall not otherwise object to or refuse to answer any question, and shall not otherwise interrupt the oral examination, directly or through such person's attorney.

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

(vi) BASIS FOR COMPELLING TESTIMONY.—If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.

(E) TRANSCRIPTS.—

(i) RIGHT TO EXAMINE.—After the testimony of any witness is fully transcribed, the Agency investigator shall afford the witness (who may be accompanied by an attorney) a reasonable opportunity to examine the transcript.

(ii) READING THE TRANSCRIPT.—The transcript shall be read to or by the witness, unless such examination and reading are waived by the witness.

(iii) REQUEST FOR CHANGES.—Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the Agency investigator with a statement of the reasons given by the witness for making such changes.

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

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

(F) CERTIFICATION BY INVESTIGATOR.— The Agency investigator shall certify on the transcript that the witness was duly sworn by the investigator and that the transcript is

a true record of the testimony given by the witness, and the Agency investigator shall promptly deliver the transcript or send it by registered or certified mail to the custodian.

(G) COPY OF TRANSCRIPT.—The Agency investigator shall furnish a copy of the transcript (upon payment of reasonable charges for the transcript) to the witness only, except that the Agency may for good cause limit such witness to inspection of the official transcript of ~~his~~the testimony of such witness.

(H) WITNESS FEES.—Any witness appearing for the taking of oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

(~~e~~d) CONFIDENTIAL TREATMENT OF DEMAND MATERIAL.—

(1) IN GENERAL.—Materials received as a result of a civil investigative demand shall be subject to requirements and procedures regarding confidentiality, in accordance with regulations established by the ~~Agency~~Director.

(2) DISCLOSURE TO CONGRESS.—No regulation established by the ~~Agency~~Director regarding the confidentiality of materials submitted to, or otherwise obtained by, the Agency shall be intended to prevent disclosure to either House of the Congress or to an appropriate committee of the Congress, except that the ~~Agency~~Director may prescribe regulations allowing prior notice to any party that owns or otherwise provided the material to the Agency and has designated such material as confidential.

(~~d~~e) PETITION FOR ENFORCEMENT.—

(1) IN GENERAL.—Whenever any person fails to comply with any civil investigative demand duly served upon such person under this section, or whenever satisfactory copying or reproduction of material requested pursuant to the demand cannot be accomplished and such person refuses to surrender such material, the Agency, through such officers or attorneys as ~~it~~the Director may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section.

(2) SERVICE OF PROCESS.—All process of any court to which application may be made as provided in this subsection may be served in any judicial district.

(~~e~~f) PETITION FOR ORDER MODIFYING OR SETTING ASIDE DEMAND.—

(1) IN GENERAL.—Not later than 20 days after the service of any civil investigative demand upon any person under subsection (b), or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Agency investigator named in the demand, such person

may file with the Agency a petition for an order by the Agency modifying or setting aside the demand.

(2) COMPLIANCE DURING PENDENCY.—The time permitted for compliance with the demand in whole or in part, as deemed proper and ordered by the Agency, shall not run during the pendency of such petition at the Agency, except that such person shall comply with any portions of the demand not sought to be modified or set aside.

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

(~~fg~~) CUSTODIAL CONTROL.—At any time during which any custodian is in custody or control of any documentary material, tangible things, reports, answers to questions, or transcripts of oral testimony given by any person in compliance with any civil investigative demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon such custodian by this section or regulation prescribed by the ~~Agency~~-[Director](#).

(~~gh~~) JURISDICTION OF COURT.—

(1) IN GENERAL.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section.

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

SEC. 153. HEARINGS AND ADJUDICATION PROCEEDINGS.

(a) IN GENERAL.—The Agency may conduct hearings and adjudication proceedings with respect to any person in the manner prescribed by chapter 5 of title 5, United States Code in order to ensure or enforce compliance with—

(1) the provisions of this title, including any regulations prescribed by the ~~Agency~~[Director](#) under this title; and

(2) any other Federal law that the Agency is authorized to enforce, including an enumerated consumer law, and any regulations or order prescribed thereunder, unless such Federal law specifically limits the Agency from conducting a hearing or adjudication proceeding and only to the extent of such limitation.

(b) SPECIAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.—

(1) ISSUANCE.—

(A) NOTICE OF CHARGES.—If, in the opinion of the Agency, any covered person is engaging or has engaged in an activity that violates a law, regulation, or any condition imposed in writing on the person by the Agency, the Agency may issue and serve upon the person a notice of charges with respect to such violation.

(B) CONTENTS OF NOTICE.—The notice shall contain a statement of the facts constituting any alleged violation and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the person.

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

(D) NONAPPEARANCE DEEMED TO BE CONSENT TO ORDER.—Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order.

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

(F) INCLUDES REQUIREMENT FOR CORRECTIVE ACTION.—Such order may, by provisions which may be mandatory or otherwise, require the person to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation.

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

(3) DECISION AND APPEAL.—

(A) PLACE OF AND PROCEDURES FOR HEARING.—Any hearing provided for in this subsection shall be held in the Federal judicial district or in the territory in which the residence or home office of the person is located unless the person consents to another

place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code.

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

(i) render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue; and

(ii) serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection.

(C) MODIFICATION OF ORDER GENERALLY.—Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in paragraph (4), and thereafter until the record in the proceeding has been filed as so provided, the Agency may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order.

(D) MODIFICATION OF ORDER AFTER FILING RECORD ON APPEAL.—Upon such filing of the record, the Agency may modify, terminate, or set aside any such order with permission of the court.

(4) APPEAL TO COURT OF APPEALS.—

(A) IN GENERAL.—Any party to any proceeding under this subsection may obtain a review of any order served pursuant to this subsection (other than an order issued with the consent of the person concerned) by the filing in the court of appeals of the United States for the circuit in which the principal office of the covered person is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Agency be modified, terminated, or set aside.

(B) TRANSMITTAL OF COPY TO THE AGENCY.—A copy of such petition shall be forthwith transmitted by the clerk of the court to the Agency, and thereupon the Agency shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code.

(C) JURISDICTION OF COURT.—Upon the filing of ~~sueha~~ petition under subparagraph (A), such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of paragraph (3) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the ~~agency~~. Agency.

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

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

(5) NO STAY.—The commencement of proceedings for judicial review under paragraph (4) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the ~~agency~~. Agency.

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

(1) ISSUANCE.—

(A) IN GENERAL.—Whenever the Agency determines that the violation specified in the notice of charges served upon a person pursuant to subsection (b), or the continuation ~~thereof~~ of such violation, is likely to cause the person to be insolvent or otherwise prejudice the interests of consumers before the completion of the proceedings conducted pursuant to subsection (b), the Agency may issue a temporary order requiring the covered person to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency or other condition pending completion of such proceedings.

(B) OTHER REQUIREMENTS.—Any temporary order issued under this paragraph may include any requirement authorized under this subtitle.

(C) EFFECT DATE OF ORDER.—Any temporary order issued under this paragraph shall take effect upon service upon the person and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the person, until the effective date of such order.

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

(3) INCOMPLETE OR INACCURATE RECORDS.—

(A) TEMPORARY ORDER.—If a notice of charges served under subsection (b) specifies, on the basis of particular facts and circumstances, that a person's books and

records are so incomplete or inaccurate that the Agency is unable to determine the financial condition of that person or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that person, the Agency may issue a temporary order requiring—

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

(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1).

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

(i) shall take effect upon service; and

(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

(I) the completion of the proceeding initiated under subsection (b) in connection with the notice of charges; or

(II) the date the Agency determines, by examination or otherwise, that the person's books and records are accurate and reflect the financial condition of the person.

(d) SPECIAL RULES FOR ENFORCEMENT OF ORDERS.—

(1) IN GENERAL.—The Agency may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the covered person is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such court shall have jurisdiction and power to order and require compliance herewith.

(2) EXCEPTION.—Except as otherwise provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order or to review, modify, suspend, terminate, or set aside any such notice or order.

(e) REGULATIONS.—The [Agency Director](#) shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

SEC. 154. LITIGATION AUTHORITY.

(a) IN GENERAL.—If any person violates a provision of this title, any enumerated consumer law, any law for which authorities were transferred under subtitles F and H, or any regulation prescribed or order issued by the [Agency Director](#) under this title or pursuant to any such authority, the Agency may commence a civil action against such

person to impose a civil penalty ~~or~~and to seek all appropriate legal ~~or~~and equitable relief including a permanent or temporary injunction as permitted by law.

(b) REPRESENTATION.—The Agency may act in its own name and through its own attorneys in enforcing any provision of this title, regulations under this title, or ~~any other~~another law or regulation, or in any action, suit, or proceeding to which the Agency is a party.

(c) COMPROMISE OF ACTIONS.—The Agency may compromise or settle any action if such compromise is approved by the court.

(d) NOTICE TO THE ATTORNEY GENERAL.—When commencing a civil action under this title, any enumerated consumer law, any law for which authorities were transferred under subtitles F and H, or any regulation ~~there under~~hereunder, the Agency shall notify the Attorney General.

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

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

(2) the Attorney General concurs with such request or fails to take action within 60 days of the Agency's request.

(f) FORUM.—Any civil action brought under this title may be brought in a United States district court or in any court of competent jurisdiction of a state in a district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to enjoin such person and to require compliance with this title, any enumerated consumer law, any law for which authorities were transferred under subtitles F and H, or any regulation prescribed or order issued by the ~~Agency~~Director under this title or pursuant to any such authority.

(g) TIME FOR BRINGING ACTION.—

(1) IN GENERAL.—Except as otherwise permitted by law or equity, no action may be brought under this title more than 3 years after the date of the discovery of the violation to which an action relates.

(2) LIMITATIONS UNDER OTHER FEDERAL LAWS.—

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

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

(C) In any action arising solely under the laws for which authorities were transferred by subtitles F and H, the Agency may commence, defend, or intervene in the action in accordance with the requirements of that law, as applicable ⁴.

SEC. 155. RELIEF AVAILABLE.

(a) ADMINISTRATIVE PROCEEDINGS OR COURT ACTIONS.—

(1) JURISDICTION.—The court (or Agency, as the case may be) in an action or adjudication proceeding brought under this title, any enumerated consumer law, or any law for which authorities were transferred by subtitles F and H, shall have jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of this title, any enumerated consumer law, and any law for which authorities were transferred by subtitles F and H, including a violation of a regulation prescribed or order issued under this title, any enumerated consumer law and any law for which authorities were transferred by subtitles F and H.

(2) RELIEF.—Such relief may include—

(A) rescission or reformation of contracts;

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

(C) restitution;

(D) disgorgement or compensation for unjust enrichment;

(E) payment of damages;

(F) public notification regarding the violation, including the costs of notification;

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

(H) civil money penalties, ~~as set forth more fully in~~ under subsection (d) ~~c~~.

(3) NO EXEMPLARY OR PUNITIVE DAMAGES.— Nothing in this subsection shall be construed as authorizing the imposition of exemplary or punitive damages.

(b) RECOVERY OF COSTS.—In any action brought by the Agency, a State attorney general, or a State bank supervisor to enforce any provision of this title, any enumerated consumer law, any law for which authorities were transferred by subtitles F and H, or any regulation prescribed or order issued by the ~~Agency~~ Director under this title or pursuant to

any such authority, the Agency, State attorney general, or State bank supervisor may recover ~~its~~the costs incurred by such Agency, attorney general, or supervisor in connection with prosecuting such action if the Agency, State attorney general, or State bank supervisors (as the case may be) is the prevailing party in the action.

(c) CIVIL MONEY PENALTY IN COURT AND ADMINISTRATIVE ACTIONS.—

(1) Any person that violates, through any act or omission, any provision of this title, any enumerated consumer law, or any regulation prescribed or order issued by the Agency Director under this title shall forfeit and pay a civil penalty pursuant to this subsection determined as follows:

(A) FIRST TIER.—For any violation of ~~a~~any law, regulation, final order or condition imposed in writing by the Agency, or for any failure to pay any fee or assessment imposed by the Agency (including any fee or assessment for which a related person may be liable), a civil penalty shall not exceed \$5,000 for each day during which such violation continues.

(B) SECOND TIER.—Notwithstanding paragraph (A), for any violation of a regulation prescribed under section 136 or for any person that recklessly engages in a violation of this title, any enumerated consumer law, or any regulation prescribed or order issued by the Agency Director under this title, relating to the provision of an alternative consumer financial product or service, a civil penalty shall not exceed \$25,000 for each day during which such violation continues.

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

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

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

(B) the gravity of the violation or failure to pay;

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

(D) the history of previous violations; and

(E) such other matters as justice may require.

(3) **AUTHORITY TO MODIFY OR REMIT PENALTY.**—The Agency may compromise, modify, or remit any penalty which may be assessed or had already been assessed under paragraph (1). The amount of such penalty, when finally determined, shall be exclusive of any sums owed by the person to the United States in connection with the costs of the proceeding, and may be deducted from any sums owing by the United States to the person charged.

(4) **NOTICE AND HEARING.**—No civil penalty may be assessed with respect to a violation of this title, any enumerated consumer law, or any regulation prescribed or order issued by the ~~Agency~~Director, unless—

(A) the Agency gives notice and an opportunity for a hearing to the person accused of the violation; or

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

SEC. 156. REFERRALS FOR CRIMINAL PROCEEDINGS.

Whenever the Agency obtains evidence that any person, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, the Agency ~~shall have the power to~~may transmit such evidence to the Attorney General, who may institute criminal proceedings under appropriate law. ~~Nothing in~~No provision of this section ~~affects~~shall be construed as affecting any other authority of the Agency to disclose information.

SEC. 157. EMPLOYEE PROTECTION.

(a) **IN GENERAL.**—No covered person shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any covered employee or any authorized representative of covered employees by reason of the fact that such employee or representative, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

(1) has provided information to the Agency, ~~filed,~~ or to any other State, local, or Federal Government authority or law enforcement official information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any other law that is subject to the jurisdiction of the Agency, or any regulation, order, standard, or prohibition prescribed by the Director;

(2) has testified or is about to testify in any proceeding resulting from the administration or enforcement of any provision of this Act or any other law that is subject to the jurisdiction of the Agency, or any regulation, order, standard, or prohibition prescribed by the Director;

(3) has filed or instituted, or has caused to be filed or instituted, any proceeding under ~~this title,~~ any enumerated consumer law; or any law for which authorities were transferred by subtitles F and H; ~~or has testified or is about to testify in any proceeding resulting from the Administration or enforcement of the provisions of this title;~~ or

(4) has objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any law, regulation, order, standard, or prohibition, subject to the jurisdiction of, or enforceable by, the Agency.

(b) COVERED EMPLOYEE DEFINED.—For the purposes of this section, the term “covered employee” means any individual performing tasks related to the provision of a financial product or service to a consumer.

~~(b) AGENCY REVIEW OF TERMINATION.—~~

(c) TIMETABLES.—

~~(1) APPLICATION FOR REVIEW.—Any employee or representative of employees~~FILING COMPLAINT.—Any individual who believes that ~~he~~such individual has been ~~terminated~~discharged or otherwise discriminated ~~6~~ against by any person in violation of subsection (a) may, ~~within 45 days after such alleged violation occurs, apply to the Agency for review of such termination or alleged discrimination.~~before the end of the 180-day period beginning on the date on which such violation occurs, file (or have any person file on behalf of such individual) a complaint with the Secretary of Labor (hereafter in this subsection referred to as the “Secretary”, notwithstanding section 101(32)) alleging such discharge or discrimination and identifying the person responsible for such act.

(2) SECRETARY’S ACTION ON RECEIPT OF COMPLAINT.—Upon receipt of a complaint by any individual under paragraph (1), the Secretary shall notify, in writing, the person named in the complaint who is alleged to have committed the violation of—

(A) the filing of the complaint;

(B) the allegations contained in the complaint;

(C) the substance of the evidence supporting the complaint; and

(D) the opportunities that will be afforded to such person under paragraph (3).

(3) INVESTIGATION, HEARING, AND ORDERS.—

(A) FINDINGS.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the individual filing the complaint and the person named in the complaint who is alleged to have committed the violation an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet

with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

(B) PRELIMINARY ORDER.—If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B).

(C) OBJECTIONS TO FINDINGS OR PRELIMINARY ORDER.—Not later than 30 days after the date of notification of findings under subparagraph (A), the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record.

(D) OBJECTIONS DO NOT CONSTITUTE A STAY.— The filing of objections under subparagraph (C) shall not operate to stay any reinstatement remedy contained in the preliminary order.

(E) EXPEDITIOUS HEARING.—Any hearing requested under subparagraph (C) shall be conducted expeditiously.

(F) FINALITY OF ORDER.— If a hearing is not requested under subparagraph (C) with respect to any findings of the Secretary under subparagraph (A) within the 30-day period described in subparagraph (C), the preliminary order shall be deemed a final order that is not subject to judicial review.

(4) STANDARDS FOR DETERMINATION.—

(A) PRIMA FACIE EVIDENCE OF CONTRIBUTION.—The Secretary shall dismiss a complaint filed under paragraph (1) and shall not conduct an investigation otherwise required under paragraph (3)(A) unless the individual filing the complaint makes a prima facie showing that any behavior described in paragraph (1), (2),

~~(2) COPY TO RESPONDENT.— A copy of the application shall be sent to the person who is alleged to have terminated or otherwise discriminated against an employee, and such person shall be the respondent.~~

(3), or (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

~~(3) INVESTIGATION.— Upon receipt of such application, the Agency shall cause such investigation to be made as the Agency deems appropriate.~~

(B) PROHIBITION ON INVESTIGATION IN CASE OF CLEAR AND CONVINCING EVIDENCE OF INDEPENDENT BASIS.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under subparagraph (A), no investigation otherwise required under paragraph (3) shall be conducted if the employer

demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

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

~~(5) NOTICE OF TIME AND PLACE FOR HEARING.—The parties shall be given written notice of the time and place of the hearing at least 5 days prior to the hearing.~~

(C) CONTRIBUTING FACTOR REQUIREMENT.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraph (1), (2), (3), or (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

~~(6) PROCEDURE.—Any hearing under this subsection shall be of record and shall be subject to section 554 of title 5, United States Code.~~

(D) PROHIBITION ON FINAL ORDER IN CASE OF CLEAR AND CONVINCING EVIDENCE OF INDEPENDENT BASIS.—Relief may not be ordered under paragraph (3) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

~~(7) DETERMINATION.—~~

(5) FINAL ORDER.—

~~(A) IN GENERAL.—Upon receiving the report of such investigation, the Agency shall make findings of fact.~~ Not later than 120 days after the date of conclusion of any hearing under paragraph (3), the Secretary shall issue a final order providing the relief prescribed by this subsection or denying the complaint.

(B) SETTLEMENT AGREEMENT.— At anytime before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

(C) CONTENTS OF ORDER.— If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed~~(B) ISSUANCE OF DECISION.— If the Agency finds that there is sufficient evidence in the record to conclude that such a violation did occur, the Agency shall issue a decision, incorporating an order therein and the Agency's findings, requiring the party committing such violation—~~

(i) to take such affirmative action to abate the violation as the Agency deems appropriate, including reinstating or rehiring the employee or representative of employees to the former position with compensation. ~~(C) DENIAL OF APPLICATION.— If the Agency finds insufficient evidence to support the allegations made in the application, the Agency shall deny the application.~~

(ii) to reinstate the complainant to such individual's former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with such individual's employment; and

~~(8) JUDICIAL REVIEW.—An order issued by the Agency under this subsection (b) shall be subject to judicial review in the same manner as orders and decisions are subject to judicial review under this title or any enumerated consumer law.~~

(iii) to provide compensatory damages to the complainant.

~~(eD) COSTS AND EXPENSES.—Whenever~~ATTORNEYS FEES.— If an order is issued under this ~~section to abate such violation~~paragraph, the Secretary, at the request of the ~~applicant~~complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including ~~attorney's fees~~ determined by the Agency to have been attorneys' and expert witness fees) reasonably incurred, ~~as determined by the applicant~~Secretary, by the complainant for, or in connection with, the ~~application and prosecution of such proceedings shall be assessed against the person committing such violation.~~bringing of the complaint upon which the order was issued.

(E) FRIVOLOUS OR BAD FAITH COMPLAINTS.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys' fee, not exceeding \$1,000, to be paid by the complainant.

(6) DE NOVO ACTION ON CLAIM.—

(A) ACTION AT LAW OR EQUITY.—If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant who filed such complaint may bring an action at law or equity for de novo review in the appropriate district court of the United States.

(B) JURY TRIAL.—At the request of either party to an action brought under subparagraph (A), such action shall be tried by the court with a jury.

(C) STANDARDS FOR DETERMINATION.— The standards for determination established under paragraph (4) shall apply in any action under this paragraph.

(D) RELIEF.—The court shall have jurisdiction to grant all relief, including injunctive relief and compensatory damages, that necessary to make the complainant who sought de novo review whole, including—

(i) reinstatement with the same seniority status that the complainant would have had, but for the discharge or discrimination;

(ii) the amount of back pay, with interest; and

(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

(E) NOT REVIEWABLE.—The decision of the court shall be final without further review.

(7) JUDICIAL REVIEW OF FINAL ORDER.—

(A) IN GENERAL.—Unless a complainant brings a de novo action under paragraph (6), any person adversely affected or aggrieved by a final order issued under paragraph (5) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation.

(B) STATUTE OF LIMITATION.—Any petition for review of a final order under subsection shall be filed not later than 60 days after the date of the issuance of the final order by the Secretary.

(C) STANDARDS FOR REVIEW.—The standards for review established under chapter 7 of title 5, United States Code, shall apply in any review of a final order under this paragraph.

(D) EFFECT OF PROCEEDINGS AS STAY.—The commencement of proceedings under this paragraph shall not operate as a stay of the final order of the Secretary under review, unless so ordered by the court.

(E) LIMITATION ON EFFECT OF OTHER PROCEEDINGS.—Except as provided in paragraph (6) and this paragraph, an order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(8) ENFORCEMENT OF ORDERS BY SECRETARY.—

(A) IN GENERAL.—Whenever any person has failed to comply with an order issued under paragraph (5), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order.

(B) RELIEF.— In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including injunctive relief and compensatory damages.

(9) ENFORCEMENT OF ORDER BY AGGRIEVED PARTY.—

(A) IN GENERAL.—A person on whose behalf an order was issued under paragraph (5) may commence a civil action against the person to whom such order was issued to require compliance with such order.

(B) RELIEF.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(d) ACTION IN NATURE OF MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(e) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—

(1) NO WAIVER OF RIGHTS AND REMEDIES.—Notwithstanding any law and except as provided under paragraph (3), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—Notwithstanding any law and except as provided under paragraph (3), no predispute arbitration agreement shall be valid or enforceable and to the extent the agreement requires arbitration of a dispute arising under this section.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under subsection (a)(2) unless the Director determines by regulation that such provision is inconsistent with the purposes of this Act. ~~(d) EXCEPTION.—This section shall not apply to any employee who acting without discretion from the employer of such employee (or the employer's agent) deliberately violates any requirement of this title or any enumerated consumer law.~~

SEC. 158. EFFECTIVE DATE.

This subtitle shall take effect on the designated transfer date.

Subtitle F—Transfer of Functions and Personnel; Transitional Provisions

SEC. 161. TRANSFER OF CERTAIN FUNCTIONS.

(a) IN GENERAL.—Except as provided in subsection (b), consumer financial protection functions are transferred as follows:

(1) BOARD OF GOVERNORS.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Board of Governors are transferred to the ~~Agency~~[Director](#).

(B) BOARD OF GOVERNORS' AUTHORITY.—The ~~Agency~~[Director](#) shall have all powers and duties that were vested in the Board of Governors, relating to consumer financial protection functions, on the day before the designated transfer date.

(2) COMPTROLLER OF THE CURRENCY.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Comptroller of the Currency are transferred to the ~~Agency~~[Director](#).

(B) COMPTROLLER'S AUTHORITY.—The ~~Agency~~[Director](#) shall have all powers and duties that were vested in the Comptroller of the Currency, relating to consumer financial protection functions, on the day before the designated transfer date.

(3) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Director of the Office of Thrift Supervision are transferred to the ~~Agency~~[Director](#).

(B) DIRECTOR'S AUTHORITY.—The ~~Agency~~[Director](#) shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision, relating to consumer financial protection functions, on the day before the designated transfer date.

(4) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Federal Deposit Insurance Corporation are transferred to the ~~Agency~~[Director](#).

(B) CORPORATION'S AUTHORITY.—The ~~Agency~~[Director](#) shall have all powers and duties that were vested in the Federal Deposit Insurance Corporation, relating to consumer financial protection functions, on the day before the designated transfer date.

(5) FEDERAL TRADE COMMISSION.—

(A) TRANSFER OF FUNCTIONS.—~~All~~[Except as provided in subparagraph \(C\), all](#) consumer financial protection functions of the Federal Trade Commission are transferred to the ~~Agency~~[Director](#).

(B) COMMISSION'S AUTHORITY.—~~The Agency~~[Except as provided in subparagraph \(C\), the Director](#) shall have all powers and duties that were vested in the Federal Trade Commission, relating to consumer financial protection functions, on the day before the designated transfer date.

(C) CONTINUATION OF CERTAIN COMMISSION AUTHORITIES.—

Notwithstanding subparagraphs (A) and (B), the Federal Trade Commission shall continue to enforce the following provisions of law and prescribe regulations under such provisions:

(i) The Credit Repair Organizations Act.

(ii) Section 5 of the Federal Trade Commission Act.

(iii) The Telemarketing and Consumer Fraud and Abuse Prevention Act.

(6) NATIONAL CREDIT UNION ADMINISTRATION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the National Credit Union Administration are transferred to the ~~Agency~~Director.

(B) NATIONAL CREDIT UNION ADMINISTRATION'S AUTHORITY.—The ~~Agency~~Director shall have all powers and duties that were vested in the National Credit Union Administration, relating to consumer financial protection functions, on the day before the designated transfer date.

(7) SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—

(A) TRANSFER OF FUNCTIONS.—All consumer protection functions of the Secretary of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 are transferred to the Director.

(B) SECRETARY OF HUD'S AUTHORITY.—The Director shall have all powers and duties that were vested in the Secretary of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, on the day before the designated transfer date

(b) TRANSFERS OF FUNCTIONS SUBJECT TO BACKSTOP ENFORCEMENT AUTHORITY REMAINING WITH TRANSFEROR AGENCIES.—The transfers of functions in subsection (a) shall not affect the authority of the agencies identified in subsection (a) from initiating enforcement proceedings under the circumstances described in section 122(e)(3).

(c) TERMINATION OF AUTHORITY OF TRANSFEROR AGENCIES TO COLLECT FEES FOR CONSUMER FINANCIAL PROTECTION PURPOSES.—Authorities of the agencies identified in subsection (a) to assess and collect fees to cover the cost of conducting consumer financial protection functions shall terminate on the day before the designated transfer date.

(d) CONSUMER FINANCIAL PROTECTION FUNCTIONS DEFINED.—For purposes of this subtitle, the term “consumer financial protection functions” means research, rulemaking, issuance of orders or guidance, supervision, examination, and enforcement activities, powers, and duties relating to the provision of consumer financial products or services, including the authority to assess and collect fees for those purposes, except that such term shall not include any such function relating to an agency’s responsibilities under the Community Reinvestment Act of 1977.

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

SEC. 162. DESIGNATED TRANSFER DATE.

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

(1) shall, in consultation with the Chairman of the Board of Governors, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, [the Secretary of Housing and Urban Development](#), and the Director of the Office of Management and Budget, designate a single calendar date for the transfer of functions to the ~~Agency~~[Director](#) under section 161; and

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

(b) CHANGING DESIGNATION.—The Secretary—

(1) may, in consultation with the Chairman of the Board of Governors, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, [the Secretary of Housing and Urban Development](#), and the Director of the Office of Management and Budget, change the date designated under subsection (a); and

(2) shall publish notice of any changed designation in the Federal Register.

(c) PERMISSIBLE DATES.—

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

(2) EXTENSION OF TIME.—The Secretary may designate a date that is later than 18 months after the date of the enactment of this Act if the Secretary transmits to appropriate committees of Congress—

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

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

(C) a description of the steps that will be taken to effect an orderly and timely implementation of this title within the extended time period.

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

SEC. 163. SAVINGS PROVISIONS.

(a) BOARD OF GOVERNORS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 161(a)(1) shall not affect the validity of any right, duty, or obligation of the United States, the Board of Governors (or any Federal reserve bank), or any other person that—

(A) arises under any provision of law relating to any consumer financial protection function of the Board of Governors transferred to the ~~Agency~~Director by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Board of Governors (or any Federal reserve bank) before the designated transfer date with respect to any consumer financial protection function of the Board of Governors (or any Federal reserve bank) transferred to the ~~Agency~~Director by this title, except that the ~~Agency~~Director shall be substituted for the Board of Governors (or Federal reserve bank) as a party to any such proceeding as of the designated transfer date.

(b) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 161(a)(4) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Deposit Insurance Corporation, the Board of Directors of that Corporation, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the ~~Agency~~Director by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Federal Deposit Insurance Corporation (or the Board of Directors of that Corporation) before the designated transfer date with respect to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the [Agency Director](#) by this title, except that the [Agency Director](#) shall be substituted for the Federal Deposit Insurance Corporation (or Board of Directors) as a party to any such proceeding as of the designated transfer date.

(c) FEDERAL TRADE COMMISSION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 161(a)(5) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Trade Commission, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Federal Trade Commission transferred to the [Agency Director](#) by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Federal Trade Commission before the designated transfer date with respect to any consumer financial protection function of the Federal Trade Commission transferred to the [Agency Director](#) by this title, except that the [Agency Director](#) shall be substituted for the Federal Trade Commission as a party to any such proceeding as of the designated transfer date.

(d) NATIONAL CREDIT UNION ADMINISTRATION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 161(a)(6) shall not affect the validity of any right, duty, or obligation of the United States, the National Credit Union Administration, the National Credit Union Administration Board, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the National Credit Union Administration transferred to the [Agency Director](#) by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the National Credit Union Administration (or the National Credit Union Administration Board) before the designated transfer date with respect to any consumer financial protection function of the National Credit Union Administration transferred to the [Agency Director](#) by this title, except that the [Agency Director](#) shall be substituted for

the National Credit Union Administration (or National Credit Union Administration Board) as a party to any such proceeding as of the designated transfer date.

(e) COMPTROLLER OF THE CURRENCY.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 161(a)(2) shall not affect the validity of any right, duty, or obligation of the United States, the Comptroller of the Currency, the Office of the Comptroller of the Currency, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Comptroller of the Currency transferred to the [AgencyDirector](#) by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Comptroller of the Currency (or the Office of the Comptroller of the Currency) with respect to any consumer financial protection function of the Comptroller of the Currency transferred to the [AgencyDirector](#) by this title before the designated transfer date, except that the [AgencyDirector](#) shall be substituted for the Comptroller of the Currency (or the Office of the Comptroller of the Currency) as a party to any such proceeding as of the designated transfer date.

(f) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 161(a)(3) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Director of the Office of Thrift Supervision transferred to the [AgencyDirector](#) by this title; and

(B) that existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Director of the Office of Thrift Supervision (or the Office of Thrift Supervision) with respect to any consumer financial protection function of the Director of the Office of Thrift Supervision transferred to the [AgencyDirector](#) by this title before the designated transfer date, except that the [AgencyDirector](#) shall be substituted for the Director (or the Office of Thrift Supervision) as a party to any such proceeding as of the designated transfer date.

(g) SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 161(a)(7) shall not affect the validity of any right, duty, or obligation of the United States, the Secretary of Housing and Urban Development, the Department of Housing and Urban Development, or any other person, that—

(A) arises under any provision of law relating to any function of the Secretary of Housing and Urban Development under the Real Estate Settlement Procedures Act of 1974 and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 transferred to the Director by this title; and

(B) that existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Secretary of Housing and Urban Development (or the Department of Housing and Urban Development) with respect to any consumer financial protection function of the Secretary of Housing and Urban Development transferred to the Director by this title before the designated transfer date, except that the Director shall be substituted for the Secretary of Housing and Urban Development (or such Department) as a party to any such proceeding as of the designated transfer date.

(h) CONTINUATION OF EXISTING ORDERS, REGULATIONS, DETERMINATIONS, AGREEMENTS, AND RESOLUTIONS.—All orders, resolutions, determinations, agreements, and regulations that have been issued, made, prescribed, or allowed to become effective by the Board of Governors (or any Federal reserve bank), the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the ~~Office of the~~ Comptroller of the Currency, ~~or the Director of~~ the Office of Thrift Supervision, the Secretary of Housing and Urban Development, or by a court of competent jurisdiction, in the performance of consumer financial protection functions that are transferred by this title and that are in effect on the day before the designated transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and regulations, and shall be enforceable by or against the ~~Agency~~Director until modified, terminated, set aside, or superseded in accordance with applicable law by the ~~Agency~~Director, by any court of competent jurisdiction, or by operation of law.

(hi) IDENTIFICATION OF REGULATIONS CONTINUED.—Not later than the designated transfer date, the ~~Agency—~~Director—

(1) shall, after consultation with the Chairman of the Board of Governors, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, ~~and~~ the Director of the Office of Thrift Supervision, and the Secretary of Housing and Urban Development identify the regulations continued under subsection (g) that will be enforced by the ~~Agency~~Director; and

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

(j) STATUS OF REGULATIONS PROPOSED OR NOT YET EFFECTIVE.—

(1) PROPOSED REGULATIONS.—Any proposed regulation of the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the ~~Office of the~~ Comptroller of the Currency, ~~or the Director of~~ the Office of Thrift Supervision, or the Secretary of Housing and Urban Development which that agency, in performing consumer financial protection functions transferred by this title, has proposed before the designated transfer date but has not published as a final ~~rule~~regulation before that date, shall be deemed to be a proposed regulation of the ~~Agency~~Director.

(2) REGULATIONS NOT YET EFFECTIVE.—Any interim or final regulation of Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the ~~Office of the~~ Comptroller of the Currency, ~~or the Director of~~ the Office of Thrift Supervision, or the Secretary of Housing and Urban Development which that agency, in performing consumer financial protection functions transferred by this title, has published before the designated transfer date but which has not become effective before that date, shall take effect as a regulation of the ~~Agency~~Director according to its terms.

SEC. 164. TRANSFER OF CERTAIN PERSONNEL.

(a) IN GENERAL.—

(1) CERTAIN FEDERAL RESERVE SYSTEM EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The ~~Agency~~Director and the Board of Governors shall—

(i) jointly determine the number of employees of the Board necessary to perform or support the consumer financial protection functions of the Board of Governors that are transferred to the ~~Agency~~Director by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Board of Governors for transfer to the Agency in a manner that the ~~Agency~~Director and the Board of Governors, in their sole discretion, deem equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Board of Governors identified under subparagraph (A)(ii) shall be transferred to the Agency for employment.

(C) FEDERAL RESERVE BANK EMPLOYEES.—Employees of any Federal reserve bank who, on the day before the designated transfer date, are performing consumer

financial protection functions on behalf of the Board of Governors shall be treated as employees of the Board of Governors for purposes of subparagraphs (A) and (B).

(2) CERTAIN FDIC EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The ~~Agency~~[Director](#) and the Board of Directors of the Federal Deposit Insurance Corporation shall—

(i) jointly determine the number of employees of that Corporation necessary to perform or support the consumer financial protection functions of the Corporation that are transferred to the ~~Agency~~[Director](#) by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Corporation for transfer to the Agency in a manner that the ~~Agency~~[Director](#) and the Board of Directors of the Corporation, in their ~~sole~~ discretion, deem equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Corporation identified under subparagraph (A)(ii) shall be transferred to the Agency for employment.

(3) CERTAIN NCUA EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The ~~Agency~~[Director](#) and the National Credit Union Administration Board shall—

(i) jointly determine the number of employees of the National Credit Union Administration necessary to perform or support the consumer financial protection functions of the National Credit Union Administration that are transferred to the ~~Agency~~[Director](#) by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the National Credit Union Administration for transfer to the Agency in a manner that the ~~Agency~~[Director](#) and the National Credit Union Administration Board, in their ~~sole~~ discretion, deem equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the National Credit Union Administration identified under subparagraph (A)(ii) shall be transferred to the Agency for employment.

(4) CERTAIN HUD EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Director and the Secretary of Housing and Urban Development shall—

(i) jointly determine the number of employees of the Department of Housing and Urban Development necessary to perform or support the consumer financial protection functions

of the Secretary of Housing and Urban Development that are transferred to the Director by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Department of Housing and Urban Development for transfer to the Agency in a manner that the Director and the Secretary of Housing and Urban Development, in their discretion, deem equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Department of Housing and Urban Development identified under subparagraph (A)(ii) shall be transferred to the Agency for employment.

(5) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE AND SENIOR EXECUTIVE SERVICE TRANSFERRED.—

(A) IN GENERAL.—In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Director of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).

(B) DECLINING TRANSFERS ALLOWED.— An agency or entity may decline to make a transfer of authority under subparagraph (A)

(and the employees appointed pursuant ~~thereto~~to such subparagraph) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and non-career positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(b) TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.—Each employee to be transferred under this section shall—

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

(2) receive notice of ~~his or her~~such employee's position assignment not later than 120 days after the effective date of ~~his or her~~the employee's transfer.

(c) TRANSFER OF FUNCTION.—

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

(2) PRIORITY OF THIS TITLE.—If any provisions of this title conflict with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this title shall control.

(d) EQUAL STATUS AND TENURE POSITIONS.—

(1) EMPLOYEES TRANSFERRED FROM FDIC, FTC, [HUD](#), NCUA, OCC, AND OTS.—Each employee transferred from the Federal Deposit Insurance Corporation, the Federal Trade Commission, [the Department of Housing and Urban Development](#), the National Credit Union Administration, the Office of the Comptroller of the Currency, or the Office of Thrift Supervision shall be placed in a position at the Agency with the same status and tenure as he or she held on the day before the designated transfer date.

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

(A) COMPARABILITY.—Each employee transferred from the Board of Governors or from a Federal reserve bank shall be placed in a position with the same status and tenure as that of employees transferring to the Agency from the Office of the Comptroller of the Currency who perform similar functions and have similar periods of service.

(B) SERVICE PERIODS CREDITED.—For purposes of this paragraph, periods of service with the Board of Governors or a Federal reserve bank shall be credited as periods of service with a Federal agency.

(e) ADDITIONAL CERTIFICATION REQUIREMENTS LIMITED.—Examiners transferred to the Agency shall not be subject to any additional certification requirements before being placed in a comparable examiner's position at the Agency examining the same types of institutions as ~~they~~[the transferred examiners](#) examined before ~~they~~[such examiners](#) were transferred.

(f) PERSONNEL ACTIONS LIMITED.—

(1) ~~+~~[5](#)-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred employee holding a permanent position on the day before the designated transfer date shall not, during the ~~+~~[5](#)-year period beginning on the designated transfer date, be involuntarily separated, or involuntarily reassigned outside ~~his or her~~[such transferred employee's](#) local locality pay area as defined by the [Director of the](#) Office of Personnel Management.

(2) EXCEPTIONS.—Paragraph (1) shall not be construed as limiting the right of the ~~Agency~~[Director](#) to—

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

(B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character; or

(C) reassign a supervisory employee outside ~~his or her~~[such employee's](#) locality pay area as defined by the [Director of the](#) Office of Personnel Management when the

AgencyDirector determines that the reassignment is necessary for the efficient operation of the Agency.

(g) PAY.—

(1) 1-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred employee shall, during the 1-year period beginning on the designated transfer date, receive pay at a rate not less than the basic rate of pay (including any geographic differential) that the employee received during the 1- year period immediately before the transfer.

(2) EXCEPTIONS.—Paragraph (1) shall not be construed as limiting the right of the Agency to reduce the rate of basic pay of a transferred employee—

(A) for cause;

(B) for unacceptable performance; or

(C) with the employee's consent.

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

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

(h) REORGANIZATION.—

(1) BETWEEN 1ST AND 3RD YEAR.—

(A) IN GENERAL.—If the Agency determines, during the period beginning 1 year after the designated transfer date and ending 3 years after the designated transfer date, that a reorganization of the staff of the Agency is required—

(i) that reorganization shall be deemed a “major reorganization” for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code;

(ii) before the reorganization occurs, all employees in the same locality pay area as defined by the Director of the Office of Personnel Management shall be placed in a uniform position classification system; and

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

(I) establish competitive areas

(as that term is defined in regulations issued by [the Director of](#) the Office of Personnel Management) to include at a minimum all employees in the same locality pay area as defined by the Office of Personnel Management;

(II) establish competitive levels

(as that term is defined in regulations issued by [the Director of](#) the Office of Personnel Management) without regard to whether the particular employees have been appointed to positions in the competitive service or the excepted service; and

(III) afford employees appointed to positions in the excepted service

(other than to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character) the same assignment rights to positions within the Agency as employees appointed to positions in the competitive service.

(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the National Credit Union Administration shall be credited as periods of service with a Federal agency.

(2) AFTER 3RD YEAR.—

(A) IN GENERAL.—If the Agency determines, at any time after the 3-year period beginning on the designated transfer date, that a reorganization of the staff of the Agency is required, any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Agency shall establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to types of appointment held by particular employees transferred under this section.

(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the National Credit Union Administration shall be credited as periods of service with a Federal agency.

(i) BENEFITS.—

(1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) IN GENERAL.—

(i) CONTINUATION OF EXISTING RETIREMENT PLAN.—Except as provided in subparagraph (B), each transferred employee shall remain enrolled in ~~his or her~~such employee's existing retirement plan as long as ~~he or she~~the employee remains employed by the Agency.

(ii) EMPLOYER'S CONTRIBUTION.—The ~~Agency~~Director shall pay any employer contributions to the existing retirement plan of each transferred employee as required under that plan.

(B) OPTION FOR EMPLOYEES TRANSFERRED FROM FEDERAL RESERVE SYSTEM TO BE SUBJECT TO FEDERAL EMPLOYEE RETIREMENT PROGRAM.—

(i) ELECTION.—Any transferred employee who was enrolled in a Federal Reserve System retirement plan on the day before ~~his or her~~the date of the employee's transfer to the Agency may, during the period beginning 6 months after the designated transfer date and ending 1 year after the designated transfer date, elect to be subject to the Federal employee retirement program.

(ii) EFFECTIVE DATE OF COVERAGE.—For any employee making an election under clause (i), coverage by the Federal employee retirement program shall begin 1 year after the designated transfer date.

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

(i) SEPARATE ACCOUNT IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN ESTABLISHED.—A separate account in the Federal Reserve System retirement plan shall be established for Agency employees who do not make the election under subparagraph (B).

(ii) FUNDS ATTRIBUTABLE TO TRANSFERRED EMPLOYEES REMAINING IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN TRANSFERRED.—The proportionate share of funds in the Federal Reserve System retirement plan, including the proportionate share of any funding surplus in that plan, attributable to a transferred employee who does not make the election under subparagraph (B), shall be transferred to the account established under clause (i).

(iii) EMPLOYER CONTRIBUTIONS DEPOSITED.—The ~~Agency~~Director shall deposit into the account established under clause (i) the employer contributions that the Agency makes on behalf of employees who do not make the election under subparagraph (B).

(iv) ACCOUNT ADMINISTRATION.—The ~~Agency~~Director shall administer the account established under clause (i) as a participating employer in the Federal Reserve System retirement plan.

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

(i) EXISTING RETIREMENT PLAN.— The term “existing retirement plan” means, with respect to any employee transferred under this section, the particular retirement plan (including the Financial Institutions Retirement Fund) and any associated thrift savings plan of the agency or Federal reserve bank from which the employee was transferred, which the employee was enrolled in on the day before the designated transfer date.

(ii) FEDERAL EMPLOYEE RETIREMENT PLAN.—The term “Federal employee retirement program” means the retirement program for Federal employees established by chapters 83 and 84 of title 5, United States Code.

(2) BENEFITS OTHER THAN RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) DURING 1ST YEAR.—

(i) EXISTING PLANS CONTINUE.— Each transferred employee may, for 1 year after the designated transfer date, retain membership in any other employee benefit program of the agency or bank from which the employee transferred, including a dental, vision, long term care, or life insurance program, to which the employee belonged on the day before the designated transfer date.

(ii) EMPLOYER’S CONTRIBUTION.— The [Agency Director](#) shall reimburse the agency or bank from which an employee was transferred for any cost incurred by that agency or bank in continuing to extend coverage in the benefit program to the employee as required under that program or negotiated agreements.

(B) DENTAL, VISION, OR LIFE INSURANCE AFTER 1ST YEAR.—If, after the 1-year period beginning on the designated transfer date, the [Agency Director](#) decides not to continue participation in any dental, vision, or life insurance program of an agency or bank from which employees transferred, a transferred employee who is a member of such a program may, before the [Agency Director](#)’s decision takes effect, elect to enroll, without regard to any regularly scheduled open season, in—

(i) the enhanced dental benefits established by chapter 89A of title 5, United States Code;

(ii) the enhanced vision benefits established by chapter 89B of title 5, United States Code; and

(iii) the Federal Employees Group Life Insurance Program established by chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

(C) LONG term CARE INSURANCE AFTER 1ST YEAR.—If, after the 1-year period beginning on the designated transfer date, the [Agency Director](#) decides not to

continue participation in any long-term care insurance program of an agency or bank from which employees transferred, a transferred employee who is a member of such a program may, before the ~~Agency~~Director's decision takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established by chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member (as defined in Part 875, title 5, Code of Federal Regulations).

(D) EMPLOYEE'S CONTRIBUTION.—An individual enrolled in the Federal Employees Health Benefits program shall pay any employee contribution required by the plan.

(E) ADDITIONAL FUNDING.—The ~~Agency~~Director shall transfer to the Federal Employees Health Benefits Fund established under section 890 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the ~~Agency~~Director and the Director of the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph.

(F) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees transferred under this section, enrollment in a health benefits plan administered by the ~~Office of the~~ Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Board of Governors, the Secretary of Housing and Urban Development, or a Federal reserve bank, immediately before enrollment in a health benefits plan under chapter 89 of title 5, United States Code, shall be considered as enrollment in a health benefits plan under that chapter for purposes of section 8905(b)(1)(A) of title 5, United States Code.

~~(E)~~G SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant (as defined in section 8901(3) of title 5, United States Code) who is enrolled in a life insurance plan administered by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Secretary of Housing and Urban Development, the National Credit Union Administration, the ~~Office of the~~ Comptroller of the Currency, or the Director of the Office of Thrift Supervision on the day before the designated transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Agency, without regard to any regularly scheduled open season and requirement of insurability.

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

(iii) ADDITIONAL FUNDING.—The ~~Agency~~Director shall transfer to the Employees' Life Insurance Fund established under section 8714 of title 5, United States Code, an

amount determined by the Director of the Office of Personnel Management, after consultation with the ~~Agency~~Director and the Director of the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under clause (ii).

(iv) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees transferred under this section, enrollment in a life insurance plan administered by the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Secretary of Housing and Urban Development, the National Credit Union Administration, the ~~Office of the~~ Comptroller of the Currency, the Director of the Office of Thrift Supervision, or a Federal reserve bank immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.

(j) IMPLEMENTATION OF UNIFORM PAY AND CLASSIFICATION SYSTEM.—Not later than 2 years after the designated transfer date, the ~~Agency~~Director shall implement a uniform pay and classification system for all transferred employees.

(k) EQUITABLE TREATMENT.—In administering the provisions of this section, the ~~Agency~~Director—

(1) shall take no action that would unfairly disadvantage transferred employees relative to each other based on their prior employment by the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Secretary of Housing and Urban Development, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of the Federal home loan banks; and

(2) may take such action as is appropriate in individual cases so that employees transferred under this section receive equitable treatment, with respect to those employees' status, tenure, pay, benefits

(other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time, for prior periods of service with any Federal agency, including the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Department of Housing and Urban Development, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of the Federal home loan banks.

(l) ~~NO PRIVATE RIGHT OF ACTION.—This section shall not be construed as providing any transferred employee with any right of action to require the Agency or any officer or employee of the Agency to take any action under this section.~~ (m) IMPLEMENTATION.—In implementing the provisions of this section, the ~~Agency~~Director shall work with the Director of the Office of Personnel Management and

other entities with expertise in matters related to employment to ensure a fair and orderly transition for affected employees.

SEC. 165. INCIDENTAL TRANSFERS.

(a) INCIDENTAL TRANSFERS AUTHORIZED.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental transfers and dispositions of assets and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director may determine necessary to accomplish the purposes of this title.

(b) SUNSET.—The authority provided in this section shall terminate 5 years after the date of the enactment of this Act.

SEC. 166. INTERIM AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to perform the functions of the ~~Agency~~Director under this subtitle until ~~3~~the appointment of the ~~appointed Board members are~~Director is confirmed by the Senate in accordance with section 112.

(b) INTERIM ADMINISTRATIVE SERVICES BY THE DEPARTMENT OF THE TREASURY.—The ~~Department~~Secretary of the Treasury may provide administrative services necessary to support the Agency before the designated transfer date.

(c) INTERIM FUNDING FOR THE DEPARTMENT OF THE TREASURY.—For the purposes of carrying out the authorities granted in this section, there are appropriated to the ~~Department~~Secretary of the Treasury such sums as are necessary. Notwithstanding any other provision of law, such amounts shall be subject to apportionment under section 1517 of title 31, United States Code, and restrictions that generally apply to the use of appropriated funds in title 31, United States Code, and other laws.

Subtitle G—Regulatory Improvements

SEC. 171. COLLECTION OF DEPOSIT ACCOUNT DATA.

(a) PURPOSE.—The purpose of this section is to promote awareness and understanding of the access of individuals and communities to financial services, and to identify business and community development needs and opportunities.

(b) IN GENERAL.—

(1) RECORDS REQUIRED.—For each branch, automated teller machine at which deposits are accepted, and other deposit taking service facility with respect to any financial institution, the financial institution shall maintain records of the number and dollar amounts of deposit accounts of customers.

(2) GEO-CODED ADDRESSES OF DEPOSITORS.— The customers' addresses maintained pursuant to paragraph (1) shall be geo-coded so that data shall be collected regarding the census tracts of the residence or business location of the customers.

(3) IDENTIFICATION OF DEPOSITOR TYPE.—In maintaining records on any deposit account under this section, the financial institution shall also record whether the deposit account is for a residential or commercial customer.

(4) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—The following information shall be publicly available on an annual basis—

(i) the address and census tracts of each branch, automated teller machine at which deposits are accepted, and other deposit taking service facility with respect to any financial institution;

(ii) the type of deposit account including whether the account was a checking or savings account; and

(iii) data on the number and dollar amounts of the accounts, presented by census tract location of the residential and commercial customers.

(iv) any other data deemed appropriate by the Director.

(B) PROTECTION OF IDENTITY.—In the publicly available data, any personally identifiable data element shall be removed so as to protect the identities of the commercial and residential customers.

(c) AVAILABILITY OF INFORMATION.—

(1) SUBMISSION TO AGENCIES.—The data required to be compiled and maintained under this section by any financial institution shall be submitted annually to the Agency, or to a Federal banking agency, in accordance with ~~rules~~regulations prescribed by the ~~Agency.~~ Director.

(2) AVAILABILITY OF INFORMATION.—Information compiled and maintained under this section shall be retained for not less than 3 years after the date of preparation and shall be made available to the public, upon request, in the form required under ~~rules~~regulations prescribed by the ~~Agency.~~ Director.

(d) AGENCY USE.—The ~~Agency~~Director—

(1) shall assess the distribution of residential and commercial accounts at such financial institution across income and minority level of census tracts; and

(2) may use the data for any other purpose as permitted by law.

(e) REGULATIONS AND GUIDANCE.—

(1) IN GENERAL.—The ~~Agency~~[Director](#) shall prescribe such regulations and issue guidance as may be necessary to carry out, enforce, and compile data pursuant to this section.

(2) DATA COMPILATION REGULATIONS.— The ~~Agency~~[Director](#) shall prescribe regulations regarding the provision of data compiled under this section to the Federal banking agencies to carry out the purposes of this section and shall issue guidance to financial institutions regarding measures to facilitate compliance with the this section and the requirements of regulations prescribed under this section.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) AGENCY.—The term “Agency” means the Consumer Financial Protection Agency.

(2) CREDIT UNION.—The term “credit union” means a Federal credit union or a State-chartered credit union (as such terms are defined in section 101 of the Federal Credit Union Act).

(3) DEPOSIT ACCOUNT.—The term “deposit account” includes any checking account, savings account, credit union share account, and other type of account as defined by the [Director](#).

[\(4\) DIRECTOR](#).—The term “Director” means the [Director of the](#) Agency.

[\(45\)](#) FEDERAL BANKING AGENCY.—The term “Federal banking agency” means the Board of Governors of the Federal Reserve System, the head of the agency responsible for chartering and regulating national banks, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration; and the term “Federal banking agencies” means all of those agencies.

[\(56\)](#) FINANCIAL INSTITUTION.—The term “financial institution”—

(A) has the meaning given to the term “insured depository institution” in section 3(c)(2) of the Federal Deposit Insurance Act; and

(B) includes any credit union.

(g) EFFECTIVE DATE.—This section shall take effect on the designated transfer date.

SEC. 172. SMALL BUSINESS DATA COLLECTION.

(a) IN GENERAL.—The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended by inserting after section 704A the following new section:

“§ 704B. Small business loan data collection

“(a) PURPOSE.—The purpose of this section is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women- and minority-owned small businesses.

“(b) IN GENERAL.—Subject to the requirements of this section, in the case of any application to a financial institution for credit for a small business, the financial institution shall—

“(1) inquire whether the business is a women or minority-owned business, without regard to whether such application is received in person, by mail, by telephone, by electronic mail or other form of electronic transmission, or by any other means and whether or not such application is in response to a solicitation by the financial institution; and

“(2) maintain a record of the responses to such inquiry separate from the application and accompanying information.

“(c) RIGHT TO REFUSE.—Any applicant for credit may refuse to provide any information requested pursuant to subsection (b) in connection with any application for credit.

“(d) NO ACCESS BY UNDERWRITERS.—

“(1) IN GENERAL.—Where feasible, no loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit shall have access to any information provided by the applicant pursuant to a request under subsection (b) in connection with such application.

“(2) EXCEPTION.—If a financial institution determines that loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit should have access to any information provided by the applicant pursuant to a request under subsection (b), the financial institution will provide notice to the applicant of the access of the underwriter to this information, along with notice that the financial institution may not discriminate on this basis of this information.

“(e) FORM AND MANNER OF INFORMATION.—

“(1) IN GENERAL.—Each financial institution shall compile and maintain, in accordance with regulations of the Agency, a record of the information provided by any loan applicant pursuant to a request under subsection (b).

“(2) ITEMIZATION.—Information compiled and maintained under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

“(A) The number of the application and the date the application was received.

“(B) The type and purpose of the loan or other credit being applied for.

“(C) The amount of the credit or credit limit applied for and the amount of the credit transaction or the credit limit approved for such applicant.

“(D) The type of action taken with respect to such application and the date of such action.

“(E) The census tract in which is located the principal place of business of the small business loan applicant.

“(F) The gross annual revenue of the business in the last fiscal year of the small business loan applicant preceding the date of the application.

“(G) The race, sex, and ethnicity of the principal owners of the business.

“(H) Any additional data the Agency determines would aid in fulfilling the purposes of this section.

“(3) INCLUSION OF PERSONALLY IDENTIFIABLE INFORMATION PROHIBITED.—In compiling and maintaining any record of information under this section, a financial institution may not include in such record the name, specific address (other than the census tract required under paragraph (1)(E)), telephone number, electronic mail address, and ~~any other~~another personally identifiable information concerning any individual who is, or is connected with, the small business loan applicant.

“(4) DISCRETION TO DELETE OR MODIFY PUBLICLY- AVAILABLE DATA.—The Agency may, in the discretion of the Agency, delete or modify data collected under this section which is or will be available to the public if the Agency determines that the deletion or modification of the data would advance a compelling privacy interest.

“(f) AVAILABILITY OF INFORMATION.—

“(1) SUBMISSION TO AGENCY.—The data required to be compiled and maintained under this section by any financial institution shall be submitted annually to the Agency.

“(2) AVAILABILITY OF INFORMATION.—

“(A) IN GENERAL.—Information compiled and maintained under this section shall be retained for not less than 3 years after the date of preparation and shall be made available to the public, upon request, in the form required under regulations prescribed by the Agency.

“(B) ANNUAL DISCLOSURE TO THE PUBLIC.—In addition to the availability by request under subparagraph (A) of data compiled and maintained under this section, the Agency shall annually provide such data to the public.

“(C) PROCEDURES.—The procedures for disclosing data compiled and maintained under this section to the public shall be determined by the Agency by regulation.

“(3) COMPILATION OF AGGREGATE DATA.—

“(A) IN GENERAL.—The Agency may, in the discretion of the Agency, compile for the Agency’s own use compilations of aggregate data.

“(B) PUBLIC AVAILABILITY OF AGGREGATE DATA.—The Agency may, in the discretion of the Agency, make public compilations of aggregate data in such manner as the Agency may determine to be appropriate.

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

“(1) FINANCIAL INSTITUTION.—The term ‘financial institution’ means any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity.

“(2) MINORITY-OWNED BUSINESS.—The term ‘minority-owned business’ means a business—

“(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

“(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

“(3) WOMEN-OWNED BUSINESS.—The term ‘women-owned business’ means a business—~~“(A) more than 50 percent of the ownership or control of which is held by 1 or more women; and~~

“(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.

“(4) MINORITY.—The term ‘minority’ has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

“(5) SMALL BUSINESS LOAN.—The term ‘small business loan’ shall be defined by the Agency, which may take into account—

“(A) the gross revenues of the borrower;

“(B) the total number of employees of the borrower;

“(C) the industry in which the borrower has its primary operations; and

“(D) the size of the loan.

“(h) AGENCY ACTION.—

“(1) IN GENERAL.—The Agency shall prescribe such regulations and issue such guidance as may be necessary to carry out, enforce, and compile data pursuant to this section.

“(2) EXCEPTIONS.—The Agency, by regulation or order, may adopt exceptions to any requirement of this section and may, conditionally or unconditionally, exempt any financial institution or class of institutions from the requirements of this section as the Agency determines to be necessary or appropriate to carry out the purposes and objectives of this section.

“(3) GUIDANCE.—The Agency shall issue guidance designed to facilitate compliance with the requirements of this section, including assisting financial institutions in working with applicants to determine whether the applicants are women- or minority-owned for the purposes of this section.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.— Section 701(b) of the Equal Credit Opportunity Act (12 U.S.C. 1691(b)) is amended—

(1) by striking “or” after the semicolon at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; or”; and

(3) by inserting after paragraph (4), the following new paragraph:

“(5) to make an inquiry under section 704B in accordance with the requirements of such section.”.

(c) CLERICAL AMENDMENT.—The table of sections for title VII of the Consumer Credit Protection Act is amended by inserting after the item relating to section 704A the following new item:

“704B. Small business loan data collection.”.

(d) EFFECTIVE DATE.—This section shall take effect on the designated transfer date.

Subtitle H—Conforming Amendments

SEC. 181. AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.

(a) ESTABLISHMENT.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App. 3, 8G(a)(2)) is amended by inserting “the Consumer Financial Protection Agency,” before “the Consumer Product Safety Commission.”.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 182. AMENDMENTS TO THE PRIVACY ACT OF 1974.

(a) APPLICABILITY.—Section 552a of title 5, United States Code, is amended by adding at the end the following new subsection:

“(w) APPLICABILITY TO CONSUMER FINANCIAL PROTECTION AGENCY.—Except as provided in the Consumer Financial Protection Agency Act of 2009, this section shall apply with respect to the Consumer Financial Protection Agency.”.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 183. AMENDMENTS TO THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982.

(a) SECTION 803(1).—Section 803(1) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3802(1)) is amended by striking paragraphs (B) and (C).

(b) SECTION 804(a).—Section 804(a) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3803(a)) is amended—

(1) in paragraphs (1), (2), and (3), by inserting “on or before the designated transfer date, as determined in section 1062 of the Consumer Financial Protection Agency Act of 2009” after “transactions made” each place such term appears;

(2) in paragraph (2), by striking “and” at the end;

(3) in paragraph (3), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following new paragraph:

“(4) with respect to transactions made after the designated transfer date, as determined in section 1062 of the Consumer Financial Protection Agency Act of 2009, only in

accordance with regulations governing alternative mortgage transactions as issued by the Consumer Financial Protection Agency for federally chartered housing creditors, in accordance with the rulemaking authority granted to the Consumer Financial Protection Agency with regard to federally chartered housing creditors under laws other than this section.”.

(c) SECTION 804.—Section 804 of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3803) is amended—

(1) by striking subsection (c) and inserting the following new subsection:

“(c) EFFECT OF STATE LAW.—

“(1) IN GENERAL.—An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State Constitution, law, or regulation that prohibits an alternative mortgage transaction.

“(2) RULE OF CONSTRUCTION.—For purposes of this subsection, a State Constitution, law, or regulation that prohibits an alternative mortgage transaction does not include any State Constitution, law, or regulation that regulates mortgage transactions generally, including any restriction on prepayment penalties or late charges.”; and

(2) by adding at the end the following new subsection:

“(d) DUTIES OF CONSUMER FINANCIAL PROTECTION AGENCY.—The Consumer Financial Protection Agency shall—

“(1) review the regulations identified by the Comptroller of the Currency, the National Credit Union Administration, and the Director of the Office of Thrift Supervision (as those regulations exist on the designated transfer date, as determined in section 1062 of the Consumer Financial Protection Agency Act of 2009) as applicable under paragraphs (1), (2), and (3) of subsection (a);

“(2) determine whether such regulations are fair and not deceptive and otherwise meet the objectives of ~~title I~~[section 121](#) of the Consumer Financial Protection Agency Act of 2009; and

“(3) prescribe regulations under subsection (a)(4) after the designated transfer date, as determined under such Act.”.

(d) EFFECTIVE DATE AND SCOPE OF APPLICATION.—

(1) EFFECTIVE DATE.—This section shall take effect on the designated transfer date.

(2) SCOPE OF APPLICATION.—The amendments made by subsection (a) shall not affect any transaction covered by the Alternative Mortgage Transaction Parity Act of 1982 which is entered into on or before the designated transfer date.

SEC. 184. AMENDMENTS TO THE CONSUMER CREDIT PROTECTION ACT.

(a) TRUTH IN LENDING ACT.—

(1) SECTION 103.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by striking subsection (b) and inserting the following new subsection:

“(b) AGENCY DEFINITIONS.—

“(1) BOARD.—The term ‘Board’ means the ‘Board of Governors of the Federal Reserve System’.

“(2) AGENCY.—The term ‘Agency’ means the Consumer Financial Protection Agency.”.

(2) UNIVERSAL AMENDMENT RELATING TO BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Truth in Lending Act

(15 U.S.C. 1601 et seq.) is amended by striking “Board” each place such term appears, including in chapters 4 and 5 relating to credit billing and consumer leases, and inserting “Agency”.

(B) EXCEPTIONS.—The amendment described in subparagraph (A) shall not apply to sections 108(a) (as amended by paragraph (4)) and 140(d) or any reference in either such section to the term “Board”.

(3) SECTION 105.—Section 105(b) of the Truth in Lending Act (15 U.S.C. 1604(b)) is amended by striking the first sentence and inserting the following: “The Agency shall publish a single, integrated disclosure for mortgage loan transactions, including real estate settlement cost statements, which include the disclosure requirements of this title, in conjunction with the disclosure requirements of the Real Estate Settlement Procedures Act that, taken together, may apply to transactions subject to both or either law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of those titles, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.”.

(4) SECTION 108.—Section 108 of the Truth in Lending Act (15 U.S.C. 1607) is amended—

(A) by striking subsection (a) and inserting the following new subsection:

“(a) ENFORCING AGENCIES.—Subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, compliance with the requirements imposed under this title shall be enforced as follows:

“(1) Under section 8 of the Federal Deposit Insurance Act, in the case of—

“(A) national banks, and Federal branches and Federal agencies of foreign banks, by the head of the agency responsible for chartering and regulating national banks;

“(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board;

“(C) depository institution insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System, Federal savings associations, and savings and loan holding companies) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

“(D) Federal savings associations and savings and loan holding companies, by the Director of the Office of Thrift Supervision.

“(2) Under subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency ~~in the case of a covered person under that Act.~~

“(3) Under the Federal Credit Union Act, by the head of the agency responsible for chartering and regulating Federal credit unions.

“(4) Under the Federal Aviation Act of 1958, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that Act.

“(5) Under the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

“(6) Under the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.”; and

(B) by striking subsection (c) and inserting the following new subsection:

“(c) OVERALL ENFORCEMENT AUTHORITY OF THE FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under

subsection (a) and subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.”.

(5) UNIVERSAL AMENDMENT RELATING TO THE FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by striking “Federal Trade Commission” each place such term appears and inserting “Agency”.

(B) EXCEPTIONS.—The amendment described in subparagraph (A) shall not apply to sections 108(c) (as amended by paragraph (4)) and 129(m) (as amended by paragraph (7)) or any reference in either such section to the term “Federal Trade Commission”.

(6) SECTION 127.—Subparagraph (C) of section 127(b)(11) of the Truth in Lending Act (15 U.S.C. 1637(b)(11)) is amended to read as follows:

“(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Agency, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: ‘Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5 percent minimum monthly payment on a balance of \$300 at an interest rate of 17 percent would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Consumer Financial Protection Agency at this toll-free number: llllllll [the blank space to be filled in by the creditor].’ A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).”.

(7) SECTION 129.—Section 129(m) of the Truth in Lending Act (15 U.S.C. 1639(m)) is amended to read as follows:

“(m) CIVIL PENALTIES IN FEDERAL TRADE COMMISSION ENFORCEMENT ACTIONS.—For purposes of enforcement by the Federal Trade Commission, any violation of a regulation issued by the Agency pursuant to subsection (l)(2) of this section shall be treated as a violation of a ~~rule~~regulation promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.”.

(b) FAIR CREDIT REPORTING ACT.—

(1) SECTION 603.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended—

(A) by redesignating subsections (w) and

(x) as subsections (x) and (y), respectively; and

(B) by inserting after subsection (v) the following new subsection:

“(w) AGENCY.—The term ‘Agency’ means the Consumer Financial Protection Agency.”.

(2) UNIVERSAL AMENDMENTS RELATING TO THE FEDERAL TRADE COMMISSION.—Other than in connection with the amendment made by paragraph (7)(A), the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended—

(A) by striking “Federal Trade Commission” each place such term appears and inserting “Agency”;

(B) by striking “Commission” each place such term appears (other than in connection with the term amended in subparagraph (A)) and inserting “Agency”; and

(C) by striking “Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly” each place such term appears in sections 605(h)(2), 615(e)(1), 623(a)(8)(A), 623(e)(1), 628(a)(1), and 628(a)(3) and inserting “Agency shall”.

(3) SECTION 603.—Section 603(k)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681a(k)(2)) is amended by striking “Board of Governors of the Federal Reserve System” and inserting “Agency”.

(4) SECTION 604.—Subsection 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is amended—

(A) by striking subparagraph (C) of paragraph (3) and inserting the following new subsections: “(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Agency (consistent with ~~respect to any covered person subject to the jurisdiction of such agency~~the enforcement authorities prescribed under paragraph (2) of section 621(b)), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).”;

(B) by striking paragraph (5) and inserting the following new paragraph:

“(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

“(A) REGULATIONS REQUIRED.—The Agency may, after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.”; and

(C) by striking paragraph (6).

(5) SECTION 611.—Subsection 611(e)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)(2)) is amended to read as follows:

“(2) EXCLUSION.—Complaints received or obtained by the Agency pursuant to its investigative authority under the Consumer Financial Protection Agency Act of 2009 shall not be subject to paragraph (1).”.

(6) SECTION 615.—Subparagraph 615(h)(6)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681m(h)(6)(A)) is amended to read as follows:

“(A) ~~RULES~~REGULATIONS REQUIRED.—The Agency shall prescribe ~~rules~~regulations.”.

(7) SECTION 621.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(A) by striking subsection (a) and inserting the following new subsection:

“(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

“(1) IN GENERAL.—Subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other government agency under subsection (b) hereof. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement by the Federal Trade Commission under section 5(b) of such Act with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural,

investigative, and enforcement powers (subject to section ~~1022~~[122](#) of the Consumer Financial Protection Agency Act of 2009), including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. ~~Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions thereof were part of this title.~~

“(2) CIVIL MONEY PENALTIES.—

“(A) IN GENERAL.—Subject to section ~~1022~~[122](#) of the Consumer Financial Protection Agency Act of 2009, in the event of a knowing violation, which constitutes a pattern or practice of violations of this title, the Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this title. In such action, such person shall be liable for a civil penalty of not more than \$2,500 per violation.

“(B) FACTORS IN DETERMINING AMOUNT.—In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

“(3) EXCEPTION.—Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1) unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the ~~Federal Trade Commission~~[Agency](#), and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.”;

(B) by striking subsection (b) and inserting the following new subsection:

“(b) ENFORCEMENT BY OTHER AGENCIES.—Subject to section ~~1022~~[122](#) of the Consumer Financial Protection Agency Act of 2009, compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to subsection (d) of section 615 shall be enforced as follows:

“(1) Under section 8 of the Federal Deposit Insurance Act, in the case of—

“(A) national banks, and Federal branches and Federal agencies of foreign banks, by the head of the agency responsible for chartering and regulating national banks;

“(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System;

“(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System, Federal savings associations, and savings and loan holding companies) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

“(D) Federal savings associations and savings and loan holding companies, by the Director of the Office of Thrift Supervision.

“(2) Under subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency ~~in the case of a covered person under that Act.~~

“(3) Under the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union.

“(4) Under subtitle IV of title 49, United States Code, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board.

“(5) Under the Federal Aviation Act of 1958, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that Act.

“(6) Under the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

“(7) Under the Commodity Exchange Act, with respect to a person subject to the jurisdiction of the Commodity Futures Trading Commission.

“(8) Under the Federal securities laws and another laws subject to the jurisdiction of the Securities and Exchange Commission, with respect to a person subject to the jurisdiction of the Securities and Exchange Commission.”

“Any term used in paragraph (1) that is not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act shall have the meaning given to such term in section 1(b) of the International Banking Act of 1978.”;

(C) by striking subsection (e) and inserting the following new subsection:

“(e) REGULATORY AUTHORITY.—~~The~~

“(1) IN GENERAL.—

“(A) AGENCY.—Except as provided under subparagraph (B), the Agency shall prescribe such regulations as necessary to carry out the purposes of this Act with respect to a covered person described in subsection (b).”

“(B) COMMISSION.—The Commission shall prescribe such regulations as necessary to carry out the purposes of this Act with respect to consumer reporting agencies.”

“(2) SCOPE OF APPLICATION.—The regulations prescribed by the Agency under paragraph (1) shall apply to any person subject to this Act, notwithstanding the enforcement authorities granted to other agencies under this section”; and

(D) in the heading of subsection (g) by striking “FTC”.

(8) SECTION 623.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s-2) is amended—

(A) by amending subparagraph (a)(7)(D) to read as follows:

“(D) MODEL DISCLOSURE.—

“(i) DUTY OF AGENCY TO PREPARE.—The Agency shall prescribe a brief model disclosure a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.

“(ii) USE OF MODEL NOT REQUIRED.—No provision of this paragraph shall be construed as requiring a financial institution to use any such model form prescribed by the Agency.

“(iii) COMPLIANCE USING MODEL.—A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any such model form prescribed by the Agency, or the financial institution uses any such model form and rearranges its format.”.

(B) by amending subsection (e) to read as follows:

“(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

“(1) GUIDELINES.—The Agency shall, with respect to the persons or entities that are subject to its enforcement authority under section 621—

“(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and integrity of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

“(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures or implementing the guidelines established pursuant to subparagraph (A).

“(2) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the Agency shall—

“(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to consumer reporting agencies;

“(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

“(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to ensure the accuracy and integrity of information furnished to consumer reporting agencies; and

“(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.”

(c) EQUAL CREDIT OPPORTUNITY ACT.—

(1) SECTION 701.—Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by striking “Board” each place such term appears and inserting “Agency”.

(2) SECTION 702.—Section 702(c) of the Equal Credit Opportunity Act (15 U.S.C. 1691a) is amended to read as follows:

“(c) The term ‘Agency’ means the Consumer Financial Protection Agency.”.

(3) SECTION 703.—Section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691b) is amended—

(A) by striking subsection (b);

(B) by redesignating paragraphs (1), (2), (3), (4), and (5) of subsection (a) as subsections (a), (b), (c), (d), and (e), respectively;

(C) in subsection (c) (as so redesignated)—

(i) by striking “paragraph (2)” and inserting “subsection (b)”; and

(ii) by striking “such paragraph” and inserting “such subsection;”

(D) in subsection (d) (as so redesignated)—

(i) by striking “subsection” and inserting “section”~~”~~[”] ”;

(ii) by striking “Act” and inserting “title”; and

(iii) by striking “this paragraph” and inserting “this subsection”; and

(E) by striking “Board” each place such term appears in such section and inserting “Agency”.

(4) SECTION 704.—Section 704 of the Equal Credit Opportunity Act (15 U.S.C. 1691c) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking “Compliance” and inserting “Subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, compliance”;

(ii) in paragraph (1)(A), by striking “Office of the Comptroller of the Currency” and inserting “head of the agency responsible for chartering and regulating national banks”;

(iii) in paragraph (1)(B), by striking “and” after the semicolon;

(iv) in paragraph (1)(C), by inserting “and” after the semicolon;

(v) by inserting after subparagraph (C) of paragraph (1) the following new subparagraph: “(D) savings associations and savings and loan holding companies by the Director of the Office of Thrift Supervision;”; and

(vi) by amending paragraph (2) to read as follows:

“(2) Subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency ~~in case of a covered person under that Act.”~~[”] ”;

(B) by striking subsection (c) and inserting the following new subsection:

“(c) OVERALL ENFORCEMENT AUTHORITY OF FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) and subject to section ~~1022~~102 of the Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the

functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce any ~~rule~~regulation prescribed by the ~~Agency~~Director under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.”; and

(C) in subsection (d), by striking “Board” and inserting “Agency”.

(5) SECTION 704a.—Section 704A(a)(1) of the Equal Credit Opportunity Act (15 U.S.C. 1691c-1(a)(1)) is amended in by striking “Board” and inserting “Agency”.

(6) SECTION 705.—Section 705 of the Equal Credit Opportunity Act (15 U.S.C. 1691d) is amended—

(A) in subsection (f), by striking “Board” each place such term appears and inserting “Agency”; and

(B) in subsection (g), by striking “Board” and inserting “Agency”.

(7) SECTION 706.—Section 706~~(e)~~ of the Equal Credit Opportunity Act (15 U.S.C. 1691e~~(e)~~) is amended—

(A) in subsection (e)—

(i) by striking “Board” each place such term appears and inserting “Agency”; and

(Bii) by striking “Federal Reserve System” and inserting “Consumer Financial Protection Agency”;

(B) in subsection (f), by striking “two years” each place such term appears and inserting “5 years”;

(C) in subsection (g)—

(i) by striking “The agencies having”, in the 1st sentence, and inserting “The Agency and the agencies having”

(ii) by striking “Each agency referred”, in the 2nd sentence, and inserting “The Agency and each agency referred”;

(iii) by striking “Each such agency”, in the 3rd sentence, and inserting “The Agency and each such agency”; and

(iv) by striking “whenever the agency” in the 3rd sentence, and inserting “whenever the Agency or an agency having responsibility for administrative enforcement under section 704”; and

(D) in subsection (k)—

(i) by striking “Whenever an agency” and inserting “Whenever the Agency or an agency”;

(ii) by striking “the agency shall notify” and inserting “the Agency, or an agency referred to in any such paragraph, as the case may be, shall notify”.

(8) SECTION 707.—Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f) is amended by striking “Board” each place such term appears and inserting “Agency”.

(d) FAIR DEBT COLLECTION PRACTICES ACT.—

(1) SECTION 803.—Section 803 of the Fair Debt Collection Practices Act (15 U.S.C. 1692a) is amended—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

“(1) The term ‘Agency’ means the Consumer Financial Protection Agency.”.

(2) SECTION 813.—Section 813(e) of the Fair Debt Collection Practices Act (15 U.S.C. 1692k(e)) is amended by striking “Commission” and inserting “Agency”.

(3) SECTION 814.—Section 814 of the Fair Debt Collection Practices Act (15 U.S.C. 1692l) is amended—

(A) by striking subsection (a) and inserting the following new subsection:

“(a) FEDERAL TRADE COMMISSION.—Subject to section ~~1022~~¹²² of the Consumer Financial Protection Agency Act of 2009, compliance with this title shall be enforced by the Commission, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another agency under subsection (b). For purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of this title shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act,

including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.”;

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking “Compliance” and inserting “Subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, compliance”.

(ii) in paragraph (1)(A), by striking “Office of the Comptroller of the Currency,” and inserting “head of the agency responsible for chartering and regulating national banks”;

(iii) in paragraph (1)(B), by striking “and” after the semicolon;

(iv) in paragraph (1)(C), by inserting “and” after the semicolon;

(v) by inserting after subparagraph (C) of paragraph (1) the following new subparagraph:

“(D) savings associations and savings and loan holding companies by the Director of the Office of Thrift Supervision;”; and

(vi) by striking paragraph (2) and inserting the following new paragraph:

“(2) subtitle E of the Consumer Financial Protection Agency Act of ~~2009~~2009, by the Agency ~~in the case of a covered person under the Act,~~”; and

(C) ~~in~~by striking subsection (d), ~~by striking “Commission”~~ and inserting the following new subsection:

~~“Agency”.~~(d) REGULATIONS.—The Agency may prescribe regulations with respect to the collection of debts by any debt collector.”.

(4) SECTION 815.—Section 815 (15 U.S.C. 1692m) is amended by striking “Commission” each place such term appears and inserting “Agency”.

(5) SECTION 817.—Section 817 (15 U.S.C. 1692o) is amended by striking “Commission” each place such term appears and inserting “Agency”.

(e) ELECTRONIC FUND TRANSFER ACT.—

(1) SECTION 903.—Section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a) is amended—

(A) by striking paragraph (3) and inserting the following new paragraph:

“(3) the term ‘Agency’ means the Consumer Financial Protection Agency;”; and

(B) in paragraph (6), by striking “Board” and inserting “Agency”.

(2) SECTION 904.—Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended by striking “Board” each place such term appears and inserting “Agency”.

(3) SECTION 905.—Section 905 of the Electronic Fund Transfer Act (15 U.S.C. 1693c) is amended by striking “Board” each place such term appears and inserting “Agency”.

(4) SECTION 906.—Section 906(b) of the Electronic Fund Transfer Act (15 U.S.C. 1693d(b)) is amended by striking “Board” and inserting “Agency”.

(5) SECTION 907.—Section 907(b) of the Electronic Fund Transfer Act (15 U.S.C. 1693e(b)) is amended by striking “Board” and inserting “Agency”.

(6) SECTION 908.—Section 908(f)(7) of the Electronic Fund Transfer Act (15 U.S.C. 1693f(f)(7)) is amended by striking “Board” and inserting “Agency”.

(7) SECTION 910.—Section 910(a)(1)(E) of the Electronic Fund Transfer Act (15 U.S.C. 1693h(a)(1)(E)) is amended by striking “Board” and inserting “Agency”.

(8) SECTION 911.—Section 911(b)(3) of the Electronic Fund Transfer Act (15 U.S.C. 1693i(b)(3)) is amended by striking “Board” and inserting “Agency”.

(9) SECTION 915.—Section 915(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693m(d)) is amended—

(A) by striking “Board” each place such term appears and inserting “Agency”; and

(B) by striking “Federal Reserve System” and inserting “Consumer Financial Protection Agency”.

(10) SECTION 917.—Section 917 of the Electronic Fund Transfer Act (15 U.S.C. 1693o) is amended—

(A) in subsection (a)—

(i) by striking “Compliance” and inserting “Subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, compliance”;

(ii) in paragraph (1)(A), by striking “Office of the Comptroller of the Currency” and inserting “head of the agency responsible for chartering and regulating national banks”; and

(iii) by striking paragraph (2) and inserting: “(2) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency ~~in the case of a covered person under that Act.~~”; and

(B) by striking subsection (c) and inserting the following new subsection:

“(c) OVERALL ENFORCEMENT AUTHORITY OF THE FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) and subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person subject to the jurisdiction of the Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.”.

(11) SECTION 918.—Section 918 of the Electronic Fund Transfer Act (15 U.S.C. 1693p) is amended by striking “Board” each place such term appears and inserting “Agency”.

(12) SECTION 919.—Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693q) is amended by striking “Board” each place such term appears and inserting “Agency”.

(13) SECTION 920.—Section 920 of the Electronic Fund Transfer Act (15 U.S.C. 1693r) is amended by striking “Board” each place such term appears and inserting “Agency”.

(f) AMENDMENTS TO HOEPA RELATING TO THE TRUTH IN LENDING ACT.—Section 158 of the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 nt.) (relating to hearings on home equity lending) is amended—

(1) in subsection (a), by striking “Board of Governors of the Federal Reserve System, in consultation with the Consumer Advisory Council of the Board,” and inserting “Consumer Financial Protection Agency, in consultation with the Advisory Board to the Agency”; and

(2) in subsection (b), by striking “Board of Governors of the Federal Reserve System” and inserting “Consumer Financial Protection Agency”.

(g) AMENDMENT TO THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003 RELATING TO THE FAIR CREDIT REPORTING ACT.—Section 214(b)(1) of the Fair and Accurate Credit Transactions Act of 2003 (12 U.S.C. 1681s~~3~~3)

nt.) is amended by striking “The Federal banking agencies, the National Credit Union Administration, and the Commission, with respect to the entities that are subject to their respective enforcement authority under section 621 of the Fair Credit Reporting Act and” and inserting “The Consumer Financial Protection Agency, with respect to a person subject to the enforcement authority of the Agency, [the Commodity Futures Trading Commission](#), and”.

SEC. 185. AMENDMENTS TO THE EXPEDITED FUNDS AVAILABILITY ACT.

(a) SECTION 605.—Section 605(f)(1) of the Expedited Funds Availability Act (12 U.S.C. 4004(f)(1)) is amended by inserting “, in consultation with the Director of the Consumer Financial Protection Agency,” after “Board”.

(b) SECTION 609.—Section 609(a) of the Expedited Funds Availability Act (12 U.S.C. 4008(a)) is amended by inserting “, in consultation with the Director of the Consumer Financial Protection Agency,” after “Board”.

SEC. 186. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) SECTION 8.—Section 8(t) the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended by adding at the end the following new paragraph:

“(6) REFERRAL TO CONSUMER FINANCIAL PROTECTION COMMISSION.—Each appropriate Federal banking agency shall make a referral to the Consumer Financial Protection Agency when the Federal banking agency has a reasonable belief that a violation of an enumerated consumer law, as defined in section ~~1022~~[122](#)(e)(2) of the Consumer Financial Protection Agency Act of 2009, by any insured depository institution or institution-affiliated party within the jurisdiction of that appropriate Federal banking agency.”.

(b) SECTION 43.—Section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended—

(1) in subsection (c), by striking “Federal Trade Commission” and inserting “Agency”;

(2) in subsection (d), by striking “Federal Trade Commission” and inserting “Agency”;

(3) in subsection (e)—

(A) in paragraph (1), by striking “Federal Trade Commission” and inserting “Agency”; and

(B) by adding at the end the following new paragraph:

“(5) AGENCY.—The term ‘Agency’ means the Consumer Financial Protection Agency.”.

(e) SECTION 43(f).—Section 43(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(f)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

“(1) LIMITED ENFORCEMENT AUTHORITY.— Compliance with the requirements of subsections (b), (c) and (e), and any regulation prescribed or order issued under such subsection, shall be enforced under the Consumer Financial Protection Agency Act of 2009 by the Agency with respect to any person (and without regard to the provision of a consumer financial product or service).”; and

(2) in paragraph (2), by striking subparagraph (C) and inserting the following new subparagraph:

“(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Agency has instituted an enforcement action for a violation of this section, no appropriate State supervisory may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Agency for any violation of this section that is alleged in that complaint.”.

SEC. 187. AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.

(a) SECTION 504.—Section 504(a)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)(1)) is amended—

(1) by striking “The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury,” and inserting “The Consumer Financial Protection Agency and”; and

(2) by striking “, and the Federal Trade Commission”.

(b) SECTION 505.—

(1) Section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)) is amended—

(A) in the matter preceding paragraph (1), by striking “This subtitle and the regulations prescribed thereunder shall be enforced by” and inserting “Subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, this subtitle and the regulations prescribed under this title shall be enforced by the Consumer Financial Protection Agency,”; and

(B) by inserting after paragraph (7) the following new paragraph:

“(8) Under the Consumer Financial Protection Agency Act of 2009, by the Consumer Financial Protection Agency in the case of financial institutions and other covered

persons subject to the jurisdiction of the Agency under that Act, but not with respect to the standards under section 501.”.

(2) Section 505(b)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(b)(1)) is amended by inserting “, other than the Consumer Financial Protection Agency,” after “described in subsection (a)”.

SEC. 188. AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT OF 1975.

(a) SECTION 303.—Section 303 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as paragraphs (2), (3), (4), (5), (6), and (7), respectively; and

(2) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

“(1) The term ‘Agency’ means the Consumer Financial Protection Agency.”.

(b) UNIVERSAL AMENDMENT RELATING TO AGENCY.—Except as provided in subsections (c), (d), (e), and (f), the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801-11) is amended by striking “Board” each place such term appears and inserting “Agency”.

(c) SECTION 304.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended—

(1) in subsection (b)—

(A) by striking “and” after the semicolon at the end of paragraph (3) ;

(B) by striking “and gender” in paragraph (4), and inserting “age, and gender”;

(C) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(D) by inserting after paragraph (4) the following new paragraphs:

“(5) the number and dollar amount of mortgage loans grouped according to the following measurements:

“(A) the total points and fees payable at origination in connection with the mortgage as determined by the Agency, taking into account 15 U.S.C. 1602(aa)(4);

“(B) the difference between the annual percentage rate associated with the loan and a benchmark rate or rates for all loans;

“(C) the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; and

“(D) such other information as the Agency may require; and

“(6) the number and dollar amount of mortgage loans and completed applications grouped according to the following measurements:

“(A) the value of the real property pledged or proposed to be pledged as collateral;

“(B) the actual or proposed term in months of any introductory period after which the rate of interest may change;

“(C) the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully-amortizing payments during any portion of the loan term;

“(D) the actual or proposed term in months of the mortgage loan;

“(E) the channel through which application was made, including retail, broker, and other relevant categories;

“(F) as the Agency may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in Section 150 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008;

“(G) as the Agency may determine to be appropriate, a universal loan identifier ~~that corresponds to the real property pledged or proposed to be pledged as collateral;~~;

“(H) as the Agency may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral;

“(I) the credit score of mortgage applicants and mortgagors in such form as the Agency may proscribe; and

“(J) such other information as the Agency may require.”;

(2) by striking subsection (h) and inserting the following new subsection:

“(h) SUBMISSION TO AGENCIES.—

“(1) IN GENERAL.—The data required to be disclosed under subsection (b) shall be submitted to the Agency ~~and~~or to the appropriate agency for ~~each~~any institution reporting under this title~~;~~ in accordance with regulations prescribed by the Agency.

“(2) REGULATIONS.—Notwithstanding the requirement of section 304(a)(2)(A) for disclosure by census tract, the Agency, in cooperation with other appropriate regulators, including—

“(1A) the head of the agency responsible for chartering and regulating national banks for national banks and Federal branches, Federal agencies of foreign banks, and savings associations;

“(2B) the Federal Deposit Insurance Corporation for depository institutions insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System, Federal savings associations, and savings and loan holding companies) and insured State branches of foreign banks;

“(3C) the Director of the Office of Thrift Supervision for Federal savings associations and savings and loan holding companies;

“(4D) the National Credit Union Administration Board for credit unions; and

“(5E) the Secretary of Housing and Urban Development for other lending institutions not regulated by ~~the agencies~~an agency referred to in ~~paragraphs (1) through (4)~~subparagraphs (A), (B), (C), or (D), shall develop regulations prescribing the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public. ~~These~~

“(3) REQUIRED DISCLOSURES.—The regulations prescribed under paragraph (2) shall ~~also~~ require the collection of data required to be disclosed under subsection (b) with respect to loans sold by each institution reporting under this title, and, in addition, shall require disclosure of the class of the purchaser of such loans.

“(4) ADDITIONAL DATA OR EXPLANATIONS.—Any reporting institution may submit in writing to the Agency or to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.”;

(3) in subsection (i), by striking “subsection (b)(4)” and inserting “paragraphs (4), (5), and (6) of subsections (b)”;

(4) in subsection (j)—

(A) by striking “(as)” where such term appears in paragraph (1) and inserting “(containing loan-level and application-level information relating to disclosures required under subsections (a) and (b) and as otherwise”;

(B) by striking “in the format in which such information is maintained by the institution” where such term appears in paragraph (2)(A), and inserting “in such formats as the Agency may require”;

(C) by inserting “credit score or similar measurement,” after “number,” where such term appears in paragraph (2)(B)(i); and

(D) by striking paragraph (3) and inserting the following new paragraph:

“(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in such formats as the Agency may require.”; and

(5) by striking paragraph (2) of subsection (m) and inserting the following new paragraph:

“(2) FORM OF INFORMATION.—In complying with paragraph (1), a depository institution shall provide the person requesting the information with a copy of the information requested in such formats as the Agency may require.”.

(d) SECTION 305.—Section 305 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804) is amended—

(1) by striking subsection (b) and inserting the [following new subsection](#):

“(b) POWERS OF CERTAIN OTHER AGENCIES.—Compliance with the requirements imposed under this title shall be enforced under—

“(1) section 8 of the Federal Deposit Insurance Act, in the case of—

“(A) national banks, and Federal branches and Federal agencies of foreign banks, by the head of the agency responsible for chartering and regulating national banks;

“(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board;

“(C) depository institutions insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System, Federal savings associations, and savings and loan holding companies) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

“(D) Federal savings associations, and savings and loan holding companies, by the Director of the Office of Thrift Supervision;

“(2) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency ~~in the case of a covered person under that Act;~~”;

“(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union; and

“(4) other lending institutions, by the Secretary of Housing and Urban Development. The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101). The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978”; and

(2) by inserting at the end of section 305 the following new subsection:

“(d) OVERALL ENFORCEMENT AUTHORITY OF THE CONSUMER FINANCIAL PROTECTION AGENCY.—Subject to section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009, enforcement of the requirements imposed under this title is committed to each of the agencies under subsection (b). The Agency may exercise its authorities under the Consumer Financial Protection Agency Act of 2009 to exercise principal authority to examine and enforce compliance by any person with the requirements under this title.”.

(e) SECTION 306.—Subsection 306(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)) is amended to read as follows:

“(b) The Agency may, by regulation, exempt from the requirements of this title any State chartered depository institution within any State or subdivision of any state if the Agency determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced by the head of the agency responsible for chartering and regulating national banks under section 8 of the Federal Deposit Insurance Act in the case of national banks and savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.”.

(f) SECTION 307.—Section 307 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806) is amended to read as follows:

“SEC. 307. RESEARCH AND IMPROVED METHODS.

“(a) ENHANCED COMPLIANCE IN ECONOMICAL MANNER.—

“(1) IN GENERAL.—The Director of the Consumer Financial Protection Agency, 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 Consumer Financial Protection Agency 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.

“(2) AUTHORIZATION OF APPROPRIATION.— There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

“(3) AUTHORITY OF AGENCY.—The Director of the Consumer Financial Protection Agency is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

“(b) RECOMMENDATIONS TO THE CONGRESS.—The Director of the Consumer Financial Protection Agency shall recommend to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate such additional legislation as the Director of the Consumer Financial Protection Agency deems appropriate to carry out the purpose of this title.”.

SEC. 189. AMENDMENTS TO DIVISION D OF THE OMNIBUS APPROPRIATIONS ACT, 2009.

(a) Section 626(a) of title VI of division D of the Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 nt.) (as amended by the Credit Card Accountability Responsibility and Disclosure Act of 2009) is amended—

(1) by striking by paragraph (1) and inserting the following new paragraph:

“(1) The Director of the Consumer Financial Protection Agency shall have authority to prescribe ~~rules~~regulations with respect to mortgage loans in accordance with section 553 of title 5, United States Code. Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services. Any violation of a ~~rule~~regulation prescribed under this subsection shall be treated as a violation of a ~~rule~~regulation prohibiting unfair, deceptive, or abusive acts or practices under the Consumer Financial Protection Agency Act of 2009.”;

(2) by striking paragraph (2);

(3) by striking paragraph (3); and

(4) by striking paragraph (4) and inserting the following new paragraph:

“(2) The Director of the Consumer Financial Protection Agency shall enforce the ~~rules~~regulations issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Consumer Financial Protection Agency Act of 2009 were incorporated into and made part of this section.” .

(b) Section 626(b) of title VI of division D of the Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 nt.) is amended—

(1) by striking “Federal Trade Commission” and inserting “Consumer Financial Protection Agency”;

(2) by striking “the Commission” and inserting “the Consumer Financial Protection Agency”; and

(3) by striking “primary Federal regulatory” and inserting “Consumer Financial Protection Agency”.

SEC. 190. AMENDMENTS TO THE HOMEOWNERS PROTECTION ACT OF 1998.

Section 10 of the Homeowners Protection Act of 1998 (12 U.S.C. 4909) is amended—

(1) in that portion of subsection (a) that precedes paragraph (1), subsection (a), by striking “Compliance” and inserting “Subject to section 12 of the Consumer Financial Protection Agency Act of 2009, compliance”;

(2) in subsection (a)(2), by striking “and after the semicolon at the end;”

(3) in subsection (a)(3), by striking the period at the end and inserting “; and”;

(4) by inserting after subsection (a)(3), the following new paragraph:

“(4) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Consumer Financial Protection Agency.”; and,

(5) in subsection (b)(2), by inserting “, subject to section 122 of the Consumer Financial Protection Agency Act of 2009” before the period at the end.

SEC. 191. AMENDMENTS TO THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.

(a) SECTION 3.—Section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602) is amended by adding at the end the following new paragraph—

“(9) the term ‘Agency’ means the Consumer Financial Protection Agency.”.

(b) SECTION 4.—Section 4 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2603) is amended—

(1) in subsection (a), by striking the first sentence and inserting the following: “The Agency shall publish a single, integrated disclosure for mortgage loan transactions, including real estate settlement cost statements, which include the disclosure requirements of this title, in conjunction with the disclosure requirements of the Truth in Lending Act (15 U.S.C. 1601 note et seq.) that, taken together, may apply to transactions subject to both or either law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of those titles, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.”;

(2) by striking “Secretary” each place ~~such term~~ appears and inserting “Agency”; and

(3) by striking “form” each place ~~such term~~ appears and inserting “forms”.

(c) SECTION 5.—Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended—

(1) by striking “Secretary” each place such term appears, and inserting “Agency”; and

(2) by striking the first sentence of subsection (a), and inserting “The Agency shall prepare and distribute booklets jointly complying with the requirements of the Truth in Lending Act (15 U.S.C. 1601 note et seq.) and the provisions of this title, in order to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services.”.

(d) SECTION 6.—Section 6(j)(1) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(j)(1)) is amended—

(1) by striking “Secretary” and inserting “Director of the Agency”; and

(2) by striking “by regulations that shall take effect not later than April 20, 1991,” and inserting “by regulation,”.

(e) SECTION 7.—Section 7 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2606) is amended by striking “Secretary” and inserting “the Director of the Agency”.

(f) SECTION 8.—Section 8(d)(4) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607(d)(4)) is amended—

(1) in subsection (c)(5), by striking “prescribed by the Secretary” and inserting “prescribed by the Director of the Agency”; and

(2) in subsection (d)(4)—

(A) by striking “The Secretary,” and inserting “The Agency, the Secretary,”; and

(2B) by adding at the end the following new sentence: “However, to the extent that a Federal law authorizes the Agency and other Federal and State agencies to enforce or administer the law, the Agency shall have primary authority to enforce or administer that Federal law in accordance with section ~~1022~~122 of the Consumer Financial Protection Agency Act of 2009.”.

(g) SECTION 10.—Section 10(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609(d)) is amended by striking “Secretary” and inserting “Agency”.

(h) SECTION 16.—Section 16 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2614) is amended by inserting “the Agency,” before “the Secretary”.

(i) SECTION 18.—Section 18 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2616) is amended by striking “Secretary” and inserting “Agency”.

(j) SECTION 19.—Section 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2617) is amended by striking “Secretary” each place where ~~such term~~ appears and inserting “Agency”.

SEC. ~~191~~192. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

(a) AMENDMENTS TO SECTION 1101.—Section 110 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

“(1) ‘financial institution’ means any bank, savings association, card issuer as defined in section 103(n) of the Truth in Lending Act, credit union, or consumer finance institution located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;”; and

(2) in paragraph (7)—

(A) by redesignating subparagraphs (F), (G), (H), and (I) as subparagraphs (G), (H), (I), and (J), respectively; and

(B) by inserting after subparagraph (E) the following new subparagraph:

“(F) the Consumer Financial Protection Agency;”.

(b) AMENDMENTS TO SECTION 1112.—Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412) is amended by striking “and the Commodity Futures Trading Commission is permitted” and inserting “the Commodity Futures Trading Commission, and the Consumer Financial Protection Agency is permitted”.

(c) AMENDMENTS TO SECTION 1113.—Section 111 of the Right to Financial Privacy Act (12 U.S.C. 3413) is amended by adding at the end the following new subsection—

“(r) DISCLOSURE TO THE CONSUMER FINANCIAL PROTECTION AGENCY.—Nothing in this chapter shall apply to the examination by or disclosure to the Consumer Financial Protection Agency of financial records or information in the exercise of its authority with respect to a financial institution.”.

SEC. ~~192~~¹⁹³. AMENDMENTS TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008.

(a) SECTION 1503.—Section 1503 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102) is amended—

(1) by striking paragraph ~~(1)~~ and inserting the following new paragraph ⁹;

(2) by redesignating existing paragraph (1) as paragraph (2), redesignating existing paragraph (2) as paragraph (1), and moving paragraph (2) (as so redesignated) and inserting such paragraph after paragraph (1) (as so redesignated);

(3) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), and (12), as so redesignated by paragraph (2), as paragraphs (2), (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13), respectively;

(4) by inserting before paragraph (2), as so redesignated by paragraph (3), the following new paragraphs:

“(1) AGENCY.—The term ‘Agency’ means the Consumer Financial Protection Agency.”; and

~~(2) by striking~~⁵ by inserting after paragraph ~~(9)~~ and inserting², as so redesignated by paragraph (3), the following new paragraph:

“(9³) DIRECTOR.—The term ‘Director’ means the Director of the ~~Consumer Financial Protection~~ Agency.”.

(b) UNIVERSAL AMENDMENTS RELATING TO AGENCY.—The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended—

(1) by striking “a Federal banking agency” each place such term appears (other than in connection with a reference that is specifically amended by another provision of this section) and inserting “the Agency”;

(2) by striking “Federal banking agencies” each place such term appears (other than in connection with a reference that is specifically amended by another provision of this section) and inserting “Agency”; and

(3) by striking “Secretary” each place such term appears (other than in connection with a reference that is specifically amended by another provision of this section) and inserting “Director”.

(c) SECTION 1507.—Section 1507 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5106) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following new paragraph:

“(1) IN GENERAL.—The Agency shall develop and maintain a system for registering employees of a of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution; and regulated by ~~the Agency as a~~ Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, as registered loan ~~originator~~ originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before ~~the end of a the 1-year period beginning~~ July 30, ~~2009~~ 2010.”; and

(B) by striking “appropriate Federal banking agency and the Farm Credit Administration” where such term appears in paragraph (2) and inserting “Agency”;

(2) in subsection (b), by striking “Federal banking agencies, through the Financial Institutions Examination Council and the Farm Credit Administration”, and inserting “Agency”; and

(3) in subsection (c), by striking “Federal banking agencies”, and inserting “Agency”.

(d) SECTION 1508.—

(1) IN GENERAL.—Section 1508 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5107) is amended by adding at the end the following new subsection—

“(f) REGULATIONS.—

“(1) IN GENERAL.—The Agency may prescribe regulations setting minimum net worth or surety bond requirements for residential mortgage loan originators and minimum requirements for recovery funds paid into by loan originators.

“(2) FACTORS TAKEN INTO ACCOUNT.—Such regulations shall take into account the need to provide originators adequate incentives to originate affordable and sustainable mortgage loans as well as the need to ensure a competitive origination market that maximizes consumers’ access to affordable and sustainable mortgage loans.”.

(2) CLERICAL AMENDMENT.—The heading for section 1508 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 is amended by striking “**SECRETARY OF HOUSING AND URBAN DEVELOPMENT**” and inserting “**CONSUMER FINANCIAL PROTECTION AGENCY**”.

(e) SECTION 1510.—Section 1510 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5109) is amended to read as follows:

“SEC. 1510. FEES.

“The Agency, ~~the Farm Credit Administration,~~ and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.”.

(f) SECTION 1513.—Section 1513 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5112) is amended to read as follows:

“SEC. 1513. LIABILITY PROVISIONS.

“The Agency, 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 Director under section ~~5108 of this title,~~5109, 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.”.

(g) SECTION 1514.—The heading for section 1514 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5113) is amended by striking “**UNDER HUD BACKUP LICENSING SYSTEM**” and inserting “**BY THE AGENCY**”.

SEC. ~~193,~~194. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.

(a) SECTION 263.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended in subsection (b) by striking “Board” each place such term appears and inserting “Agency”.

(b) SECTION 265.—Section 265 of the Truth in Savings Act (12 U.S.C. 4304) is amended by striking “Board” each place such term appears and inserting “Agency”.

(c) SECTION 266.—Section 266(e) of the Truth in Savings Act is amended (12 U.S.C. 4305) by striking “Board” and inserting “Agency”.

(d) SECTION 269.—Section 269 of the Truth in Savings Act (12 U.S.C. 4308) is amended by striking “Board” each place such term appears and inserting “Agency”.

(e) SECTION 270.—Section 270 of the Truth in Savings Act (12 U.S.C. 4309) is amended—

(1) in subsection (a)—

(A) by striking “Compliance” and inserting “Subject to section ~~4022~~122 of the Consumer Financial Protection Agency Act of 2009, compliance”;

(B) by striking subparagraph (A) of paragraph (1) and inserting the following new subparagraph:

“(A) by the head of the agency responsible for chartering and regulating national banks for national banks, and Federal branches and Federal agencies of foreign banks;” and

(C) by adding at the end, the following new paragraph:

“(3) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency ~~in the case of a covered person under that Act.~~”; and

(2) in subsection (c), by striking “Board” and inserting “Agency”.

(f) SECTION 272.—Section 272 of the Truth in Savings Act (12 U.S.C. 4311) is amended—

(1) in subsection (a), by striking “Board” and inserting “Agency”; and

(2) in subsection (b), by striking “regulation prescribed by the Board” each place ~~it~~such term appears and inserting “regulation prescribed by the Agency”.

(g) SECTION 273.—Section 273 of the Truth in Savings Act (12 U.S.C. 4312) is amended in the last sentence by striking “Board” and inserting “Agency”.

(h) SECTION 274.—Section 274 of the Truth in Savings Act (12 U.S.C. 4313) is amended—

(1) in paragraph (2) by striking “Board” and inserting “Agency”; and

(2) by striking paragraph (4) and inserting the following new paragraph:

“(4) AGENCY.—The term ‘Agency’ means the Consumer Financial Protection Agency.”.

**SEC. ~~194. EFFECTIVE DATE.~~ 195. AMENDMENTS TO THE
TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION
ACT.**

(a) SECTION 3.—Section 3 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102) is amended—

(1) in subsection (b), by inserting after the 2nd sentence “In prescribing a regulation under this Act that relates to the provision of a consumer financial product or service that is subject to the Consumer Financial Protection Agency Act, including any enumerated consumer law thereunder, the Commission shall consult with the Consumer Financial Protection Agency regarding the consistency of a proposed regulation with standards, purposes, or objectives administered by the Consumer Financial Protection Agency.”; and

(2) in subsection (c), by adding at the end “Any violation of any regulation prescribed under subsection (a) committed by a person subject to the Consumer Financial Protection Agency Act shall be treated as a violation of a regulation under section 131 of the Consumer Financial Protection Agency Act regarding unfair, deceptive, or abusive acts or practices.”.

(b) AMENDMENTS TO SECTION 4.—Section 4(d) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6103(d)) is amended by inserting after “Commission” each place such term appears “or the Consumer Financial Protection Agency”.

(c) AMENDMENTS TO SECTION 5.—Section 5(c) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6104(c)) is amended by inserting after “Commission” each place such term appears “or the Consumer Financial Protection Agency”.

(d) AMENDMENT TO SECTION 6.—Section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6105) is amended by adding at the end the following new subsection:

“(d) ENFORCEMENT BY CONSUMER FINANCIAL PROTECTION AGENCY.—Except as otherwise provided in section 3(d), 3(e), 4, and 5, this Act shall be enforced by the Consumer Financial Protection Agency under subtitle E of the Consumer Financial Protection Agency Act.”.

SEC. 196. EFFECTIVE DATE.

The amendments made by sections 183 through ~~193~~195 shall take effect on the designated transfer date.

TITLE J—IMPROVEMENTS TO THE FEDERAL TRADE COMMISSION ACT

SEC. 201. AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT.

(a) Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by adding at the end the following new paragraph:

“(5) In any investigation or proceeding in which it appears to the Commission that an unfair or deceptive act or practice is being committed in connection with the marketing, sale, provision or delivery of a consumer financial product or service, the Commission shall consult and coordinate with the Consumer Financial Protection Agency, as the agencies deem to be appropriate.”.

(b) Section 5(m)(1)(A) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(A)) is amended—

(1) by inserting “this Act or” after “violates” the first place ~~it~~such term appears;

(2) by inserting a comma after “~~chapter~~Act” and after “section”;

(3) by inserting “a violation of this Act or is” before “prohibited”.

(c) Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

“(o) UNLAWFUL ASSISTANCE.—It is unlawful for any person, knowingly or recklessly, to provide substantial assistance to another in violating any provision of this Act or of any other Act enforceable by the Commission that relates to unfair or deceptive acts or practices. Any such violation shall constitute an unfair or deceptive act or practice described in section 5(a)(1) of this Act.”.

(d) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended—

(1) in subsection (a)(1)(B), by adding after “pursuant to this section” the following: “or with regard to the marketing, sale, provision or delivery to an individual, for personal, family or household purposes, of a consumer financial product or service that is subject

to the jurisdiction of the Consumer Financial Protection Agency under the Consumer Financial Protection Agency Act of ~~2009~~2009, other than a financial activity (as defined in that Act) issued or engaged in directly by a merchant or retailer or other person pursuant to subsection (a) or (b) of section 124 of such Act”;

(2) by amending subsection (b) to read as follows:

“(b) PROCEDURE APPLICABLE.—When prescribing a rule under subsection (a)(1)(B) of this section, the Commission shall proceed in accordance with section 553 of Title 5 (without regard to any reference in such section to sections 556 and 557 of such title).”;

(3) by striking subsections (c), (d)(1), (d)(2), (f), (i), and (j), and redesignating subsections (e), (g) and (h) as (d), (e) and (f);

(4) by redesignating paragraph (d)(3) as subsection (c); and

(5) in subsection (e)—

(A) in paragraph (1)(B), by striking “the transcript required by subsection (c)(5) of this section,”;

(B) in paragraph (2), by striking everything following “error)”;

(C) in paragraph (5), by striking subparagraph (C).