TITLE X—CONSUMER FINANCIAL PROTECTION

AGENCY ACT OF 2009

SEC. 1001. SHORT TITLE.

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

SEC. 1002. 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 1012(a)(1).

(5) BOARD.—The term “Board” means the Board of the Agency as provided for in section 1012.

(6) BOARD OF GOVERNORS.—The term “Board of Governors” means the Board of Governors of the Federal Reserve System.
(7) CONSUMER.—The term “consumer” means an individual or an agent, trustee, or representative acting on behalf of an individual.

(8) 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.

(9) 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 paragraph (A).

(10) 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 therefor.

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

(12) DEPOSIT.—The term “deposit” has the same meaning as in section 3(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)).

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

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

(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 may determine
by rule 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 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) DESIGNATED TRANSFER DATE.—The term “designated transfer date” has the
meaning provided in section 1062.

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

(16) ENUMERATED CONSUMER LAWS.—The term “enumerated consumer laws”
means—

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

(B) the Community Reinvestment Act (12 U.S.C. 2901 et seq.);

(C) the Consumer Leasing Act (15 U.S.C. 1667 et seq.);

(D) the Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.);

(E) the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.);

(F) the Fair Credit Billing Act (15 U.S.C. 1666-1666j);

(G) the Fair Credit Reporting Act except with respect to sections 615(e),
624, and 628 (15 U.S.C. 1681m(e), 1681s-3, 1681w);
(15 U.S.C. 1681 et seq.);

(H) the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);

(I) the Federal Deposit Insurance Act, subsections 43(c) through (f) (12 U.S.C. 1831t(c)-(f));

(J) the Gramm-Leach-Bliley Act, sections 502 through 509 (15 U.S.C. 6802-6809);

(K) the Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.);

(L) the Home Ownership and Equity Protection Act (15 U.S.C. 1639);

(M) the Real Estate Settlement Procedures Act (12 U.S.C. 2601-2610);

(N) the S.A.F.E. Mortgage Licensing Act (12 U.S.C. 5101-5116);

(O) the Truth in Lending Act (15 U.S.C. 1601 et seq.); and

(P) the Truth in Savings Act (12 U.S.C. 4301 et seq.).

(17) FEDERAL BANKING AGENCY.—The term “Federal banking agency” means the Board of Governors, the National Bank Supervisor, the Federal Deposit Insurance Corporation, or the National Credit Union Administration; and the term “Federal banking agencies” means all of those agencies.

(18) FINANCIAL ACTIVITY.—The term “financial activity” means—

(A) deposit-taking activities;

(B) extending credit and servicing loans, including—

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

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

(C) 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) providing real estate settlement services, including providing title insurance;

(G) 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;

(H) acting as an investment adviser to any person (not subject to
regulation by or required to register with the Commodity Futures Trading
Commission or the Securities and Exchange Commission);

(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;

(J) financial data processing, 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) the data to be processed or furnished are financial, banking, or
economic; 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.

(K) money transmitting;
(L) sale or issuance of stored value;
(M) acting as a money services business;
(N) acting as a custodian of money or any financial instrument; or
(O) any other activity that the Agency defines, by rule, 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).

(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.

(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” means an insured bank, as defined by section 3(h) of the Federal Deposit
Insurance Act (12 U.S.C. 1813(h)).

(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) **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) **NATIONAL BANK SUPERVISOR.**—The term “National Bank Supervisor”
means the agency named the National Bank Supervisor established by the XXXXXX Act
of 2009.]

(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).

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

(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.

(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—

but only to the extent that the person acts in a registered capacity.

(29) Provision of a consumer financial product or service.—The term “provision of (or providing) a consumer financial product or service” means the advertisement, marketing, solicitation, sale, disclosure, delivery, or account maintenance or servicing of a consumer financial product or service.

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

(31) 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.

(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.

(33) Stored value.—The term “stored value” 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 includes a prepaid debit card or product, or any other similar product,
regardless of whether the amount of the funds or monetary value may be increased or
reloaded.

Subtitle A—The Consumer Financial Protection

Agency

SEC. 1011. ESTABLISHMENT OF THE 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. 1012. BOARD.

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

(1) 4 members of the Board who shall be appointed by the President, by and with
the advice and consent of the Senate—

(A) from among individuals who are citizens of the United States; and

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

(2) the Director of the National Bank Supervisor.

(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. 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 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) VACANCIES.—Any member of the Board appointed to fill a vacancy occurring before the expiration of the term to which that member’s predecessor was appointed (including the Director of the Agency) shall be appointed only for the remainder of the term.

(4) CONTINUATION OF SERVICE.—Each appointed Board member may continue to serve after the expiration of the term of office to which that member was appointed until a successor has been appointed by the President and confirmed by the Senate.

(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.

(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. 1013. EXECUTIVE AND ADMINISTRATIVE POWERS.
(a) POWERS.—The Board may exercise all executive and administrative functions of the Agency, including to—

(1) establish rules 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’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, 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) TRANSACTING BUSINESS.—

(1) QUORUM.—Three 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. 1014. ADMINISTRATION.

(a) OFFICERS.—The Agency 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 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 directs; and

(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 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 enactment of this Act, the Agency 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 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 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.

(C) MINIMUM STANDARD.—The Agency 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 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;

(B) consumer awareness, understanding, and use of disclosures and communications regarding consumer financial products or services;

(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.
(2) COMMUNITY AFFAIRS.—The Agency 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.—The Agency 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 consumer complaints with Federal banking agencies, other Federal agencies, and State regulators.

SEC. 1015. CONSUMER ADVISORY BOARD.

(a) ESTABLISHMENT REQUIRED.—The Agency shall establish a Consumer Advisory Board to advise and consult with the Agency in the exercise of its functions 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 shall seek to assemble experts in financial services, community development, and consumer financial products or services and seek representation of 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, 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 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. 1016. COORDINATION.

(a) COORDINATION WITH OTHER FEDERAL AGENCIES AND STATE REGULATORS.—The Agency 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 consumer and investment products and services.

(b) COORDINATION OF CONSUMER EDUCATION INITIATIVES.—

(1) IN GENERAL.—The Agency 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 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.

SEC. 1017. REPORTS TO CONGRESS.
(a) REPORTS REQUIRED.—The Agency shall prepare and submit to the President and the appropriate committees of Congress a report at the beginning of each regular session of 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 and orders adopted by the Agency, as well as other significant initiatives conducted by the Agency, during the preceding year and the Agency’s plan for rules, 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) 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.

SEC. 1018. FUNDING; FEES AND ASSESSMENTS; PENALTIES AND FINES.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the authorities granted in this title and the enumerated consumer laws and transferred under subtitles F and H, there are appropriated to the Agency 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
(b) FEES AND ASSESSMENTS ON COVERED PERSONS.—

(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.

(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 outstanding 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.

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

(c) 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 in this section as the “Fund”). If the Agency obtains a civil penalty against any person in any judicial or administrative action under this title, the authorities transferred under subtitiles F and H, or any enumerated consumer law, the Agency shall deposit into the Fund the amount of the penalty collected.

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

SEC. 1019. EFFECTIVE DATE.

This subtitle shall become effective on the date of enactment of this Act.

Subtitle B—General Powers of the Agency

SEC. 1021. MANDATE AND OBJECTIVES.

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

(b) OBJECTIVES.—The Agency is authorized to exercise its authorities granted in this title, in the enumerated consumer laws, and transferred under subjectives F and H for the purposes of ensuring that—

(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 access to financial services.

SEC. 1022. AUTHORITIES.

(a) IN GENERAL.—The Agency is authorized to exercise its authorities granted in this title, in the enumerated consumer laws, and transferred under subjectives 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 may prescribe rules 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.

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

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

(3) EXEMPTIONS.—

(A) IN GENERAL. —The Agency, by rule 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 thereunder, as the Agency 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 or order as permitted in subparagraph (A), the Agency shall as appropriate take into consideration the following—

(i) total assets of the covered person;
(ii) the volume of transactions involving consumer financial products or services in which the covered person engages;
(iii) the extent to which the covered person engages in one or more financial activities; and
(iv) 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) EXAMINATIONS AND REPORTS.—

(1) IN GENERAL.—The Agency 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 rules prescribed by the Agency thereunder or under the authorities transferred under subtitles F and H, and enforcing compliance with such requirements.

(2) 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) 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) 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.
(6) Access by Other Regulators to Reports of the Agency.—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.

(7) Preservation of Authority.—Nothing in paragraph (3) shall be construed to prevent 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 and another Federal agency to issue regulations or 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 thereunder, the Agency shall have the exclusive authority to prescribe rules, issue guidance, conduct examinations, require reports, or issue exemptions with regard to any person subject to that 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 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) EXCEPTIONS.—

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

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

(A) IN GENERAL.—Nothing in 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
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) CONSULTATION AND COORDINATION.—Notwithstanding subparagraph
(A), the Securities and Exchange Commission shall consult and coordinate with
the Agency 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) PERSONS REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—

(A) IN GENERAL.—Nothing in 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 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) CONSULTATION AND COORDINATION.—Notwithstanding
subparagraph (A), the Commodity Futures Trading Commission shall consult and
coordinate with the Agency 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.

(g) NO AUTHORITY TO IMPOSE USURY LIMIT.—Nothing in this title shall be construed as
conferring authority on 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.

SEC. 1023. COLLECTION OF INFORMATION; CONFIDENTIALITY RULES.

(a) COLLECTION OF INFORMATION.—In conducting research on the provision of
consumer financial products or services, the Agency shall have the power to gather information
from time to time regarding the organization, business conduct, and practices of covered persons.
In order to gather such information, the Agency shall have the power—

(1) to gather and compile information; and

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

(3) 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.— The Agency shall prescribe rules regarding the
confidential treatment of information obtained from persons in connection with the exercise of
its authorities under this title and the enumerated consumer laws and the authorities transferred
under subtitles F and H.

SEC. 1024. MONITORING; ASSESSMENTS OF SIGNIFICANT RULES; 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 resources to perform the monitoring required by this section, the Agency 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 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.—

(1) IN GENERAL.—The Agency shall conduct an assessment of each significant rule or order adopted by the Agency 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 rule in meeting the purposes and
objectives of this Act and the specific goals stated by the Agency. The assessment shall
reflect available evidence and any data that the Agency reasonably may collect.

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

(3) PUBLIC COMMENTED REQUIRED.—Before publishing a report of its assessment,
the Agency shall invite public comment on recommendations for modifying, expanding,
or eliminating the newly adopted significant rule 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. 1025. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE
ARBITRATION.

The Agency, by rule, may prohibit or impose conditions or limitations on the use of
agreements between a covered person and a consumer that require the consumer to arbitrate any
future dispute between the parties arising under this title or any enumerated consumer law if the
Agency finds that such prohibition, imposition of conditions, or limitations are in the public
interest and for the protection of consumers.

SEC. 1026. EFFECTIVE DATE.
This subtitle shall become effective on the designated transfer date.

Subtitle C—Specific Authorities

SEC. 1031. 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.

(b) RULEMAKING REQUIRED.—The Agency may prescribe rules 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. Rules under this section may include requirements for the purpose of preventing such acts or practices.

(c) UNFAIRNESS.—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 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. 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 rule under this section, the Agency shall consult with the Federal banking agencies, or other Federal agencies, as appropriate, concerning the
consistency of the proposed rule with prudential, market, or systemic objectives administered by such agencies.

SEC. 1032. DISCLOSURES AND COMMUNICATIONS.

(a) IN GENERAL.—The Agency may prescribe rules to ensure the 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.—Subject to rules prescribed 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;

(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 rules 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 shall propose for public comment rules 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 determines that any proposal issued by the Board of Governors and the Department of Housing and Urban Development carries out the same purpose.

SEC. 1033. SALES PRACTICES.

The Agency may prescribe rules 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. 1034. 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.

(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.

SEC. 1035. 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.—The Agency may prescribe rules 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. The Agency may enforce under subtitle E compliance with standards adopted by the Agency 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 shall consult with the State authorities, the Federal banking agencies, or other Federal agencies, as appropriate, concerning the consistency of the proposed rule with prudential, market, or systemic objectives administered by such State authorities or such agencies.

SEC. 1036. STANDARD CONSUMER FINANCIAL PRODUCTS OR SERVICES.
(a) CHARACTERISTICS OF STANDARD CONSUMER FINANCIAL PRODUCTS OR SERVICES.—

Subject to rules adopted by the Agency under this section, a standard consumer financial product or service is one 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 adopt rules 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 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 adopts
rules, after notice and comment, regarding the features or terms of the product or service.

(3) GENERAL APPLICABILITY.—Rules adopted 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. 1037. DUTIES.

(a) IN GENERAL.—

(1) The Agency shall prescribe rules 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 deems appropriate or necessary to ensure fair dealing with consumers.

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

(A) the covered person, employee, agent, or independent contractor represents implicitly or explicitly that it 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 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 considers appropriate.

(3) DUTIES RELATING TO COMPENSATION PRACTICES.—The Agency may prescribe rules 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 not prescribe a limit on the total dollar amount of compensation paid to any person.

(b) ADMINISTRATIVE PROCEEDINGS.—Any rule prescribed by the Agency 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. No action may be commenced in any court to enforce any requirement of a rule prescribed under this section, and no court may exercise supplemental jurisdiction over a claim asserted under a rule prescribed under this section based on allegations or evidence of conduct that otherwise may be subject to such rule. The Agency, the Attorney General, or 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 rule prescribed by the Agency under this section.

(c) EXCLUSIONS.—This section shall not authorize the Agency to prescribe rules
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.

SEC. 1038. CONSUMER RIGHTS TO ACCESS INFORMATION.

(a) IN GENERAL.—Subject to rules prescribed by the Agency, a covered person shall make available to a 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. The information shall be made available in an electronic form usable by consumers.

(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.**—Nothing in this section shall be construed to impose any duty on a covered person to maintain or keep any information about a consumer.

(d) **STANDARDIZED FORMATS FOR DATA.**—The Agency, by rule, 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 shall, when prescribing any rule under this section, consult and coordinate with the Federal banking agencies and the Federal Trade Commission to ensure that the rules—

(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. 1039. PROHIBITED ACTS.**

It shall be unlawful for any person to—

(1) advertise, market, offer, sell, enforce, or attempt to enforce, any term, agreement, change in terms, fee or charge in connection with a consumer financial product or service that is not in conformity with this title or applicable rule or order issued by the Agency;

(2) fail or refuse to permit access to or copying of records, or fail or refuse to
establish or maintain records, or 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 rule or order issued by the Agency
thereunder; or

(3) knowingly or recklessly provide substantial assistance to another person in
violation of the provisions of section 1031, or any rule or order issued under thereunder,
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. 1040. EFFECTIVE DATE.
This subtitle shall become effective on the designated transfer date.

Subtitle D—Preservation of State Law

SEC. 1041. RELATION TO STATE LAW.

(a) IN GENERAL.—

(1) This title does not annul, alter, or affect, or exempt 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 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 is inconsistent with the provisions of this title may be made by rule, order
or guidance adopted by the Agency on its own motion or in response to a non-frivolous
petition initiated by any interested person.

(b) RELATION TO OTHER PROVISIONS OF ENUMERATED CONSUMER LAWS THAT RELATE TO
STATE LAW.—Nothing in this title, except as provided in section 1075, shall be construed to
modify, limit, or supersede the operation of any provision of an enumerated consumer law that
relates to the application of State law with respect to such Federal law.

SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.

(a) IN GENERAL.—

(1) 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) Nothing in this title shall be construed to modify, limit or supersede 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) 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 rule prescribed by the Agency thereunder, 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. 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. The notification required under this section shall, at a minimum, describe:

(A) the identity of the parties;

(B) the alleged facts underlying the proceeding; and

(C) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rule making, undertaken by the Agency or another Federal agency.

(2) 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) The Agency shall adopt rules 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. 1043. 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 term

“(1) ‘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


“(2) ‘affiliate’, ‘subsidiary’, ‘includes’, and ‘including’ have the same meaning as

in section 3 of the Federal Deposit Insurance Act.

“(3) ‘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 national bank.

“(c) EXCEPTIONS.—Subsection (b) shall not apply with respect to any State consumer law if—

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

“(2) the State consumer law is inconsistent with provisions of Federal law other than this title LXII, 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.

“(d) STATE BANKING 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 consumer law that—

“(A) is applicable to State banks; 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 national bank.
“(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any State 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 LXII, 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.

“(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. 1044. VISITORIAL STANDARDS.

Section 5136C of the Revised Statutes of the United States (as added by section 1043 of this Act) is amended by adding at the end the following new subsections:

“(h) VISITORIAL POWERS.—

“(1) 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) The attorney general (or other chief law enforcement officer) of any State shall consult with the National Bank Supervisor before acting under paragraph (1).

“(i) ENFORCEMENT ACTIONS.—The ability of the National Bank Supervisor to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude private parties from enforcing rights granted under Federal or State law in the courts.”.
SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added by section 1043 of this Act) is amended by inserting after subsection (i) (as added by section 1044) 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. 1046. 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.**—Subsection (b) shall not apply with respect to any State law if—

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

“(2) the State consumer law is inconsistent with provisions of Federal law other than this title LXII, 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.

“(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 title LXII, 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.

“(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
subsidaries clarified.”.

SEC. 1047. VISITORIAL STANDARDS.

Section 6 of the Home Owners' Loan Act (as added by section 1046 of this title) is
amended by adding at the end the following new subsections:

“(h) VISITORIAL POWERS.—

“(1) 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) The attorney general (or other chief law enforcement officer) of any State
shall consult with the National Bank Supervisor before acting under paragraph (1).

“(i) ENFORCEMENT ACTIONS.—The ability of the National Bank Supervisor to bring an
enforcement action under this Act or section 5 of the Federal Trade Commission Act does not
preclude private parties from enforcing rights granted under Federal or State law in the courts.”.

SEC. 1048. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY
INSTITUTION SUBSIDIARIES.

Section 6 of the Home Owners' Loan Act (as added by section 1046 of this title) is
amended by adding after subsection (i) (as added by section 1047) 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. 1049. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date.

Subtitle E—Enforcement Powers

SEC. 1051. DEFINITIONS.

For purposes of this subtitle—

(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 rule or order promulgated by the Agency thereunder 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 rule or order promulgated
thereunder by the Agency.

(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, record, report, memorandum, paper, communication,
tabulation, chart, or other document.

(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 rule or
order prescribed by the Agency thereunder.

SEC. 1052. INVESTIGATIONS AND ADMINISTRATIVE DISCOVERY.

(a) 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) 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;

(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) IN GENERAL.—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 direction and in his presence, record the testimony of the witness.

(i) The testimony shall be taken stenographically and transcribed.

(ii) 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 attorney, the officer before whom the testimony is to be taken, 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) 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) The attorney may advise such person, 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) Such person or 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) An objection may properly be made, received, and entered
upon the record when it is claimed that such person 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 himself or through his attorney otherwise interrupt the oral
examination.
(v) 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) 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) 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) The transcript shall be read to or by the witness, unless such examination and reading are waived by the witness.

(iii) 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) 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) 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 him or her 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 testimony.

(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.

(c) 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 rules established by the Agency.

(2) DISCLOSURE TO CONGRESS.—No rule established by the Agency regarding
the confidentiality of materials submitted to, or otherwise obtained by, the Agency shall
be intended to prevent disclosure to either House of Congress or to an appropriate
committee of the Congress, except that the Agency is permitted to adopt rules allowing prior notice to any party that owns or otherwise provided the material to the Agency and had designated such material as confidential.

(d) Petition for Enforcement.—

(1) IN GENERAL.—Whenever any person fails to comply with any civil investigative demand duly served upon him 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 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) 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.

(f) 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 him by this section or rule promulgated by the Agency.

(g) 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. 1053. HEARINGS AND ADJUDICATION PROCEEDINGS.

(a) IN GENERAL.—The Agency is authorized to 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 rules prescribed by the Agency 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) IN GENERAL.—If, in the opinion of the Agency, any covered person is engaging or has engaged in an activity that violates a law, rule, 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 in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations 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. Such hearing 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. 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. 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. 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 become effective
at the expiration of 30 days after 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 become effective 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.—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. 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, it shall render its decision (which
shall include findings of fact upon which its decision is predicated) and shall issue and
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. 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. 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.—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. 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. Upon the filing of such petition, 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. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. 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.

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

(1) 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, 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. Such order may include any requirement authorized under this subtitle.
Such order shall become effective 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 become effective 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) RULES.—The Agency shall prescribe rules establishing such procedures as may be
necessary to carry out this section.

SEC. 1054. 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 rule
or order prescribed by the Agency thereunder, then the Agency may commence a civil action
against such person to impose a civil penalty or to seek all appropriate legal or 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, rules thereunder, or any other 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
(e) **Appearance before the Supreme Court.**—The Agency may represent itself in its own name before the Supreme Court of the United States, provided that 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 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 rule or order of the Agency thereunder.

(g) **Time for Bringing Action.**—

1. **In General.**—Except as otherwise permitted by law, no action may be brought under this title more than 3 years after 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

SEC. 1055. 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 rule or order prescribed 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 and without limitation—

(A) rescission or reformation of contracts;

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

(C) restitution;

(D) 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 subsection (d).
(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 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 rule or order prescribed by the Agency thereunder, the Agency may
recover its costs in connection with prosecuting such action if the Agency is the prevailing party
in the action.

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

(1) Any person that violates any provision of this title, any enumerated consumer
law, or any rule or order prescribed under this title shall forfeit and pay a civil penalty
pursuant to this subsection.

(A) FIRST TIER.—For any violation of a final order or condition imposed
in writing by the Agency, 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
rule prescribed under section 1036 or for any person that recklessly engages in a
violation of this title, any enumerated consumer law, or any rule or order
prescribed 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 a rule
or order prescribed 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;

(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 rule or order prescribed by
the Agency, 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. 1056. 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 transmit such evidence to the Attorney General, who may institute criminal proceedings under appropriate law. Nothing in this section affects any other authority of the Agency to disclose information.

SEC. 1057. EMPLOYEE PROTECTION.

(a) IN GENERAL.—No person shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has provided information to the Agency, filed, instituted or 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.

(b) AGENCY REVIEW OF TERMINATION.—Any employee or representative of employees who believes that he has been terminated or otherwise discriminated against by any person in violation of subsection (a) may, within 45 days after such alleged violated occurs, apply to the Agency for review of such termination or alleged discrimination. A copy of the application shall be sent to such person, who shall be the respondent. Upon receipt of such application, the Agency shall cause such investigation to be made as the Agency deems appropriate. Such investigation 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. The parties shall be given written notice of the time and place of the hearing at least five days prior to the
hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5, United
States Code. Upon receiving the report of such investigation, the Agency shall make findings of
fact. 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 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. If the
Agency finds insufficient evidence to support the allegations made in the application, the Agency
shall deny the application. 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.

(c) COSTS AND EXPENSES.—Whenever an order is issued under this section to abate such
violation, at the request of the applicant a sum equal to the aggregate amount of all costs and
expenses (including attorney’s fees) determined by the Agency to have been reasonably incurred
by the applicant for, or in connection with, the application and prosecution of such proceedings
shall be assessed against the person committing such violation.

(d) EXCEPTION.—This section shall not apply to any employee who acting without
discretion from his or her employer (or the employer’s agent) deliberately violates any
requirement of this title or any enumerated consumer law.

SEC. 1058. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date.
Transitional Provisions

SEC. 1061. 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.

(B) BOARD OF GOVERNORS’ AUTHORITY.—The Agency 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.

(B) COMPTROLLER’S AUTHORITY.—The Agency 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.

(B) DIRECTOR’S AUTHORITY.—The Agency 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.

(B) CORPORATION’S AUTHORITY.—The Agency 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 consumer financial protection
functions of the Federal Trade Commission are transferred to the Agency.

(B) COMMISSION’S AUTHORITY.—The Agency 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.

(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.

(B) NATIONAL CREDIT UNION ADMINISTRATION’S AUTHORITY.—The
Agency 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.

(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 1022(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.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall become effective on the designated transfer date.

SEC. 1062. DESIGNATED TRANSFER DATE.

(a) IN GENERAL.—Not later than 60 days after the date of 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, and the
Director of the Office of Management and Budget, designate a single calendar date for
the transfer of functions to the Agency under section 1061; 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, 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
enactment of this Act.

(2) Extension of Time.—The Secretary may designate a date that is later than 18
months after the date of 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 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 enactment of this Act.

SEC. 1063. SAVINGS PROVISIONS.

(a) BOARD OF GOVERNORS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(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 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 by this title, except that the Agency 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 1061(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 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 by this title, except that the Agency 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 1061(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 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 by this title, except that the Agency shall be substituted for the Federal Trade Commission as a party to any such proceeding as of the designated transfer date.
Commission transferred to the Agency by this title, except that the Agency 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
1061(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 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 by this title, except that the Agency 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) **Office of the Comptroller of the Currency.**—

(1) **Existing rights, duties, and obligations not affected.**—Section
1061(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 Agency 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 Agency by this title before the designated transfer date, except that the Agency 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) OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(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 Agency 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 Agency by this title before
the designated transfer date, except that the Agency 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) Continuation of Existing Orders, Rules, Determinations, Agreements, and
Resolutions.—All orders, resolutions, determinations, agreements, and rules 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 Office of Thrift Supervision, 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 rules, and shall be
enforceable by or against the Agency until modified, terminated, set aside, or superseded in
accordance with applicable law by the Agency, by any court of competent jurisdiction, or by
operation of law.

(h) Identification of Rules Continued.—Not later than the designated transfer date,
the Agency—

(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,
identify the rules continued under subsection (g) that will be enforced by the Agency; and

(2) shall publish a list of such rules in the Federal Register.

(i) STATUS OF RULES PROPOSED OR NOT YET EFFECTIVE.—

(1) PROPOSED RULES.—Any proposed rule 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 Office of Thrift Supervision, 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 before that date, shall be deemed to be a proposed rule of the Agency.

(2) RULES NOT YET EFFECTIVE.—Any interim or final rule 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 Office of Thrift Supervision, 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 become effective as a rule of the Agency according to its terms.

SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.

(a) IN GENERAL.—

(1) CERTAIN FEDERAL RESERVE SYSTEM EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Agency 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 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 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 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 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 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 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 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 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.

(3) 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 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 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 position assignment not later than 120 days after
the effective date of his or her 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, NCUA, OCC, AND OTS.—Each employee transferred from the Federal Deposit Insurance Corporation, the Federal Trade Commission, 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 examined before they were transferred.

(f) PERSONNEL ACTIONS LIMITED.—

(1) 1-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 1-year period beginning on the designated transfer date, be
involuntarily separated, or involuntarily reassigned outside his or her local locality pay
area as defined by the Office of Personnel Management.

(2) EXCEPTIONS.—Paragraph (1) does not limit the right of the Agency 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 locality pay area as
defined by the Office of Personnel Management when the Agency 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) does not limit the Agency’s right to reduce a
transferred employee’s rate of basic pay—

(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) does not limit 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 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 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 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 existing retirement plan as long as he or she remains
employed by the Agency.

(ii) Employer’s contribution.—The Agency 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
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 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 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) 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) 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 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 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’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 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’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
(E) ADDITIONAL FUNDING.—The Agency shall transfer to the Federal Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Agency and 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 Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Board of Governors, 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) 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 National Credit Union Administration, the Office of the Comptroller of the Currency, or 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 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 and 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 National Credit Union 
Administration, the Office of the Comptroller of the Currency, 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 shall implement a uniform pay and classification system for all transferred employees.

(k) EQUITABLE TREATMENT.—In administering the provisions of this section, the Agency—

(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 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 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 does not provide 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 will
work with 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. 1065. 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 enactment of this Act.

SEC. 1066 INTERIM AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to perform the functions of the Agency
under this subtitle until 3 of the appointed Board members are confirmed by the Senate in
accordance with section 1012.

(b) INTERIM ADMINISTRATIVE SERVICES BY THE DEPARTMENT OF THE TREASURY.—The
Department 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 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. 1071. 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 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.

(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 prescribed by the Agency.

(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
prescribed by the Agency.

(d) AGENCY USE.—The Agency—

(1) shall use the data on branches and deposit accounts acquired under this section
as part of the examination of a financial institution under the Community Reinvestment
Act of 1977;
(2) shall assess the distribution of residential and commercial accounts at such
financial institution across income and minority level of census tracts; and
(3) may use the data for any other purpose as permitted by law.

(e) RULES AND GUIDANCE.—The Agency shall prescribe such rules and issue guidance as
may be necessary to carry out, enforce, and compile data pursuant to this section. The Agency
shall prescribe rules 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 rules prescribed thereunder.

(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
State credit union or State-chartered credit union as defined in section 101 of the Federal
Credit Union Act (12 U.S.C. 1752).

(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 Agency.

(4) FEDERAL BANKING AGENCY.—The term “Federal banking agency” means the
Board of Governors, the National Bank Supervisor, the Federal Deposit Insurance
Corporation, or the National Credit Union Administration; and the term “Federal banking
agencies” means all of those agencies.

(5) 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 become effective on the designated transfer date.

SEC. 1072. SMALL BUSINESS DATA COLLECTION (FURTHER AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT).

(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—

“SEC. 704B. SMALL BUSINESS LOAN DATA COLLECTION.

“(a) PURPOSE.—The purpose of this provision 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) 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) 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) ITEMIZED.—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 and ethnicity of the principal owners of the business; and

“(H) Any additional data the Agency determines would aid in fulfilling the purposes of this section.

“(3) NO PERSONALLY IDENTIFIABLE INFORMATION.—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 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, at its discretion, 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.—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. In addition, the Agency shall annually provide this data to the public. The procedures for disclosing this information to the public will be determined by the Agency.

“(3) COMPILATION OF AGGREGATE DATA.—The Agency may, at its discretion, compile for its own use compilations of aggregate data. The Agency may also, at its discretion, make public such compilations of aggregate data.

“(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 rules and issue guidance as may be necessary to carry out, enforce, and compile data pursuant to this section.

“(2) EXCEPTIONS.—The Agency, by rule 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 deems 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 AMENDMENTS.—

(1) Section 701(b) of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)) is amended—

(A) by striking “or” after the semicolon at the end of paragraph (3);

(B) in paragraph (4), by striking the period at the end and inserting “; or”;

and

(C) 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.”; and

(2) Section 702 of the Equal Credit Opportunity Act (15 U.S.C. 1691a) is amended as described in section 1079(b) of this title.

(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 become effective on the designated transfer date.

Subtitle H—Conforming Amendments
SEC. 1073. AMENDMENTS TO THE INSPECTOR GENERAL ACT


(b) EFFECTIVE DATE.—This section shall become effective on the date of enactment of this Act.

SEC. 1074. AMENDMENTS TO THE PRIVACY ACT OF 1974.

(a) 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 become effective on the date of enactment of this Act.

SEC. 1075. AMENDMENTS TO THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982.

(a) 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) in their entirety.

(b) Section 804 of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3803) is amended—

(1) in subsection (a)—

(A) in paragraphs (1), (2), and (3), by inserting after the words “transactions made” each place those words appear the words “on or before the
designated transfer date, as determined in section 1062 of the Consumer Financial Protection Agency Act of 2009; 

(B) in paragraph (2), by striking “and” at the end;

(C) in paragraph (3), by striking the period at the end and inserting “; and”;

(D) 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.”

(2) by amending subsection (c) to read as follows:

“(c) 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. 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.

(3) by adding at the end the following new subsection:

“(d) The Consumer Financial Protection Agency shall—

“(1) review the regulations identified by the Comptroller of the Currency,
National Credit Union Administration, and the Director of the Office of Thrift Supervision (as those rules exist on the designated transfer date, as determined in section 1062 of the Consumer Financial Protection Agency Act of 2009) as applicable under subsection (a)(1) – (3);

“(2) determine whether such regulations are fair and not deceptive and otherwise meet the objectives of Title X of the Consumer Financial Protection Agency Act of 2009; and

“(3) promulgate regulations under subsection (a)(4) after the designated transfer date, as determined in section 1062 of the Consumer Financial Protection Agency Act of 2009.”.

(b) This section shall become effective on the designated transfer date.

(c) The amendments made by subsection (a) shall not affect any transaction covered by the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.) and entered into on or before the designated transfer date.

SEC. 1076. AMENDMENTS TO THE COMMUNITY REINVESTMENT ACT OF 1977.

(a) Amendment to Section 802.—Section 802(b) (12 U.S.C. 2901(b)) is amended by striking “each appropriate Federal financial supervisory agency” and inserting “the Consumer Financial Protection Agency”.

(b) Amendment to Section 803.—Section 803 (12 U.S.C. 2902) is amended by adding a new paragraph at the end as follows—

“(5) the term ‘Agency’ means the Consumer Financial Protection Agency.”.

(c) Amendment to Section 804.—Section 804 (12 U.S.C. 2903) is amended—

(1) by amending subsection (a) to read as follows:
“(a) IN GENERAL.—In connection with its examination of a financial institution—

“(1) the Agency shall assess the institution’s record of meeting the credit card
needs of its entire community, including low- and moderate income neighborhoods,
consistent with the safe and sound operation of such institution; and

“(2) the appropriate Federal financial supervisory agency shall take such
assessment into account in its evaluation of an application for a deposit facility by such
institution.”;

(2) in subsection (b), by striking “appropriate Federal financial supervisory
agency” and inserting “Agency”;

(3) in subsection (c)(2)—

(A) in subparagraph (A), by striking “appropriate Federal financial
supervisory agency” and inserting “Agency”; and

(B) in subparagraph (B), by striking “such agency.” and inserting “the
Agency.”.

(d) AMENDMENTS TO SECTION 805.—Section 805 (12 U.S.C. § 2904) is amended by
striking “Each appropriate Federal financial supervisory agency” and inserting “The Agency”.

(e) AMENDMENTS TO SECTION 806.—Section 806 (12 U.S.C. § 2905) is amended as
follows:

“The Agency shall prescribe rules to carry out the purposes of this chapter.”.

(f) AMENDMENTS TO SECTION 807.—Section 807 (12 U.S.C. § 2906) is amended by—

(1) in subsection (a), by striking “appropriate Federal financial supervisory
agency” and inserting “Agency”;

(2) in subsection (b), by—
(A) striking “appropriate Federal financial supervisory agency’s” and
inserting “Agency’s”; and
(B) striking “Federal financial supervisory agencies” and inserting
“Agency”;;
(3) in subsection (c)—
(A) in paragraph (1), by adding “or to the Agency.” after “a Federal or
State financial supervisory agency”;;
(B) in paragraphs (2) and (3), by striking “appropriate Federal financial
supervisory agency” and inserting “Agency”; and
(4) in subsection (d), by—
(A) striking “appropriate Federal financial supervisory agency” and
inserting “Agency”; and
(B) striking “Federal financial supervisory agency” and inserting
“Agency”.
(g) AMENDMENTS TO SECTION 808.—Section 808 (12 U.S.C. § 2907) is amended by
striking “appropriate Federal financial supervisory agency” and inserting “Agency”.
(h) AMENDMENTS TO SECTION 809.—Section 809 (12 U.S.C. § 2908) is amended by
striking “appropriate Federal financial supervisory agency” and inserting “Agency”.
SEC. 1077. AMENDMENTS TO THE CONSUMER LEASING ACT OF 1976.
(a) All mentions of “the Board” in the Consumer Leasing Act of 1976 (15 U.S.C. 1667 et
seq.) are amended by striking “the Board” and inserting “the Agency.”
SEC. 1078. AMENDMENTS TO THE ELECTRONIC FUND TRANSFER ACT.
(a) AMENDMENTS TO SECTION 903.—Section 903 of the Electronic Fund Transfer Act (15
U.S.C. 1693a) is amended—

(1) by amending paragraph (3) to read as follows:

“(3) the term ‘Agency’ means the Consumer Financial Protection Agency;”; and

(2) in paragraph (6), by striking “Board” and inserting “Agency”.

(b) AMENDMENTS TO SECTION 904.—Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) in subsection (a)—

(A) in the title, by striking “Board” and inserting “Agency”;

(B) by striking “Board” each place it appears and inserting “Agency”;

(1) in subsection (b) by striking “Board” each place it appears and inserting “Agency”;

(2) in subsection (c) by striking “Board” each place it appears and inserting “Agency”; and

(3) in subsection (d) by striking “Board” each place it appears and inserting “Agency”.

(c) AMENDMENTS TO SECTION 905.—Section 905 of the Electronic Fund Transfer Act (15 U.S.C. 1693c) is amended—

(1) in subsection (a), by striking “Board” each place it appears and inserting “Agency”; and

(2) in subsection (b) by striking “Board” and inserting “Agency”.

(d) AMENDMENT TO 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”.

(e) AMENDMENT TO 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”.

(f) AMENDMENT TO 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”.

(g) AMENDMENT TO 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”.

(h) AMENDMENTS TO 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”.

(i) AMENDMENTS TO SECTION 915.—Section 915 of the Electronic Fund Transfer Act (15 U.S.C. 1693m) is amended as follows—

(1) in subsection (d)—

(A) in the title—

(i) by striking “BOARD” and inserting “AGENCY”; and

(ii) by striking “FEDERAL RESERVE SYSTEM” and inserting “CONSUMER FINANCIAL PROTECTION AGENCY”;

(B) in the matter after the title—

(i) by striking “Board” each place it appears and inserting “Agency”; and

(ii) by striking “Federal Reserve System” and inserting “Consumer Financial Protection Agency.”

(j) AMENDMENTS TO SECTION 917.—Section 917 of the Electronic Fund Transfer Act (15 U.S.C. 1693o) is amended—

(1) in subsection (a)—

(A) in the matter after the title, by striking “Compliance” and inserting
“Subject to section 1022 of the Consumer Financial Protection Agency Act of 2009, compliance”;

(B) in paragraph (1)(A), by striking “Office of the Comptroller of the Currency” and inserting “National Bank Supervisor”;

(C) by amending paragraph (2) to read as follows:

“(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.”;

(2) by amending subsection (c) to read as follows:

“(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 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.”.

(k) AMENDMENTS TO SECTION 918.—Section 918 of the Electronic Fund Transfer Act (15 U.S.C. 1693p) is amended—

(1) in subsection (a), by striking “Board” each place it appears and inserting
“Agency”; and

(2) in subsection (b), by striking “Board” each place it appears and inserting “Agency”.

(l) Amendments to Section 919.—Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693q) is amended by striking “Board” each place it appears and inserting “Agency”.

(m) Amendments to Section 920.—Section 920 of the Electronic Fund Transfer Act (15 U.S.C 1693r) is amended by striking “Board” each place it appears and inserting “Agency”.


(a) Amendments to Section 701.—Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended—

(1) in subsection (b)—

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

(B) in paragraph (3), by striking “Board” and inserting “Agency”;  

(2) in subsection (c), paragraph (3), by striking “Board” and inserting “Agency”;  

and  

(3) in subsection (d), by striking “Board” each place it appears and inserting “Agency”.

(b) Amendments to 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’ refers to the Consumer Financial Protection Agency.”.

(c) Amendments to Section 703.—Section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691b) is amended—
(1) by striking the title and inserting the following new title:

“PROMULGATION OF REGULATIONS BY THE AGENCY”;

(2) in subsection (a)—

(A) by striking “(c) REGULATIONS.”;

(B) by striking “Board” each place it appears and inserting “Agency”; and

(C) by striking subsection (b) in its entirety; and

(D) by redesignating paragraphs (1) through (5) as subsections (a) through (e).

(d) AMENDMENTS TO SECTION 704.—Section 704 of the Equal Credit Opportunity Act (15 U.S.C. 1691c) is amended—

(1) in subsection (a)—

(A) in the matter after the title, by striking “Compliance” and inserting “Subject to section 1022 of the Consumer Financial Protection Agency Act of 2009, compliance”;

(B) in paragraph (1)(A), by striking “Office of the Comptroller of the Currency” and inserting “National Bank Supervisor”;

(C) 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.”;

(2) by amending subsection (c) to read as follows—

“(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 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 prescribed by the Agency under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.”; and

(3) in subsection (d), by striking “Board” and inserting “Agency”.

(e) AMENDMENT TO 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”.

(f) AMENDMENTS TO SECTION 705.—Section 705 of the Equal Credit Opportunity Act (15 U.S.C. 1691d) is amended—

(1) in subsection (f), by striking “Board” each place it appears and inserting “Agency”; and

(2) in subsection (g), by striking “Board” and inserting “Agency”.

(g) AMENDMENTS TO SECTION 706.—Section 706(e) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(e) ) is amended—

(1) in the title—

(A) by striking “BOARD” each place it appears and inserting “AGENCY”;

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(B) by striking “FEDERAL RESERVE SYSTEM” and inserting “CONSUMER
FINANCIAL PROTECTION AGENCY”;

(2) in the matter after the title—

(A) by striking “Board” each place it appears and inserting “Agency”; and

(B) by striking “Federal Reserve System” and inserting “Consumer
Financial Protection Agency”.

(f) AMENDMENTS TO SECTION 707.—Section 707 of the Equal Credit Opportunity Act (15
U.S.C. 1691f) is amended by striking “Board” each place it appears and inserting “Agency”.

SEC. 1080. AMENDMENTS TO THE EXPEDITED FUNDS AVAILABILITY ACT.

(a) AMENDMENTS TO SECTION 605.—Section 605(f)(1) of the Expedited Funds
Availability Act (12 U.S.C. 4004(f)(1)) is amended by inserting after “Board” the following: “in
consultation with the Director of the Consumer Financial Protection Agency”.

(b) AMENDMENTS TO SECTION 609.—Section 609(a) of the Expedited Funds
Availability Act (12 U.S.C. 4008(a)) is amended by inserting after “Board” the
following “in consultation with the Director of the Consumer Financial Protection Agency”.

SEC. 1081. AMENDMENTS TO THE FAIR CREDIT BILLING ACT.

each place it appears and inserting “Agency”.

SEC. 1082. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT AND THE
FAIR AND ACCURATE CREDIT TRANSACTIONS ACT.

(a) Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended—

(1) by inserting after subsection (v) the following new subsection:
“(w) The term ‘Agency’ means the Consumer Financial Protection Agency. ”

(2) by redesignating the existing subsections (w) and (x) as (x) and (y).

(b) Except as provided in subsections (c) through (i) of this section, the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended—

(1) by striking “Federal Trade Commission” each place it appears and inserting “Agency”; 

(2) by striking “FTC” each place it appears and inserting “Agency”; 

(3) by striking “the Commission” each place it appears and inserting “the Agency”; 

(4) by striking the phrase “The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly” each place it appears and inserting “The Agency shall”. 

(c) 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”. 

(d) Subsection 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is amended—

(1) by amending paragraph (3)(C) to read as follows:

“(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Agency (with respect to any covered person subject to the jurisdiction of such agency under paragraph (2) of section 621(b)), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).”
(2) by amending paragraph (5) to read as follows:

“(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.”

(3) by striking paragraph (6) in its entirety.

(e) 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).”

(f) 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 REQUIRED.—The Agency shall prescribe rules.”

(g) Section 621 of the Fair Credit Reporting Act (15 U.S.C.1681s) is amended—

(1) by amending subsection (a) to read as follows:

“(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

“(1) Subject to section 1022 of the Consumer Financial Protection Agency Act of 2009, compliance with the requirements imposed under this title shall be enforced under
Commission with respect to consumer reporting agencies and all other persons subject
thereo, 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
45(a)] and shall be subject to enforcement by the Federal Trade Commission under
section 5(b) thereof [15 U.S.C. 45(b)] 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, investigatory, and enforcement powers (subject
to section 1022 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) (A) Subject to section 1022 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) 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) Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1) [15 U.S.C. 1681s-2] 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, 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.”

(2) by amending subsection (b) to read as follows—

“(b) ENFORCEMENT BY OTHER AGENCIES.—Subject to Section 1022 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 [15 U.S.C. 1681m] shall be enforced under—

“(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], in the case of
“(A) national banks, and Federal branches and Federal agencies of foreign banks, by the National Bank Supervisor;

“(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 [12 U.S.C. 601 et seq., 611 et seq.], by the Board of Governors of the Federal Reserve System; and

“(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

“(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 [12 U.S.C. §§ 1751 et seq.], by the Administrator of the National Credit Union Administration [National Credit Union Administration Board] with respect to any Federal credit union;

“(4) subtitle IV of title 49 [49 U.S.C. §§ 10101 et seq.], by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

“(5) the Federal Aviation Act of 1958 [49 U.S.C. App. §§ 1301 et seq.], by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that Act [49 U.S.C. Appx §§ 1301 et seq.]; and
“(6) the Packers and Stockyards Act, 1921 [7 U.S.C. §§ 181 et seq.] (except as provided in section 406 of that Act [7 U.S.C. §§ 226 and 227]), by the Secretary of Agriculture with respect to any activities subject to that Act.

“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).”.

(3) by amending subsection (e) to read as follows:

“(e) REGULATORY AUTHORITY.—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).”

(h) Section 623 of the Fair Credit Reporting Act (15 U.S.C.1681s-2) is amended—

(1) 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.”.

(2) by amending subsection (e) to read as follows—

“(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED

“(1) GUIDELINES. The Agency shall, with respect to the 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.”

(i) Section 214(b)(1) of the Fair and Accurate Credit Transactions Act of 2003 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 Agency, with respect to a person subject to its enforcement authority, and”.

SEC. 1083. AMENDMENTS TO THE FAIR DEBT COLLECTION PRACTICES ACT.

(a) AMENDMENTS TO SECTION 803.—Section 803 of the Fair Debt Collection Practices Act (15 U.S.C. 1692a) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) The term ‘Agency’ means the Consumer Financial Protection Agency.”; and

(2) renumbering the following paragraphs respectively.

(b) AMENDMENTS TO 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”.

(c) AMENDMENTS TO SECTION 814.—Section 814 (of the Fair Debt Collection Practices Act 15 U.S.C. 1692l) is amended—

(1) by amending subsection (a) to read as follows—

“(a) FEDERAL TRADE COMMISSION.—Subject to section 1022 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.”;

(2) in subsection (b)—

(A) in the matter after the title, by striking “Compliance” and inserting
“Subject to section 1022 of the Consumer Financial Protection Agency Act of
2009, compliance”.

(B) in paragraph (1)(A), by striking “Office of the Comptroller of the
Currency;” and inserting “National Bank Supervisor”;

(C) by amending paragraph (b)(2) to read as follows:
“(2) subtitle E of the Consumer Financial Protection Agency Act of 2009 by the
Agency in the case of a covered person under the Act”; and

(3) in subsection (d), by striking “Commission” and inserting “Agency”.

(d) AMENDMENTS TO SECTION 815.—Section 815 (15 U.S.C. § 1692m) is amended by
striking all references to “Commission” and inserting “Agency”.

(e) AMENDMENTS TO SECTION 817.—Section 817 (15 U.S.C. § 1692o) is amended by
striking all references to “Commission” and inserting “Agency”.

SEC. 1084. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.
(a) Section 8(t) the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to add a new paragraph (6), as follows:

“(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(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 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) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(f)) is amended—

(1) by amending paragraph (1) to read as follows:
“(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.”;

(2) in paragraph (2), by amending subparagraph (C) to read as follows:

“(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. 1085. AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.

(a) 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”;

(2) by striking “, and the Federal Trade Commission”.

(b) Section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)) is amended—

(1) in the matter after the title of subsection, by striking “This subtitle and the
regulations prescribed thereunder shall be enforced by” and inserting “Subject to section
1022 of the Consumer Financial Protection Agency Act of 2009, this subtitle and the
regulations prescribed thereunder shall be enforced by the Consumer Financial Protection
Agency,”;
(2) by striking paragraph (1)(D); and

(3) 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.”.

(c) 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 “subsection (a)”.  

SEC. 1086. AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.

(a) Section 303 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802) is amended—

(1) by inserting a new paragraph (1) to read as follows—

“(1) the term ‘Agency’ means the Consumer Financial Protection Agency.”; and

(2) by redesignating existing paragraphs (1) through (6) as paragraphs (2) through (7).

(b) Except as provided in subsections (c), (d), (e), and (f) of this section, all references to “Board” in the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801-11) are amended by striking “Board” and inserting “Agency”.

(c) Subsection 304(h) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended to read as follows—

“(h) SUBMISSION TO AGENCIES.—The data required to be disclosed under subsection (b) shall be submitted to the Agency and to the appropriate agency for each institution reporting under this title. Notwithstanding the requirement of section
304(a)(2)(A) for disclosure by census tract, the Agency, in cooperation with other
appropriate regulators, including—

“(1) the National Bank Supervisor for national banks and Federal branches,
Federal agencies of foreign banks, and savings associations;

“(2) the Federal Deposit Insurance Corporation for banks insured by the Federal
Deposit Insurance Corporation (other than members of the Federal Reserve System),
mutual savings banks, insured State branches of foreign banks, and any other depository
institution described in section 303(2)(A) which is not otherwise referred to in this
paragraph;

“(3) the National Credit Union Administration Board for credit unions; and

“(4) the Secretary of Housing and Urban Development for other lending
institutions not regulated by the agencies referred to in paragraphs (1) through (4), 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 regulations 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. 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.”

(d) Section 305 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804) is
amended—

(1) by amending subsection (b) to read as follows—
“(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 National Bank Supervisor;

“(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; and

“(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured State branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

“(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
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).”

(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 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) 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 thereof if it 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 National Bank Supervisor 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 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806) is
amended to read as follows:

“(a)(1) 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) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

“(3) 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) 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.”

(g) Section 304(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is amended—

(1) in paragraph (4), by inserting “age,” before “and gender”;

(2) at the end of paragraph (3), by striking “and”;

(3) at the end of paragraph (4), by striking the period; and
(4) by adding at the end of section 304(b) 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.

“(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 1503 of the S.A.F.E. 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.”;

(5) in subsection (j)(2)(B)(i), by inserting “credit score or similar measurement,” after “number,”;

(6) in subsection (h)—

(A) by striking “subsection (b)(4) of this section shall be submitted” and inserting “subsection (b) of this section shall be submitted”; and

(B) by striking “subsection (b)(4) of this section with respect” and inserting “subsections (b) of this section with respect”;

(7) in subsection (i), by striking “subsection (b)(4)” and inserting “subsections (b)(4), (b)(5), and (b)(6)”;

(8) in subsection(j)—
(A) in paragraph (1), by striking “(as” and inserting “(containing loan-level and application-level information relating to disclosures required under subsections (a) and (b) and as otherwise”;

(B) by amending paragraph (3) to read as follows:

“(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”;

(C) in paragraph (2)(A), by striking “in the format in which such information is maintained by the institution” and inserting “in such formats as the Agency may require”; and

(9) by amending subsection (m)(2) to read as follows:

“(m)(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”.


(a) Section 158(a) of the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note) is amended by striking “Consumer Advisory Council of the Board” and inserting “Advisory Board to the Agency”.

(b) The Home Ownership and Equity Protection Act of 1994 is amended by striking “Board” each place it appears and inserting “Agency”.

SEC. 1088. AMENDMENTS TO THE OMNIBUS APPROPRIATIONS ACT, 2009 (AS AMENDED BY THE CREDIT CARD ACCOUNTABILITY
RESPONSIBILITY AND DISCLOSURE ACT OF 2009).

(a) Section 626(a) of the Omnibus Appropriations Act, 2009 is amended—

(1) by amending paragraph (1) to read as follows—

“(1) The Consumer Financial Protection Agency shall have authority to prescribe rules 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 prescribed under this subsection shall be treated as a violation of a rule 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 amending paragraph (4) to read as follows—

“(4) The Consumer Financial Protection Agency shall enforce the rules 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 the Omnibus Appropriations Act, 2009 is amended—

(1) by striking “Federal Trade Commission” and inserting “Consumer Financial Protection Agency”; and

(2) by striking “the Commission” and inserting “the Consumer Financial Protection Agency”;

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(3) by striking “primary Federal regulatory” and inserting “Consumer Financial Protection Agency”.

SEC. 1089. AMENDMENTS TO THE REAL ESTATE SETTLEMENT PROCEDURES ACT.

(a) 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 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 it appears and inserting “Agency”; and

(3) by striking “form” each place it appears and inserting “forms”.

(c) Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2604) is amended—

(1) by striking “Secretary” each place it 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 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by striking “Secretary” and inserting “Agency”; and by striking “by regulations that shall take effect not later than April 20, 1991,”.

(e) Section 7 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2606) is amended by striking “Secretary” and inserting “Agency”.

(f) Section 8(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607(d)) is amended—

(1) in the title, by inserting “AGENCY AND” before “SECRETARY”;  
(2) in paragraph (4), by striking “The Secretary,” and inserting “The Agency, the Secretary,”; and  
(3) at the end of paragraph (4), inserting the following—

“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 of the Consumer Financial Protection Agency Act of 2009.”

(g) 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”.

is amended by inserting “the Agency,” before “the Secretary”.

(i) 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 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2617) is amended by striking “Secretary” each place where it appears and inserting “Agency”.

SEC. 1090. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

(a) AMENDMENTS TO SECTION 1101.—Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) by amending paragraph (1) to read as follows—

“(1) ‘financial institution’ means any national bank, card issuer as defined in section 1602(n) of Title 15, 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;”;

(2) in paragraph (6)—

(A) in subparagraph (A), by adding “and” after the semi-colon;

(B) in subparagraph (B) by striking “; and” and inserting a period; and

(C) by deleting subparagraph (C) in its entirety.

(3) in paragraph (7)—

(A) by amending subparagraph (B) to read as follows:

“(B) the Director of the National Bank Supervisor;”;

(B) by amending subparagraph (E) to read as follows—

“(E) the Consumer Financial Protection Agency;”.

(b) AMENDMENTS TO SECTION 1112.—Section 1112 of the Right to Financial
Privacy Act (12 U.S.C. 3412) is amended in subsection (e) by deleting “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 1113 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. 1091. AMENDMENTS TO THE SECURE AND FAIR ENFORCEMENT FOR
MORTGAGE LICENSING ACT OF 2008.

(a) Section 1503 of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5102) is
amended as follows—

(1) by striking the definition of “FEDERAL BANKING AGENCIES” and inserting the
following—
“AGENCY.—The term ‘Agency’ means the Consumer Financial
Protection Agency.”; and

(2) by striking the definition of “SECRETARY” and inserting the following—
“DIRECTOR.—The term ‘Director’ means the Director of the Consumer
Financial Protection Agency.”

(b) The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended as
follows—

(1) by striking “a Federal banking agency” each place it appears and inserting
“the Agency”;

(2) by striking “Federal banking agencies” each place it appears and inserting “Agency”;

(3) by striking “Secretary” each place where it appears and inserting “Director”.

(c) Section 1507 of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5106) is amended—

(1) in subsection (a)—

(A) by amending paragraph(1) to read as follows:

“(1) IN GENERAL.—The Agency shall develop and maintain a system for registering employees of a subsidiary that is owned and controlled by a depository institution, and regulated by the Agency as a registered loan originator 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.”;

(B) in paragraph (2) by striking “appropriate Federal banking agency and the Farm Credit Administration;”, 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 of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5107) is amended—

(1) striking the title and inserting “CONSUMER FINANCIAL PROTECTION AGENCY
(2) adding at the end the following new subsection—

“(f)(1) The Agency is authorized to promulgate 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) 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.”.

(e) Section 1510 of the S.A.F.E. 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 of the S.A.F.E. 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, 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 of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5113) is
amended in the title by striking “UNDER HUD BACKUP LICENSING SYSTEM” and
inserting “BY THE AGENCY”.

SEC. 1092. AMENDMENTS TO THE TRUTH IN LENDING ACT.

(a) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by—

(1) inserting after subsection (a) a new subsection (b) as follows:

“(b) The term “Agency” means the Consumer Financial Protection Agency.”; and

(2) redesignating the existing subsections (b) through (bb) as (c) through (cc).

(b) The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by striking “Board”
each place it appears and inserting “Agency” except—

(1) in section 140(d) (15 U.S.C. 1650) where “Board” is to remain unchanged in
all instances;

(2) as provided in subsection (d).

(c) 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 (Pub. L. 93-533, 12 U.S.C. 2601 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.”.

(d) Section 108 of the Truth in Lending Act (15 U.S.C. 1607) is amended—

(1) by amending subsection (a) to read as follows—

“(a) ENFORCING AGENCIES.—Subject to Section 1022 of the Consumer Financial
Protection Agency Act of 2009, 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 National Bank Supervisor;

“(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; and

“(C) banks insured by the Federal Deposit Insurance Corporation (other
than members of the Federal Reserve System) and insured State branches of
foreign banks, by the Board of Directors of the Federal Deposit Insurance
Corporation.

“(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 Director of the Bureau of Federal Credit
Unions with respect to any Federal credit union.

“(4) 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) 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) 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.”.

(2) by amending subsection (c) to read as follows—

“(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
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.”

(e) The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by striking “Federal
Trade Commission” each place it appears and inserting “Agency” except—
(1) Section 108(c) of the Truth in Lending Act (15 U.S.C. 1607(c)), which is to be amended as specified in subsection (d);

(2) Section 127(b)(11)(C) of the Truth in Lending Act (15 U.S.C. 1637) 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% minimum monthly payment on a balance of $300 at an interest rate of 17% 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: __________________________ (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).”;

(3) 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 promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.”.
SEC. 1093. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.

(a) AMENDMENTS TO SECTION 263.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended in subsection (b) by striking “Board” each time it appears and inserting “Agency”.

(b) AMENDMENTS TO SECTION 265.—Section 265 of the Truth in Savings Act (12 U.S.C. 4304) is amended by striking “Board” each time it appears and inserting “Agency”.

(c) AMENDMENTS TO SECTION 266.—Section 266 of the Truth in Savings Act is amended (12 U.S.C. 4305) in subsection (e) by striking “Board” and inserting “Agency”.

(d) AMENDMENTS TO SECTION 269.—Section 269 of the Truth in Savings Act (12 U.S.C. 4308) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “Board” and inserting “Agency”; (B) in paragraph (3), by striking “Board” and inserting “Agency”; (C) in paragraph (4), by striking “Board” and inserting “Agency”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “Board” each time it appears and inserting “Agency”; (B) in paragraph (2), by striking “Board” each time it appears and inserting “Agency”; and

(C) in paragraph (3) by striking “Board” and inserting “Agency”.

(e) AMENDMENTS TO SECTION 270.—Section 270 of the Truth in Savings Act (12 U.S.C. 4309) is amended—

(1) in subsection (a)—
(A) in the matter after the title, by striking “Compliance” and inserting “Subject to section 1022 of the Consumer Financial Protection Agency Act of 2009, compliance”;

(B) in paragraph (1)—

(i) by amending subparagraph (A) to read as follows: “(A) by the Director of the National Bank Supervisor for national banks, and Federal branches and Federal agencies of foreign banks;”;

(ii) by striking subparagraph (C); 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.”

(2) in subsection (c), by striking “Board” and inserting “Agency”.

(f) AMENDMENTS TO 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 the phrase “regulation prescribed by the Board” each place it appears and inserting “regulation prescribed by the Agency”.

(g) AMENDMENTS TO 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) AMENDMENTS TO 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 amending paragraph (4) to read as follows:
“(4) AGENCY.—The term “Agency” means the Consumer Financial Protection
Agency.”.

SEC. 1094. EFFECTIVE DATE.

The amendments made in sections 1075 through 1093 shall become effective on the
designated transfer date.