

1 **TITLE X—CONSUMER FINANCIAL PROTECTION**

2 **AGENCY ACT OF 2009**

3 **SEC. 1001. SHORT TITLE.**

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

5 **SEC. 1002. DEFINITIONS.**

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

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

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

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

16 (4) **APPOINTED BOARD MEMBER.**—The term “appointed Board member” or
17 “appointed Board members” means a member or members of the Board appointed by the
18 President under section 1012(a)(1).

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

21 (6) **BOARD OF GOVERNORS.**—The term “Board of Governors” means the Board of
22 Governors of the Federal Reserve System.

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

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

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

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

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

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

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

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

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

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

23 (B) the acceptance of money, the provision of other services related to the

1 acceptance of money, or the maintenance of members' share accounts by a credit
2 union; or

3 (C) the receipt of money or its equivalent, as the Agency may determine
4 by rule or order, received or held by the covered person (or an agent for the
5 person) for the purpose of facilitating a payment or transferring funds or value of
6 funds by a consumer to a third party.

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

10 (14) DESIGNATED TRANSFER DATE.—The term “designated transfer date” has the
11 meaning provided in section 1062.

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

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

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

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

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

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

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

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

22 (G) the Fair Credit Reporting Act except with respect to sections 615(e),
23 624, and 628 (15 U.S.C. 1681m(e), 1681s-3, 1681w);

- 1 (15 U.S.C. 1681 *et seq.*);
- 2 (H) the Fair Debt Collection Practices Act (15 U.S.C. 1692 *et seq.*);
- 3 (I) the Federal Deposit Insurance Act, subsections 43(c) through (f) (12
- 4 U.S.C. 1831t(c)-(f));
- 5 (J) the Gramm-Leach-Bliley Act, sections 502 through 509
- 6 (15 U.S.C. 6802-6809);
- 7 (K) the Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*);
- 8 (L) the Home Ownership and Equity Protection Act (15 U.S.C. 1639);
- 9 (M) the Real Estate Settlement Procedures Act (12 U.S.C. 2601-2610);
- 10 (N) the S.A.F.E. Mortgage Licensing Act (12 U.S.C. 5101-5116);
- 11 (O) the Truth in Lending Act (15 U.S.C. 1601 *et seq.*); and
- 12 (P) the Truth in Savings Act (12 U.S.C. 4301 *et seq.*).

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

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

- 18 (A) deposit-taking activities;
- 19 (B) extending credit and servicing loans, including—
 - 20 (i) acquiring, brokering, or servicing loans or other extensions of
 - 21 credit;
 - 22 (ii) engaging in any other activity usual in connection with
 - 23 extending credit or servicing loans, including performing appraisals of real

1 estate and personal property and selling or servicing credit insurance or
2 mortgage insurance;

3 (C) check-guaranty services, including—

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

7 (ii) purchasing from a subscribing merchant validly authorized
8 checks that are subsequently dishonored;

9 (D) collecting, analyzing, maintaining, and providing consumer report
10 information or other account information by covered persons, including
11 information relating to the credit history of consumers and providing the
12 information to a credit grantor who is considering a consumer application for
13 credit or who has extended credit to the borrower;

14 (E) collection of debt related to any consumer financial product or
15 service;

16 (F) providing real estate settlement services, including providing title
17 insurance;

18 (G) leasing personal or real property or acting as agent, broker, or adviser
19 in leasing such property if—

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

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

22 (iii) in the case of leases involving real property, at the inception
23 of the initial lease, the transaction is intended to result in ownership of the

1 leased property to be transferred to the lessee, subject to standards
2 prescribed by the Agency;

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

6 (I) acting as financial adviser to any person, including—

7 (i) providing financial and other related advisory services;

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

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

12 (J) financial data processing, including providing data processing and data
13 transmission services, facilities (including data processing and data transmission
14 hardware, software, documentation, or operating personnel), databases, advice,
15 and access to such services, facilities, or databases by any technological means, if:

16 (i) the data to be processed or furnished are financial, banking, or
17 economic; and

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

23 (K) money transmitting;

1 (L) sale or issuance of stored value;
2 (M) acting as a money services business;
3 (N) acting as a custodian of money or any financial instrument; or
4 (O) any other activity that the Agency defines, by rule, as a financial
5 activity for the purposes of this title, except that the Agency shall not define
6 engaging in the business of insurance as a financial activity (other than with
7 respect to credit insurance, mortgage insurance, or title insurance, as described in
8 this section).

9 (19) FINANCIAL PRODUCT OR SERVICE.—The term “financial product or service”
10 means any product or service that, directly or indirectly, results from or is related to
11 engaging in 1 or more financial activities.

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

15 (21) INSURED DEPOSITORY INSTITUTION.—The term “insured depository
16 institution” means an insured bank, as defined by section 3(h) of the Federal Deposit
17 Insurance Act (12 U.S.C. 1813(h)).

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

20 (A) receives currency, monetary value, or payment instruments for the
21 purpose of exchanging or transmitting the same by any means, including
22 transmission by wire, facsimile, electronic transfer, courier, the Internet, or
23 through bill payment services, or other businesses that facilitate third-party

1 transfers within the United States or to or from the United States; or

2 (B) issues payment instruments or stored value.

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

7 [(24) NATIONAL BANK SUPERVISOR.—The term “National Bank Supervisor”
8 means the agency named the National Bank Supervisor established by the XXXXX Act
9 of 2009.]

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

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

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

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

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

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

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

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

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

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

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

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

20 (33) STORED VALUE.—The term “stored value” means funds or monetary value
21 represented in any electronic format, whether or not specially encrypted, and stored or
22 capable of storage on electronic media in such a way as to be retrievable and transferred
23 electronically, and includes a prepaid debit card or product, or any other similar product,

1 regardless of whether the amount of the funds or monetary value may be increased or
2 reloaded.

3 **Subtitle A—The Consumer Financial Protection**

4 **Agency**

5 **SEC. 1011. ESTABLISHMENT OF THE AGENCY.**

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

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

12 **SEC. 1012. BOARD.**

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

15 (1) 4 members of the Board who shall be appointed by the President, by and with
16 the advice and consent of the Senate—

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

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

20 (2) the Director of the National Bank Supervisor.

21 (b) DIRECTOR OF THE AGENCY.—From among the appointed Board members, the
22 President shall designate 1 member of the Board to serve as the Director. The Director shall be

1 the chief executive of the Agency.

2 (c) TERMS OF APPOINTED BOARD MEMBERS.—

3 (1) IN GENERAL.—An appointed Board member, including the Director of the
4 Agency, shall serve for a term of 5 years.

5 (2) REMOVAL FOR CAUSE.—The President may remove any appointed Board
6 member for inefficiency, neglect of duty, or malfeasance in office.

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

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

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

17 (d) COMPENSATION.—

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

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

23 **SEC. 1013. EXECUTIVE AND ADMINISTRATIVE POWERS.**

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

3 (1) establish rules for conducting the Agency’s general business in a manner not
4 inconsistent with this title;

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

6 (3) direct the establishment of and maintain divisions or other offices within the
7 Agency in order to fulfill the responsibilities of this title, the enumerated consumer laws,
8 and the authorities transferred under subtitles F and H, and to satisfy the requirements of
9 other applicable law;

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

12 (5) adopt and use a seal;

13 (6) determine the character of and the necessity for the Agency’s obligations and
14 expenditures, and the manner in which they shall be incurred, allowed, and paid;

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

18 (8) to implement this title and the Agency’s authorities under the enumerated
19 consumer laws and under subtitles F and H through rules, orders, guidance,
20 interpretations, statements of policy, examinations, and enforcement actions; and

21 (9) perform such other functions as may be authorized or required by law.

22 (b) TRANSACTING BUSINESS.—

23 (1) QUORUM.—Three members of the Board shall constitute a quorum for the

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

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

6 **SEC. 1014. ADMINISTRATION.**

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

8 (1) a secretary, who shall be charged with maintaining the records of the Agency
9 and performing such other activities as the Board directs;

10 (2) a general counsel, who shall be charged with overseeing the legal affairs of the
11 Agency and performing such other activities as the Board directs; and

12 (3) an inspector general, who shall have the authority and functions of an
13 inspector general of a designated Federal entity under the Inspector General Act of 1978
14 (5 U.S.C. App. 3).

15 (b) PERSONNEL.—

16 (1) APPOINTMENT.—

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

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

23 (2) COMPENSATION.—

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

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

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

12 (c) SPECIFIC FUNCTIONAL UNITS.—

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

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

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

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

22 (D) consumer behavior with respect to consumer financial products or
23 services.

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

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

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

10 (B) sharing data and coordinating consumer complaints with Federal
11 banking agencies, other Federal agencies, and State regulators.

12 **SEC. 1015. CONSUMER ADVISORY BOARD.**

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

17 (b) MEMBERSHIP.—In appointing the members of the Consumer Advisory Board, the
18 Agency shall seek to assemble experts in financial services, community development, and
19 consumer financial products or services and seek representation of the interests of covered
20 persons and consumers.

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

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

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

5 (2) be allowed travel expenses, including transportation and subsistence, while
6 away from their homes or regular places of business.

7 **SEC. 1016. COORDINATION.**

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

12 (b) COORDINATION OF CONSUMER EDUCATION INITIATIVES.—

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

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

23 **SEC. 1017. REPORTS TO CONGRESS.**

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

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

5 (1) a list of the significant rules and orders adopted by the Agency, as well as
6 other significant initiatives conducted by the Agency, during the preceding year and the
7 Agency’s plan for rules, orders, or other initiatives to be undertaken during the upcoming
8 period;

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

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

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

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

19 (a) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the
20 authorities granted in this title and the enumerated consumer laws and transferred under subtitles
21 F and H, there are appropriated to the Agency such sums as are necessary. Notwithstanding any
22 other provision of law, such amounts shall be subject to apportionment under section 1517 of
23 title 31, United States Code, and restrictions that generally apply to the use of appropriated funds

1 in title 31, United States Code, and other laws.

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

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

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

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

15 (c) PENALTIES AND FINES.—

16 (1) ESTABLISHMENT OF VICTIMS RELIEF FUND.—There is established in the
17 Treasury of the United States a fund to be known as the “Consumer Financial Protection
18 Agency Civil Penalty Fund” (referred to in this section as the “Fund”). If the Agency
19 obtains a civil penalty against any person in any judicial or administrative action under
20 this title, the authorities transferred under subtitles F and H, or any enumerated consumer
21 law, the Agency shall deposit into the Fund the amount of the penalty collected.

22 (2) PAYMENT TO VICTIMS.—Amounts in the Fund shall be available to the
23 Agency, without fiscal year limitation, for payments to the victims of activities for which

1 civil penalties have been imposed under this title, the authorities transferred under
2 subtitles F and H, or any enumerated consumer law.

3 **SEC. 1019. EFFECTIVE DATE.**

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

5 **Subtitle B—General Powers of the Agency**

6 **SEC. 1021. MANDATE AND OBJECTIVES.**

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

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

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

14 (2) consumers are protected from abuse, unfairness, deception, and
15 discrimination;

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

18 (4) traditionally underserved consumers and communities have access to financial
19 services.

20 **SEC. 1022. AUTHORITIES.**

21 (a) IN GENERAL.—The Agency is authorized to exercise its authorities granted in this
22 title, in the enumerated consumer laws, and transferred under subtitles F and H, to administer,

1 enforce, and otherwise implement the provisions of this title, the authorities transferred in
2 subtitles F and H, and the enumerated consumer laws.

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

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

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

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

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

17 (3) EXEMPTIONS.—

18 (A) IN GENERAL. —The Agency, by rule or order, may conditionally or
19 unconditionally exempt any covered person or any consumer financial product or
20 service or any class of covered persons or consumer financial products or
21 services, from any provision of this title, any enumerated consumer law, or from
22 any rule thereunder, as the Agency deems necessary or appropriate to carry out
23 the purposes and objectives of this title taking into consideration the factors in

1 subparagraph (B).

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

5 (i) total assets of the covered person;

6 (ii) the volume of transactions involving consumer financial
7 products or services in which the covered person engages;

8 (iii) the extent to which the covered person engages in one or more
9 financial activities; and

10 (iv) existing laws or regulations which are applicable to the
11 consumer financial product or service and the extent to which such laws or
12 regulations provide consumers with adequate protections.

13 (c) EXAMINATIONS AND REPORTS.—

14 (1) IN GENERAL.—The Agency may on a periodic basis examine, or require
15 reports from, a covered person for purposes of ensuring compliance with the
16 requirements of this title, the enumerated consumer laws, and any rules prescribed by the
17 Agency thereunder or under the authorities transferred under subtitles F and H, and
18 enforcing compliance with such requirements.

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

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

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

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

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

8 (B) information that has been reported publicly.

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

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

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

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

1 (6) ACCESS BY OTHER REGULATORS TO REPORTS OF THE AGENCY.—Upon
2 providing reasonable assurances of confidentiality, a Federal banking agency, a State
3 regulator, or any other Federal agency having supervision of a covered person shall have
4 access to any report of examination made by the Agency with respect to the covered
5 person, and to all revisions made to any such report.

6 (7) PRESERVATION OF AUTHORITY.—Nothing in paragraph (3) shall be construed
7 to prevent the Agency from conducting an examination authorized by this title or under
8 the authorities transferred under subtitles F and H or pursuant to any enumerated
9 consumer law.

10 (d) EXCLUSIVE RULEMAKING AND EXAMINATION AUTHORITY.—Notwithstanding any
11 other provision of Federal law other than subsection (f), to the extent that a Federal law
12 authorizes the Agency and another Federal agency to issue regulations or guidance, conduct
13 examinations, or require reports under that law for purposes of assuring compliance with this
14 title, any enumerated consumer law, the laws for which authorities were transferred under
15 subtitles F and H, and any regulations thereunder, the Agency shall have the exclusive authority
16 to prescribe rules, issue guidance, conduct examinations, require reports, or issue exemptions
17 with regard to any person subject to that law.

18 (e) PRIMARY ENFORCEMENT AUTHORITY.—

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

23 (2) REFERRAL.—Any Federal agency authorized to enforce a Federal law

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

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

10 (f) EXCEPTIONS.—

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

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

14 (A) IN GENERAL.—Nothing in this title shall be construed as altering,
15 amending, or affecting the authority of the Securities and Exchange Commission
16 to adopt rules, initiate enforcement proceedings, or take any other action with
17 respect to a person regulated by the Securities and Exchange Commission. The
18 Agency shall have no authority to exercise any power to enforce this title with
19 respect to a person regulated by the Securities and Exchange Commission.

20 (B) CONSULTATION AND COORDINATION.—Notwithstanding subparagraph
21 (A), the Securities and Exchange Commission shall consult and coordinate with
22 the Agency with respect to any rule (including any advance notice of proposed
23 rulemaking) regarding an investment product or service that is the same type of

1 product as, or that competes directly with, a consumer financial product or service
2 that is subject to the jurisdiction of the Agency under this title or under any other
3 law.

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

5 (A) IN GENERAL.—Nothing in this title shall be construed as altering,
6 amending, or affecting the authority of the Commodity Futures Trading
7 Commission to adopt rules, initiate enforcement proceedings, or take any other
8 action with respect to a person regulated by the Commodity Futures Trading
9 Commission. The Agency shall have no authority to exercise any power to
10 enforce this title with respect to a person regulated by the Commodity Futures
11 Trading Commission.

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

19 (g) NO AUTHORITY TO IMPOSE USURY LIMIT.—Nothing in this title shall be construed as
20 conferring authority on the Agency to establish a usury limit applicable to an extension of credit
21 offered or made by a covered person to a consumer, unless explicitly authorized by law.

22 **SEC. 1023. COLLECTION OF INFORMATION; CONFIDENTIALITY RULES.**

23 (a) COLLECTION OF INFORMATION.—In conducting research on the provision of

1 consumer financial products or services, the Agency shall have the power to gather information
2 from time to time regarding the organization, business conduct, and practices of covered persons.

3 In order to gather such information, the Agency shall have the power—

4 (1) to gather and compile information; and

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

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

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

16 **SEC. 1024. MONITORING; ASSESSMENTS OF SIGNIFICANT RULES; REPORTS.**

17 (a) MONITORING.—

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

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

1 consumers, and review of available databases.

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

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

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

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

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

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

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

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

21 (b) ASSESSMENT OF SIGNIFICANT RULES.—

22 (1) IN GENERAL.—The Agency shall conduct an assessment of each significant
23 rule or order adopted by the Agency under this title, under the authorities transferred

1 under subtitles F and H or pursuant to any enumerated consumer law that addresses,
2 among other relevant factors, the effectiveness of the rule in meeting the purposes and
3 objectives of this Act and the specific goals stated by the Agency. The assessment shall
4 reflect available evidence and any data that the Agency reasonably may collect.

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

10 (3) PUBLIC COMMENTED REQUIRED.—Before publishing a report of its assessment,
11 the Agency shall invite public comment on recommendations for modifying, expanding,
12 or eliminating the newly adopted significant rule or order.

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

16 **SEC. 1025. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE**

17 **ARBITRATION.**

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

23 **SEC. 1026. EFFECTIVE DATE.**

1 This subtitle shall become effective on the designated transfer date.

2 **Subtitle C—Specific Authorities**

3 **SEC. 1031. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR** 4 **PRACTICES.**

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

9 (b) RULEMAKING REQUIRED.—The Agency may prescribe rules identifying as unlawful
10 unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer
11 for a consumer financial product or service. Rules under this section may include requirements
12 for the purpose of preventing such acts or practices.

13 (c) UNFAIRNESS.—The Agency shall have no authority under this section to declare an
14 act or practice in connection with a transaction with a consumer for a consumer financial product
15 or service to be unlawful on the grounds that such act or practice is unfair unless the Agency has
16 a reasonable basis to conclude that the act or practice causes or is likely to cause substantial
17 injury to consumers which is not reasonably avoidable by consumers and such substantial injury
18 is not outweighed by countervailing benefits to consumers or to competition. In determining
19 whether an act or practice is unfair, the Agency may consider established public policies as
20 evidence to be considered with all other evidence.

21 (d) CONSULTATION.—In prescribing a rule under this section, the Agency shall consult
22 with the Federal banking agencies, or other Federal agencies, as appropriate, concerning the

1 consistency of the proposed rule with prudential, market, or systemic objectives administered by
2 such agencies.

3 **SEC. 1032. DISCLOSURES AND COMMUNICATIONS.**

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

7 (b) REASONABLE DISCLOSURES AND COMMUNICATIONS.—Subject to rules prescribed by
8 the Agency, a covered person shall, with respect to disclosures or communications regarding any
9 consumer financial product or service, make or provide to a consumer disclosures and
10 communications that—

11 (1) balance communication of the benefits of the product or service with
12 communication of significant risks and costs;

13 (2) prominently disclose the significant risks and costs, in reasonable proportion
14 to the disclosure of the benefits;

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

18 (4) comply with standards prescribed by the Agency.

19 (c) BASIS FOR RULEMAKING.—In prescribing rules under this section, the Agency shall
20 consider available evidence about consumer awareness, understanding of, and responses to
21 disclosures or communications about the risks, costs, and benefits of consumer financial products
22 or services.

23 (d) COMBINED MORTGAGE LOAN DISCLOSURE.—Within 1 year after the designated

1 transfer date, the Agency shall propose for public comment rules and model disclosures that
2 combine the disclosures required under the Truth in Lending Act and the Real Estate Settlement
3 Procedures Act into a single, integrated disclosure for mortgage loan transactions covered by
4 those laws, unless the Agency determines that any proposal issued by the Board of Governors
5 and the Department of Housing and Urban Development carries out the same purpose.

6 **SEC. 1033. SALES PRACTICES.**

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

11 **SEC. 1034. PILOT DISCLOSURES.**

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

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

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

22 **SEC. 1035. ADOPTING OPERATIONAL STANDARDS TO DETER UNFAIR,**
23 **DECEPTIVE, OR ABUSIVE PRACTICES.**

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

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

7 (2) registration, licensing, or certification;

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

10 (4) creating and maintaining records of transactions or accounts; or

11 (5) procedures and operations of the covered person relating to the provision of,
12 or maintenance of accounts for, consumer financial products or services.

13 (b) AGENCY AUTHORITY TO PRESCRIBE STANDARDS.—The Agency may prescribe rules
14 establishing minimum standards under this section for any class of covered persons other than
15 covered persons which are subject to the jurisdiction of a Federal banking agency or a
16 comparable State regulator. The Agency may enforce under subtitle E compliance with
17 standards adopted by the Agency or a State pursuant to this section for covered persons operating
18 in that State.

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

23 **SEC. 1036. STANDARD CONSUMER FINANCIAL PRODUCTS OR SERVICES.**

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

2 Subject to rules adopted by the Agency under this section, a standard consumer financial product
3 or service is one that—

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

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

7 (3) poses lower risks to consumers;

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

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

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

13 (1) IN GENERAL.—The Agency may adopt rules or issue guidance regarding the
14 offer of a standard consumer financial product or service at or before the time an
15 alternative consumer financial product or service is offered to a consumer, including:

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

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

20 (2) RULEMAKING REGARDING THE OFFERING OF STANDARD CONSUMER FINANCIAL
21 PRODUCTS OR SERVICES.—The Agency may not require a covered person to offer a
22 standard consumer financial product or service at or before the time an alternative
23 consumer financial product or service is offered to a consumer unless the Agency adopts

1 rules, after notice and comment, regarding the features or terms of the product or service.

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

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

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

9 **SEC. 1037. DUTIES.**

10 (a) IN GENERAL.—

11 (1) The Agency shall prescribe rules imposing duties on a covered person, or an
12 employee of a covered person, or an agent or independent contractor for a covered
13 person, who deals or communicates directly with consumers in the provision of a
14 consumer financial product or service, as the Agency deems appropriate or necessary to
15 ensure fair dealing with consumers.

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

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

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

1 (C) the consumer’s reliance on any advice from the covered person,
2 employee, agent, or independent contractor would be reasonable and justifiable
3 under the circumstances;

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

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

7 (3) DUTIES RELATING TO COMPENSATION PRACTICES .— The Agency may
8 prescribe rules establishing duties regarding compensation practices applicable to a
9 covered person, employee, agent, or independent contractor who deals or communicates
10 directly with a consumer in the provision of a consumer financial product or service for
11 the purpose of promoting fair dealing with consumers. The Agency shall not prescribe a
12 limit on the total dollar amount of compensation paid to any person.

13 (b) ADMINISTRATIVE PROCEEDINGS.—Any rule prescribed by the Agency under this
14 section shall be enforceable only by the Agency through an adjudication proceeding under
15 subtitle E or by a State regulator through an appropriate administrative proceeding as permitted
16 under State law. No action may be commenced in any court to enforce any requirement of a rule
17 prescribed under this section, and no court may exercise supplemental jurisdiction over a claim
18 asserted under a rule prescribed under this section based on allegations or evidence of conduct
19 that otherwise may be subject to such rule. The Agency, the Attorney General, or any State
20 attorney general or State regulator shall not be precluded from enforcing any other Federal or
21 State law against a person with respect to conduct that may be subject to a rule prescribed by the
22 Agency under this section.

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

1 applicable to—

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

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

9 **SEC. 1038. CONSUMER RIGHTS TO ACCESS INFORMATION.**

10 (a) IN GENERAL.—Subject to rules prescribed by the Agency, a covered person shall
11 make available to a consumer information in the control or possession of the covered person
12 concerning the consumer financial product or service that the consumer obtained from such
13 covered person including information relating to any transaction, series of transactions, or to the
14 account including costs, charges and usage data. The information shall be made available in an
15 electronic form usable by consumers.

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

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

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

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

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

3 (c) NO DUTY TO MAINTAIN RECORDS.—Nothing in this section shall be construed to
4 impose any duty on a covered person to maintain or keep any information about a consumer.

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

9 (e) CONSULTATION AND COORDINATION.—The Agency shall, when prescribing any rule
10 under this section, consult and coordinate with the Federal banking agencies and the Federal
11 Trade Commission to ensure that the rules—

12 (1) impose substantively similar requirements on covered persons;

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

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

17 **SEC. 1039. PROHIBITED ACTS.**

18 It shall be unlawful for any person to—

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

23 (2) fail or refuse to permit access to or copying of records, or fail or refuse to

1 establish or maintain records, or fail or refuse to make reports or provide information to
2 the Agency, as required by this title, an enumerated consumer law, or pursuant to the
3 authorities transferred by subtitles F and H, or any rule or order issued by the Agency
4 thereunder; or

5 (3) knowingly or recklessly provide substantial assistance to another person in
6 violation of the provisions of section 1031, or any rule or order issued under thereunder,
7 and any such person shall be deemed to be in violation of that section to the same extent
8 as the person to whom such assistance is provided.

9 **SEC. 1040. EFFECTIVE DATE.**

10 This subtitle shall become effective on the designated transfer date.

11 **Subtitle D—Preservation of State Law**

12 **SEC. 1041. RELATION TO STATE LAW.**

13 (a) IN GENERAL.—

14 (1) This title does not annul, alter, or affect, or exempt any person subject to the
15 provisions of this title from complying with, the laws, regulations, orders, or
16 interpretations, in effect in any State, except to the extent that such statute, regulation,
17 order, or interpretation is inconsistent with the provisions of this title and then only to the
18 extent of the inconsistency.

19 (2) GREATER PROTECTION UNDER STATE LAW.—For the purposes of this
20 subsection, a State statute, regulation, order, or interpretation is not inconsistent with the
21 provisions of this title if the protection such statute, regulation, order, or interpretation
22 affords consumers is greater than the protection provided under this title, as determined

1 by the Agency. A determination regarding whether a State statute, regulation, order, or
2 interpretation is inconsistent with the provisions of this title may be made by rule, order
3 or guidance adopted by the Agency on its own motion or in response to a non-frivolous
4 petition initiated by any interested person.

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

9 **SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.**

10 (a) IN GENERAL.—

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

16 (2) Nothing in this title shall be construed to modify, limit or supersede the
17 operation of any provision of an enumerated consumer law that relates to the authority of
18 a State attorney general or State regulator to enforce such Federal law.

19 (b) CONSULTATION REQUIRED.—

20 (1) Before initiating any action in a court or other administrative or regulatory
21 proceeding against any covered person to enforce any provision of this title, including
22 any rule prescribed by the Agency thereunder, a State attorney general or State regulator
23 shall timely provide a copy of the complete complaint to be filed and written notice

1 describing such action or proceeding to the Agency, or the Agency’s designee. If prior
2 notice is not practicable, the State attorney general or State regulator shall provide a copy
3 of the complete complaint and the notice to the Agency immediately upon instituting the
4 action or proceeding. The notification required under this section shall, at a minimum,
5 describe:

6 (A) the identity of the parties;

7 (B) the alleged facts underlying the proceeding; and

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

11 (2) In any action described in paragraph (1), the Agency may—

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

13 (B) upon intervening—

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

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

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

19 (c) The Agency shall adopt rules to implement the requirements of this section and, from
20 time to time, provide guidance in order to further coordinate actions with the State attorneys
21 general and other regulators.

22 (d) PRESERVATION OF STATE CLAIMS.—Nothing in this section shall be construed as
23 limiting the authority of a State attorney general or State regulator to bring an action or other

1 regulatory proceeding arising solely under the law of that State.

2 **SEC. 1043. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND**
3 **SUBSIDIARIES CLARIFIED.**

4 (a) IN GENERAL.—Chapter One of title LXII of the Revised Statutes of the United States
5 (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

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

8 “(a) DEFINITIONS.—For purposes of this section, the term

9 “(1) ‘national bank’ includes:

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

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

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

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

15 “(2) ‘affiliate’, ‘subsidiary’, ‘includes’, and ‘including’ have the same meaning as
16 in section 3 of the Federal Deposit Insurance Act.

17 “(3) ‘State consumer law’ means any law of a State that:

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

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

23 “(b) STATE CONSUMER LAWS OF GENERAL APPLICATION.—Notwithstanding any other

1 provision of Federal law and except as provided in subsection (c), any consumer protection
2 provision in State consumer laws of general application, including any law relating to unfair or
3 deceptive acts or practices, any consumer fraud law and repossession, foreclosure, and collection
4 law, shall apply to any national bank.

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

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

8 “(2) the State consumer law is inconsistent with provisions of Federal law other
9 than this title LXII, but only to the extent of the inconsistency (as determined in
10 accordance with the provision of the other Federal law). For this purpose, a State
11 consumer law is not inconsistent with Federal law if the protection the State consumer
12 law affords consumers is greater than the protection provided under Federal law as
13 determined by the Agency.

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

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

17 “(A) is applicable to State banks; and

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

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

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

4 “(B) the State consumer law is inconsistent with provisions of Federal law
5 other than this title LXII, but only to the extent of the inconsistency (as
6 determined in accordance with the provision of the other Federal law). For this
7 purpose, a State consumer law is not inconsistent with Federal law if the
8 protection the State consumer law affords consumers is greater than the protection
9 provided under Federal law as determined by the Agency.

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

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

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

21 (b) CLERICAL AMENDMENT.—The table of sections for chapter One of title LXII of the
22 Revised Statutes of the United States is amended by inserting after the item relating to section
23 5136B the following new item:

1 “5136C. State law preemption standards for national banks and subsidiaries clarified.”.

2 **SEC. 1044. VISITORIAL STANDARDS.**

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

5 “(h) VISITORIAL POWERS.—

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

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

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

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

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

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

1 **SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY**
2 **INSTITUTION SUBSIDIARIES.**

3 Section 5136C of the Revised Statutes of the United States (as added by section 1043 of
4 this Act) is amended by inserting after subsection (i) (as added by section 1044) the following
5 new subsection:

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

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

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

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

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

18 **SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS**
19 **ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.**

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

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

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

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

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

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

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

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

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

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

17 “(2) the State consumer law is inconsistent with provisions of Federal law other
18 than this title LXII, but only to the extent of the inconsistency (as determined in
19 accordance with the provision of the other Federal law). For this purpose, a State
20 consumer law is not inconsistent with Federal law if the protection the State consumer
21 law affords consumers is greater than the protection provided under Federal law as
22 determined by the Agency.

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

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

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

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

10 shall apply to any Federal savings association.

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

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

14 “(B) the State consumer law is inconsistent with provisions of Federal law other
15 than this title LXII, but only to the extent of the inconsistency (as determined in
16 accordance with the provision of the other Federal law). For this purpose, a State
17 consumer law is not inconsistent with Federal law if the protection the State consumer
18 law affords consumers is greater than the protection provided under Federal law as
19 determined by the Agency.

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

23 “(f) EFFECT OF TRANSFER OF TRANSACTION.—State consumer law applicable to a

1 transaction at the inception of the transaction may not be preempted under Federal law solely
2 because a Federal savings association subsequently acquires the asset or instrument that is the
3 subject of the transaction.

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

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

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

13 **SEC. 1047. VISITORIAL STANDARDS.**

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

16 “(h) VISITORIAL POWERS.—

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

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

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

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

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

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

10 **SEC. 1048. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY**
11 **INSTITUTION SUBSIDIARIES.**

12 Section 6 of the Home Owners' Loan Act (as added by section 1046 of this title) is
13 amended by adding after subsection (i) (as added by section 1047) the following new subsection:

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

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

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

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

23 “(2) IN GENERAL.—No provision of this title shall be construed as preempting the

1 applicability of State law to any nondepository institution, subsidiary, other affiliate, or
2 agent of a Federal savings association.”.

3 **SEC. 1049. EFFECTIVE DATE.**

4 This subtitle shall become effective on the designated transfer date.

5 **Subtitle E—Enforcement Powers**

6 **SEC. 1051. DEFINITIONS.**

7 For purposes of this subtitle—

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

10 (2) AGENCY INVESTIGATION.—The term “Agency investigation” means any
11 inquiry conducted by an Agency investigator for the purpose of ascertaining whether any
12 person is or has been engaged in any conduct that violates this title, any enumerated
13 consumer law, or any rule or order promulgated by the Agency thereunder or under the
14 authorities transferred under subtitles F and H.

15 (3) AGENCY INVESTIGATOR.—The term “Agency investigator” means any attorney
16 or investigator employed by the Agency who is charged with the duty of enforcing or
17 carrying into effect any provisions of this title, any enumerated consumer law, the
18 authorities transferred under subtitles F and H, or any rule or order promulgated
19 thereunder by the Agency.

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

22 (5) DOCUMENTARY MATERIAL.—The term “documentary material” includes the

1 original or any copy of any book, record, report, memorandum, paper, communication,
2 tabulation, chart, or other document.

3 (6) VIOLATION.—The term “violation” means any act or omission that, if proved,
4 would constitute a violation of any provision of this title, any enumerated consumer law,
5 any law for which authorities were transferred under subtitles F and H, or of any rule or
6 order prescribed by the Agency thereunder.

7 **SEC. 1052. INVESTIGATIONS AND ADMINISTRATIVE DISCOVERY.**

8 (a) SUBPOENAS.—

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

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

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

20 (b) DEMANDS.—

21 (1) IN GENERAL.—Whenever the Agency has reason to believe that any person
22 may be in possession, custody, or control of any documentary material or tangible things,
23 or may have any information, relevant to a violation, the Agency may, before the

1 institution of any proceedings under this title or under any enumerated consumer law or
2 pursuant to the authorities transferred under subtitles F and H, issue in writing, and cause
3 to be served upon such person, a civil investigative demand requiring such person to—

4 (A) produce such documentary material for inspection and copying or
5 reproduction;

6 (B) submit such tangible things;

7 (C) file written reports or answers to questions;

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

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

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

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

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

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

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

23 (4) PRODUCTION OF THINGS.—Each civil investigative demand for the

1 submission of tangible things shall—

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

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

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

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

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

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

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

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

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

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

23 (7) SERVICE.—

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

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

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

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

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

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

23 (C) depositing a duly executed copy in the United States mails, by

1 registered or certified mail, return receipt requested, duly addressed to such
2 person at its principal office or place of business.

3 (9) PROOF OF SERVICE.—

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

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

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

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

1 been submitted to the custodian.

2 (12) SEPARATE ANSWERS.—Each reporting requirement or question in a civil
3 investigative demand shall be answered separately and fully in writing under oath, unless
4 it is objected to, in which event the reasons for the objection shall be stated in lieu of an
5 answer, and it shall be submitted under a sworn certificate, in such form as the demand
6 designates, by the person, if a natural person, to whom the demand is directed or, if not a
7 natural person, by any person responsible for answering each reporting requirement or
8 question, to the effect that all information required by the demand and in the possession,
9 custody, control, or knowledge of the person to whom the demand is directed has been
10 submitted.

11 (13) TESTIMONY.—

12 (A) IN GENERAL.—Any Agency investigator before whom oral testimony
13 is to be taken shall put the witness on oath or affirmation and shall personally, or
14 by any individual acting under his direction and in his presence, record the
15 testimony of the witness.

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

17 (ii) After the testimony is fully transcribed, the Agency
18 investigator before whom the testimony is taken shall promptly transmit a
19 copy of the transcript of the testimony to the custodian.

20 (B) PARTIES PRESENT.—Any Agency investigator before whom oral
21 testimony is to be taken shall exclude from the place where the testimony is to be
22 taken all other persons except the person giving the testimony, his or her attorney,
23 the officer before whom the testimony is to be taken, and any stenographer taking

1 such testimony.

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

7 (D) ATTORNEY REPRESENTATION.—

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

11 (ii) The attorney may advise such person, in confidence, either
12 upon the request of such person or upon the initiative of the attorney, with
13 respect to any question asked of such person.

14 (iii) Such person or attorney may object on the record to any
15 question, in whole or in part, and shall briefly state for the record the
16 reason for the objection.

17 (iv) An objection may properly be made, received, and entered
18 upon the record when it is claimed that such person is entitled to refuse to
19 answer the question on grounds of any constitutional or other legal right or
20 privilege, including the privilege against self-incrimination, but such
21 person shall not otherwise object to or refuse to answer any question, and
22 shall not himself or through his attorney otherwise interrupt the oral
23 examination.

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

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

8 (E) TRANSCRIPTS.—

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

12 (ii) The transcript shall be read to or by the witness, unless such
13 examination and reading are waived by the witness.

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

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

21 (v) If the transcript is not signed by the witness during the 30-day
22 period following the date upon which the witness is first afforded a
23 reasonable opportunity to examine it, the Agency investigator shall sign

1 the transcript and state on the record the fact of the waiver, illness,
2 absence of the witness, or the refusal to sign, together with any reasons
3 given for the failure to sign.

4 (F) CERTIFICATION BY INVESTIGATOR.—The Agency investigator shall
5 certify on the transcript that the witness was duly sworn by him or her and that the
6 transcript is a true record of the testimony given by the witness, and the Agency
7 investigator shall promptly deliver the transcript or send it by registered or
8 certified mail to the custodian.

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

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

17 (c) CONFIDENTIAL TREATMENT OF DEMAND MATERIAL.—

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

21 (2) DISCLOSURE TO CONGRESS.—No rule established by the Agency regarding
22 the confidentiality of materials submitted to, or otherwise obtained by, the Agency shall
23 be intended to prevent disclosure to either House of Congress or to an appropriate

1 committee of the Congress, except that the Agency is permitted to adopt rules allowing
2 prior notice to any party that owns or otherwise provided the material to the Agency and
3 had designated such material as confidential.

4 (d) PETITION FOR ENFORCEMENT.—

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

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

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

16 (1) IN GENERAL.—Not later than 20 days after the service of any civil
17 investigative demand upon any person under subsection (b), or at any time before the
18 return date specified in the demand, whichever period is shorter, or within such period
19 exceeding 20 days after service or in excess of such return date as may be prescribed in
20 writing, subsequent to service, by any Agency investigator named in the demand, such
21 person may file with the Agency a petition for an order by the Agency modifying or
22 setting aside the demand.

23 (2) COMPLIANCE DURING PENDENCY.—The time permitted for compliance with

1 the demand in whole or in part, as deemed proper and ordered by the Agency, shall not
2 run during the pendency of such petition at the Agency, except that such person shall
3 comply with any portions of the demand not sought to be modified or set aside.

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

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

15 (g) JURISDICTION OF COURT.—

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

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

22 **SEC. 1053. HEARINGS AND ADJUDICATION PROCEEDINGS.**

23 (a) IN GENERAL.—The Agency is authorized to conduct hearings and adjudication

1 proceedings with respect to any person in the manner prescribed by chapter 5 of title 5, United
2 States Code in order to ensure or enforce compliance with—

3 (1) the provisions of this title, including any rules prescribed by the Agency under
4 this title; and

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

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

10 (1) IN GENERAL.—If, in the opinion of the Agency, any covered person is
11 engaging or has engaged in an activity that violates a law, rule, or any condition imposed
12 in writing on the person by the Agency, the Agency may issue and serve upon the person
13 a notice of charges in respect thereof. The notice shall contain a statement of the facts
14 constituting the alleged violation or violations and shall fix a time and place at which a
15 hearing will be held to determine whether an order to cease and desist there from should
16 issue against the person. Such hearing shall be fixed for a date not earlier than 30 days
17 nor later than 60 days after service of such notice unless an earlier or a later date is set by
18 the Agency at the request of any party so served. Unless the party or parties so served
19 shall appear at the hearing personally or by a duly authorized representative, they shall be
20 deemed to have consented to the issuance of the cease-and-desist order. In the event of
21 such consent, or if upon the record made at any such hearing, the Agency shall find that
22 any violation specified in the notice of charges has been established, the Agency may
23 issue and serve upon the person an order to cease and desist from any such violation or

1 practice. Such order may, by provisions which may be mandatory or otherwise, require
2 the person to cease and desist from the same, and, further, to take affirmative action to
3 correct the conditions resulting from any such violation.

4 (2) EFFECTIVENESS OF ORDER.—A cease-and-desist order shall become effective
5 at the expiration of 30 days after the service of such order upon the covered person
6 concerned (except in the case of a cease-and-desist order issued upon consent, which
7 shall become effective at the time specified therein), and shall remain effective and
8 enforceable as provided therein, except to such extent as it is stayed, modified,
9 terminated, or set aside by action of the Agency or a reviewing court.

10 (3) DECISION AND APPEAL.—Any hearing provided for in this subsection shall be
11 held in the Federal judicial district or in the territory in which the residence or home
12 office of the person is located unless the person consents to another place, and shall be
13 conducted in accordance with the provisions of chapter 5 of title 5 of the United States
14 Code. After such hearing, and within 90 days after the Agency has notified the parties
15 that the case has been submitted to it for final decision, it shall render its decision (which
16 shall include findings of fact upon which its decision is predicated) and shall issue and
17 serve upon each party to the proceeding an order or orders consistent with the provisions
18 of this section. Judicial review of any such order shall be exclusively as provided in this
19 subsection. Unless a petition for review is timely filed in a court of appeals of the United
20 States, as hereinafter provided in paragraph (4), and thereafter until the record in the
21 proceeding has been filed as so provided, the Agency may at any time, upon such notice
22 and in such manner as it shall deem proper, modify, terminate, or set aside any such
23 order. Upon such filing of the record, the Agency may modify, terminate, or set aside

1 any such order with permission of the court.

2 (4) APPEAL TO COURT OF APPEALS.—Any party to any proceeding under this
3 subsection may obtain a review of any order served pursuant to this subsection (other
4 than an order issued with the consent of the person concerned) by the filing in the court
5 of appeals of the United States for the circuit in which the principal office of the covered
6 person is located, or in the United States Court of Appeals for the District of Columbia
7 Circuit, within 30 days after the date of service of such order, a written petition praying
8 that the order of the Agency be modified, terminated, or set aside. A copy of such
9 petition shall be forthwith transmitted by the clerk of the court to the Agency, and
10 thereupon the Agency shall file in the court the record in the proceeding, as provided in
11 section 2112 of title 28 of the United States Code. Upon the filing of such petition, such
12 court shall have jurisdiction, which upon the filing of the record shall except as provided
13 in the last sentence of paragraph (3) be exclusive, to affirm, modify, terminate, or set
14 aside, in whole or in part, the order of the agency. Review of such proceedings shall be
15 had as provided in chapter 7 of title 5 of the United States Code. The judgment and
16 decree of the court shall be final, except that the same shall be subject to review by the
17 Supreme Court upon certiorari, as provided in section 1254 of title 28 of the United
18 States Code.

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

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

23 (1) IN GENERAL.—Whenever the Agency determines that the violation specified

1 in the notice of charges served upon a person pursuant to subsection (b), or the
2 continuation thereof, is likely to cause the person to be insolvent or otherwise prejudice
3 the interests of consumers before the completion of the proceedings conducted pursuant
4 to subsection (b), the Agency may issue a temporary order requiring the covered person
5 to cease and desist from any such violation or practice and to take affirmative action to
6 prevent or remedy such insolvency or other condition pending completion of such
7 proceedings. Such order may include any requirement authorized under this subtitle.
8 Such order shall become effective upon service upon the person and, unless set aside,
9 limited, or suspended by a court in proceedings authorized by paragraph (2) of this
10 subsection, shall remain effective and enforceable pending the completion of the
11 administrative proceedings pursuant to such notice and until such time as the Agency
12 shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued
13 against the person, until the effective date of such order.

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

22 (3) INCOMPLETE OR INACCURATE RECORDS.—

23 (A) TEMPORARY ORDER.—If a notice of charges served under subsection

1 (b) specifies, on the basis of particular facts and circumstances, that a person's
2 books and records are so incomplete or inaccurate that the Agency is unable to
3 determine the financial condition of that person or the details or purpose of any
4 transaction or transactions that may have a material effect on the financial
5 condition of that person, the Agency may issue a temporary order requiring—

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

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

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

13 (A)—

14 (i) shall become effective upon service; and

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

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

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

23 (d) SPECIAL RULES FOR ENFORCEMENT OF ORDERS.—

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

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

10 (e) RULES.—The Agency shall prescribe rules establishing such procedures as may be
11 necessary to carry out this section.

12 **SEC. 1054. LITIGATION AUTHORITY.**

13 (a) IN GENERAL.—If any person violates a provision of this title, any enumerated
14 consumer law, any law for which authorities were transferred under subtitles F and H, or any rule
15 or order prescribed by the Agency thereunder, then the Agency may commence a civil action
16 against such person to impose a civil penalty or to seek all appropriate legal or equitable relief
17 including a permanent or temporary injunction as permitted by law.

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

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

23 (d) NOTICE TO THE ATTORNEY GENERAL.—When commencing a civil action under this

1 title, any enumerated consumer law, any law for which authorities were transferred under
2 subtitles F and H, or any rule thereunder, the Agency shall notify the Attorney General.

3 (e) APPEARANCE BEFORE THE SUPREME COURT.—The Agency may represent itself in its
4 own name before the Supreme Court of the United States, provided that the Agency makes a
5 written request to the Attorney General within the 10-day period which begins on the date of
6 entry of the judgment which would permit any party to file a petition for writ of certiorari, and
7 the Attorney General concurs with such request or fails to take action within 60 days of the
8 Agency’s request.

9 (f) FORUM.—Any civil action brought under this title may be brought in a United States
10 district court or in any court of competent jurisdiction of a state in a district in which the
11 defendant is located or resides or is doing business, and such court shall have jurisdiction to
12 enjoin such person and to require compliance with this title, any enumerated consumer law, any
13 law for which authorities were transferred under subtitles F and H, or rule or order of the Agency
14 thereunder.

15 (g) TIME FOR BRINGING ACTION.—

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

18 (2) LIMITATIONS UNDER OTHER FEDERAL LAWS.—

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

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

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

4 **SEC. 1055. RELIEF AVAILABLE.**

5 (a) ADMINISTRATIVE PROCEEDINGS OR COURT ACTIONS.—

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

14 (2) RELIEF.—Such relief may include and without limitation—

15 (A) rescission or reformation of contracts;

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

17 (C) restitution;

18 (D) compensation for unjust enrichment;

19 (E) payment of damages;

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

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

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

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

3 (b) RECOVERY OF COSTS.—In any action brought by the Agency to enforce any provision
4 of this title, any enumerated consumer law, any law for which authorities were transferred by
5 subtitles F and H, or any rule or order prescribed by the Agency thereunder, the Agency may
6 recover its costs in connection with prosecuting such action if the Agency is the prevailing party
7 in the action.

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

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

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

15 (B) SECOND TIER.—Notwithstanding paragraph (A), for any violation of a
16 rule prescribed under section 1036 or for any person that recklessly engages in a
17 violation of this title, any enumerated consumer law, or any rule or order
18 prescribed under this title, relating to the provision of an alternative consumer
19 financial product or service, a civil penalty shall not exceed \$25,000 for each day
20 during which such violation continues.

21 (C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), for any
22 person that knowingly violates this title, any enumerated consumer law, or a rule
23 or order prescribed under this title, a civil penalty shall not exceed \$1,000,000 for

1 each day during which such violation continues.

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

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

6 (B) the gravity of the violation;

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

9 (D) the history of previous violations; and

10 (E) such other matters as justice may require.

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

17 (4) NOTICE AND HEARING.—No civil penalty may be assessed with respect to a
18 violation of this title, any enumerated consumer law, or any rule or order prescribed by
19 the Agency, unless—

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

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

1 **SEC. 1056. REFERRALS FOR CRIMINAL PROCEEDINGS.**

2 Whenever the Agency obtains evidence that any person, either domestic or foreign, has
3 engaged in conduct that may constitute a violation of Federal criminal law, the Agency shall
4 have the power to transmit such evidence to the Attorney General, who may institute criminal
5 proceedings under appropriate law. Nothing in this section affects any other authority of the
6 Agency to disclose information.

7 **SEC. 1057. EMPLOYEE PROTECTION.**

8 (a) IN GENERAL.—No person shall terminate or in any other way discriminate against, or
9 cause to be terminated or discriminated against, any employee or any authorized representative
10 of employees by reason of the fact that such employee or representative has provided
11 information to the Agency, filed, instituted or caused to be filed or instituted any proceeding
12 under this title, any enumerated consumer law, or any law for which authorities were transferred
13 by subtitles F and H, or has testified or is about to testify in any proceeding resulting from the
14 administration or enforcement of the provisions of this title.

15 (b) AGENCY REVIEW OF TERMINATION.—Any employee or representative of employees
16 who believes that he has been terminated or otherwise discriminated against by any person in
17 violation of subsection (a) may, within 45 days after such alleged violation occurs, apply to the
18 Agency for review of such termination or alleged discrimination. A copy of the application shall
19 be sent to such person, who shall be the respondent. Upon receipt of such application, the
20 Agency shall cause such investigation to be made as the Agency deems appropriate. Such
21 investigation shall provide an opportunity for a public hearing at the request of any party to such
22 review to enable the parties to present information relating to such alleged violation. The parties
23 shall be given written notice of the time and place of the hearing at least five days prior to the

1 hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5, United
2 States Code. Upon receiving the report of such investigation, the Agency shall make findings of
3 fact. If the Agency finds that there is sufficient evidence in the record to conclude that such a
4 violation did occur, the Agency shall issue a decision, incorporating an order therein and the
5 Agency's findings, requiring the party committing such violation to take such affirmative action
6 to abate the violation as the Agency deems appropriate, including reinstating or rehiring the
7 employee or representative of employees to the former position with compensation. If the
8 Agency finds insufficient evidence to support the allegations made in the application, the Agency
9 shall deny the application. An order issued by the Agency under this subsection (b) shall be
10 subject to judicial review in the same manner as orders and decisions are subject to judicial
11 review under this title or any enumerated consumer law.

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

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

20 **SEC. 1058. EFFECTIVE DATE.**

21 This subtitle shall become effective on the designated transfer date.

22 **Subtitle F—Transfer of Functions and Personnel;**

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

1 duties that were vested in the Director of the Office of Thrift Supervision, relating
2 to consumer financial protection functions, on the day before the designated
3 transfer date.

4 (4) FEDERAL DEPOSIT INSURANCE CORPORATION

5 (A) TRANSFER OF FUNCTIONS.—All consumer financial protection
6 functions of the Federal Deposit Insurance Corporation are transferred to the
7 Agency.

8 (B) CORPORATION’S AUTHORITY.—The Agency shall have all powers and
9 duties that were vested in the Federal Deposit Insurance Corporation, relating to
10 consumer financial protection functions, on the day before the designated transfer
11 date.

12 (5) FEDERAL TRADE COMMISSION.—

13 (A) TRANSFER OF FUNCTIONS.—All consumer financial protection
14 functions of the Federal Trade Commission are transferred to the Agency.

15 (B) COMMISSION’S AUTHORITY.—The Agency shall have all powers and
16 duties that were vested in the Federal Trade Commission, relating to consumer
17 financial protection functions, on the day before the designated transfer date.

18 (6) NATIONAL CREDIT UNION ADMINISTRATION.—

19 (A) TRANSFER OF FUNCTIONS.—All consumer financial protection
20 functions of the National Credit Union Administration are transferred to the
21 Agency.

22 (B) NATIONAL CREDIT UNION ADMINISTRATION’S AUTHORITY.—The
23 Agency shall have all powers and duties that were vested in the National Credit

1 Union Administration, relating to consumer financial protection functions, on the
2 day before the designated transfer date.

3 (b) TRANSFERS OF FUNCTIONS SUBJECT TO BACKSTOP ENFORCEMENT AUTHORITY
4 REMAINING WITH TRANSFEROR AGENCIES.—The transfers of functions in subsection (a) shall not
5 affect the authority of the agencies identified in subsection (a) from initiating enforcement
6 proceedings under the circumstances described in section 1022(e)(3).

7 (c) TERMINATION OF AUTHORITY OF TRANSFEROR AGENCIES TO COLLECT FEES FOR
8 CONSUMER FINANCIAL PROTECTION PURPOSES.—Authorities of the agencies identified in
9 subsection (a) to assess and collect fees to cover the cost of conducting consumer financial
10 protection functions shall terminate on the day before the designated transfer date.

11 (d) “CONSUMER FINANCIAL PROTECTION FUNCTIONS” DEFINED—For purposes of this
12 subtitle, the term “consumer financial protection functions” means research, rulemaking,
13 issuance of orders or guidance, supervision, examination, and enforcement activities, powers,
14 and duties relating to the provision of consumer financial products or services, including the
15 authority to assess and collect fees for those purposes.

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

18 **SEC. 1062. DESIGNATED TRANSFER DATE.**

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

21 (1) shall, in consultation with the Chairman of the Board of Governors, the
22 Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal
23 Trade Commission, the Chairman of the National Credit Union Administration Board,

1 the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the
2 Director of the Office of Management and Budget, designate a single calendar date for
3 the transfer of functions to the Agency under section 1061; and

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

5 (b) CHANGING DESIGNATION.—The Secretary—

6 (1) may, in consultation with the Chairman of the Board of Governors, the
7 Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal
8 Trade Commission, the Chairman of the National Credit Union Administration Board,
9 the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the
10 Director of the Office of Management and Budget, change the date designated under
11 subsection (a); and

12 (2) shall publish notice of any changed designation in the Federal Register.

13 (c) PERMISSIBLE DATES.—

14 (1) IN GENERAL.—Except as provided in paragraph (2), any date designated under
15 this section shall be not earlier than 180 days nor later than 18 months after the date of
16 enactment of this Act.

17 (2) EXTENSION OF TIME.—The Secretary may designate a date that is later than 18
18 months after the date of enactment of this Act if the Secretary transmits to appropriate
19 committees of Congress—

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

22 (B) an explanation of why an extension is necessary for the orderly
23 implementation of this title; and

1 (C) a description of the steps that will be taken to effect an orderly and
2 timely implementation of this title within the extended time period.

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

5 **SEC. 1063. SAVINGS PROVISIONS.**

6 (a) BOARD OF GOVERNORS.—

7 (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section
8 1061(a)(1) shall not affect the validity of any right, duty, or obligation of the United
9 States, the Board of Governors (or any Federal reserve bank), or any other person that—

10 (A) arises under any provision of law relating to any consumer financial
11 protection function of the Board of Governors transferred to the Agency by this
12 title; and

13 (B) existed on the day before the designated transfer date.

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

20 (b) FEDERAL DEPOSIT INSURANCE CORPORATION.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section
22 1061(a)(4) shall not affect the validity of any right, duty, or obligation of the United
23 States, the Federal Deposit Insurance Corporation, the Board of Directors of that

1 Corporation, or any other person, that—

2 (A) arises under any provision of law relating to any consumer financial
3 protection function of the Federal Deposit Insurance Corporation transferred to
4 the Agency by this title; and

5 (B) existed on the day before the designated transfer date.

6 (2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding
7 commenced by or against the Federal Deposit Insurance Corporation (or the Board of
8 Directors of that Corporation) before the designated transfer date with respect to any
9 consumer financial protection function of the Federal Deposit Insurance Corporation
10 transferred to the Agency by this title, except that the Agency shall be substituted for the
11 Federal Deposit Insurance Corporation (or Board of Directors) as a party to any such
12 proceeding as of the designated transfer date.

13 (c) FEDERAL TRADE COMMISSION.—

14 (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section
15 1061(a)(5) shall not affect the validity of any right, duty, or obligation of the United
16 States, the Federal Trade Commission, or any other person, that—

17 (A) arises under any provision of law relating to any consumer financial
18 protection function of the Federal Trade Commission transferred to the Agency
19 by this title; and

20 (B) existed on the day before the designated transfer date.

21 (2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding
22 commenced by or against the Federal Trade Commission before the designated transfer
23 date with respect to any consumer financial protection function of the Federal Trade

1 Commission transferred to the Agency by this title, except that the Agency shall be
2 substituted for the Federal Trade Commission as a party to any such proceeding as of the
3 designated transfer date.

4 (d) NATIONAL CREDIT UNION ADMINISTRATION.—

5 (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section
6 1061(a)(6) shall not affect the validity of any right, duty, or obligation of the United
7 States, the National Credit Union Administration, the National Credit Union
8 Administration Board, or any other person, that—

9 (A) arises under any provision of law relating to any consumer financial
10 protection function of the National Credit Union Administration transferred to the
11 Agency by this title; and

12 (B) existed on the day before the designated transfer date.

13 (2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding
14 commenced by or against the National Credit Union Administration (or the National
15 Credit Union Administration Board) before the designated transfer date with respect to
16 any consumer financial protection function of the National Credit Union Administration
17 transferred to the Agency by this title, except that the Agency shall be substituted for the
18 National Credit Union Administration (or National Credit Union Administration Board)
19 as a party to any such proceeding as of the designated transfer date.

20 (e) OFFICE OF THE COMPTROLLER OF THE CURRENCY.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section
22 1061(a)(2) shall not affect the validity of any right, duty, or obligation of the United
23 States, the Comptroller of the Currency, the Office of the Comptroller of the Currency, or

1 any other person, that—

2 (A) arises under any provision of law relating to any consumer financial
3 protection function of the Comptroller of the Currency transferred to the Agency
4 by this title; and

5 (B) existed on the day before the designated transfer date.

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

13 (f) OFFICE OF THRIFT SUPERVISION.—

14 (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section
15 1061(a)(3) shall not affect the validity of any right, duty, or obligation of the United
16 States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision,
17 or any other person, that—

18 (A) arises under any provision of law relating to any consumer financial
19 protection function of the Director of the Office of Thrift Supervision transferred
20 to the Agency by this title; and

21 (B) that existed on the day before the designated transfer date.

22 (2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding
23 commenced by or against the Director of the Office of Thrift Supervision (or the Office

1 of Thrift Supervision) with respect to any consumer financial protection function of the
2 Director of the Office of Thrift Supervision transferred to the Agency by this title before
3 the designated transfer date, except that the Agency shall be substituted for the Director
4 (or the Office of Thrift Supervision) as a party to any such proceeding as of the
5 designated transfer date.

6 (g) CONTINUATION OF EXISTING ORDERS, RULES, DETERMINATIONS, AGREEMENTS, AND
7 RESOLUTIONS.—All orders, resolutions, determinations, agreements, and rules that have been
8 issued, made, prescribed, or allowed to become effective by the Board of Governors (or any
9 Federal reserve bank), the Federal Deposit Insurance Corporation, the Federal Trade
10 Commission, the National Credit Union Administration, the Office of the Comptroller of the
11 Currency, or the Office of Thrift Supervision, or by a court of competent jurisdiction, in the
12 performance of consumer financial protection functions that are transferred by this title and that
13 are in effect on the day before the designated transfer date, shall continue in effect according to
14 the terms of those orders, resolutions, determinations, agreements, and rules, and shall be
15 enforceable by or against the Agency until modified, terminated, set aside, or superseded in
16 accordance with applicable law by the Agency, by any court of competent jurisdiction, or by
17 operation of law.

18 (h) IDENTIFICATION OF RULES CONTINUED.—Not later than the designated transfer date,
19 the Agency—

20 (1) shall, after consultation with the Chairman of the Board of Governors, the
21 Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal
22 Trade Commission, the Chairman of the National Credit Union Administration Board,
23 the Comptroller of the Currency, and the Director of the Office of Thrift Supervision,

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

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

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

4 (1) PROPOSED RULES.—Any proposed rule of the Board of Governors, the Federal
5 Deposit Insurance Corporation, the Federal Trade Commission, the National Credit
6 Union Administration, the Office of the Comptroller of the Currency, or the Office of
7 Thrift Supervision, which that agency, in performing consumer financial protection
8 functions transferred by this title, has proposed before the designated transfer date but has
9 not published as a final rule before that date, shall be deemed to be a proposed rule of the
10 Agency.

11 (2) RULES NOT YET EFFECTIVE.—Any interim or final rule of Board of Governors,
12 the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National
13 Credit Union Administration, the Office of the Comptroller of the Currency, or the Office
14 of Thrift Supervision, which that agency, in performing consumer financial protection
15 functions transferred by this title, has published before the designated transfer date but
16 which has not become effective before that date, shall become effective as a rule of the
17 Agency according to its terms.

18 **SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.**

19 (a) IN GENERAL.—

20 (1) CERTAIN FEDERAL RESERVE SYSTEM EMPLOYEES TRANSFERRED.—

21 (A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Agency and the Board
22 of Governors shall—

23 (i) jointly determine the number of employees of the Board

1 necessary to perform or support the consumer financial protection
2 functions of the Board of Governors that are transferred to the Agency by
3 this title; and

4 (ii) consistent with the number determined under clause (i), jointly
5 identify employees of the Board of Governors for transfer to the Agency
6 in a manner that the Agency and the Board of Governors, in their sole
7 discretion, deem equitable.

8 (B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Board
9 of Governors identified under subparagraph (A)(ii) shall be transferred to the
10 Agency for employment.

11 (C) FEDERAL RESERVE BANK EMPLOYEES.—Employees of any Federal
12 reserve bank who, on the day before the designated transfer date, are performing
13 consumer financial protection functions on behalf of the Board of Governors shall
14 be treated as employees of the Board of Governors for purposes of subparagraphs
15 (A) and (B).

16 (2) CERTAIN FDIC EMPLOYEES TRANSFERRED.—

17 (A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Agency and the Board
18 of Directors of the Federal Deposit Insurance Corporation shall—

19 (i) jointly determine the number of employees of that Corporation
20 necessary to perform or support the consumer financial protection
21 functions of the Corporation that are transferred to the Agency by this
22 title; and

23 (ii) consistent with the number determined under clause (i), jointly

1 identify employees of the Corporation for transfer to the Agency in a
2 manner that the Agency and the Board of Directors of the Corporation, in
3 their sole discretion, deem equitable.

4 (B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Corporation
5 identified under subparagraph (A)(ii) shall be transferred to the Agency for employment.

6 (3) CERTAIN NCUA EMPLOYEES TRANSFERRED.—

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

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

13 (ii) consistent with the number determined under clause (i), jointly
14 identify employees of the National Credit Union Administration for
15 transfer to the Agency in a manner that the Agency and the National
16 Credit Union Administration Board, in their sole discretion, deem
17 equitable.

18 (B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the
19 National Credit Union Administration identified under subparagraph (A)(ii) shall
20 be transferred to the Agency for employment.

21 (3) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE AND SENIOR EXECUTIVE
22 SERVICE TRANSFERRED.—

23 (A) IN GENERAL.—In the case of employees occupying positions in the

1 excepted service or the Senior Executive Service, any appointment authority
2 established pursuant to law or regulations of the Office of Personnel Management
3 for filling such positions shall be transferred, subject to subparagraph (B).

4 (B) DECLINING TRANSFERS ALLOWED.—An agency or entity may decline
5 to make a transfer of authority under subparagraph (A) (and the employees
6 appointed pursuant thereto) to the extent that such authority relates to positions
7 excepted from the competitive service because of their confidential, policy-
8 making, policy-determining, or policy-advocating character, and non-career
9 positions in the Senior Executive Service (within the meaning of section
10 3132(a)(7) of title 5, United States Code).

11 (b) TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.—Each employee to be
12 transferred under this section shall—

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

14 (2) receive notice of his or her position assignment not later than 120 days after
15 the effective date of his or her transfer.

16 (c) TRANSFER OF FUNCTION.—

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

20 (2) PRIORITY OF THIS TITLE.—If any provisions of this title conflict with any
21 protection provided to transferred employees under section 3503 of title 5, United States
22 Code, the provisions of this title shall control.

23 (d) EQUAL STATUS AND TENURE POSITIONS.—

1 (1) EMPLOYEES TRANSFERRED FROM FDIC, FTC, NCUA, OCC, AND OTS.—Each
2 employee transferred from the Federal Deposit Insurance Corporation, the Federal Trade
3 Commission, the National Credit Union Administration, the Office of the Comptroller of
4 the Currency, or the Office of Thrift Supervision shall be placed in a position at the
5 Agency with the same status and tenure as he or she held on the day before the
6 designated transfer date.

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

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

13 (B) SERVICE PERIODS CREDITED.—For purposes of this paragraph, periods
14 of service with the Board of Governors or a Federal reserve bank shall be credited
15 as periods of service with a Federal agency.

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

20 (f) PERSONNEL ACTIONS LIMITED.—

21 (1) 1-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred
22 employee holding a permanent position on the day before the designated transfer date
23 shall not, during the 1-year period beginning on the designated transfer date, be

1 involuntarily separated, or involuntarily reassigned outside his or her local locality pay
2 area as defined by the Office of Personnel Management.

3 (2) EXCEPTIONS.—Paragraph (1) does not limit the right of the Agency to—

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

5 (B) terminate an appointment to a position excepted from the competitive
6 service because of its confidential policy-making, policy-determining, or policy-
7 advocating character; or

8 (C) reassign a supervisory employee outside his or her locality pay area as
9 defined by the Office of Personnel Management when the Agency determines that
10 the reassignment is necessary for the efficient operation of the Agency.

11 (g) PAY.—

12 (1) 1-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred
13 employee shall, during the 1-year period beginning on the designated transfer date,
14 receive pay at a rate not less than the basic rate of pay (including any geographic
15 differential) that the employee received during the 1-year period immediately before the
16 transfer.

17 (2) EXCEPTIONS.—Paragraph (1) does not limit the Agency’s right to reduce a
18 transferred employee’s rate of basic pay—

19 (A) for cause;

20 (B) for unacceptable performance; or

21 (C) with the employee’s consent.

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

1 (4) PAY INCREASES PERMITTED.—Paragraph (1) does not limit the authority of the
2 Agency to increase a transferred employee’s pay.

3 (h) REORGANIZATION.—

4 (1) BETWEEN 1ST AND 3RD YEAR.—

5 (A) IN GENERAL.—If the Agency determines, during the period beginning
6 1 year after the designated transfer date and ending 3 years after the designated
7 transfer date, that a reorganization of the staff of the Agency is required—

8 (i) that reorganization shall be deemed a “major reorganization”
9 for purposes of affording affected employees retirement under section
10 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code;

11 (ii) before the reorganization occurs, all employees in the same
12 locality pay area as defined by the Office of Personnel Management shall
13 be placed in a uniform position classification system; and

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

17 (I) establish competitive areas (as that term is defined in
18 regulations issued by the Office of Personnel Management) to
19 include at a minimum all employees in the same locality pay area
20 as defined by the Office of Personnel Management;

21 (II) establish competitive levels (as that term is defined in
22 regulations issued by the Office of Personnel Management)
23 without regard to whether the particular employees have been

1 appointed to positions in the competitive service or the excepted
2 service; and

3 (III) afford employees appointed to positions in the
4 excepted service (other than to a position excepted from the
5 competitive service because of its confidential policy-making,
6 policy-determining, or policy-advocating character) the same
7 assignment rights to positions within the Agency as employees
8 appointed to positions in the competitive service.

9 (B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this
10 paragraph, periods of service with a Federal home loan bank, a joint office of the
11 Federal home loan banks, the Board of Governors, a Federal reserve bank, the
12 Federal Deposit Insurance Corporation, or the National Credit Union
13 Administration shall be credited as periods of service with a Federal agency.

14 (2) AFTER 3RD YEAR.—

15 (A) IN GENERAL.—If the Agency determines, at any time after the 3-year
16 period beginning on the designated transfer date, that a reorganization of the staff
17 of the Agency is required, any resulting reduction in force shall be governed by
18 the provisions of chapter 35 of title 5, United States Code, except that the Agency
19 shall establish competitive levels (as that term is defined in regulations issued by
20 the Office of Personnel Management) without regard to types of appointment held
21 by particular employees transferred under this section.

22 (B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this
23 paragraph, periods of service with a Federal home loan bank, a joint office of the

1 Federal home loan banks, the Board of Governors, a Federal reserve bank, the
2 Federal Deposit Insurance Corporation, or the National Credit Union
3 Administration shall be credited as periods of service with a Federal agency.

4 (i) BENEFITS.—

5 (1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

6 (A) IN GENERAL.—

7 (i) CONTINUATION OF EXISTING RETIREMENT PLAN.—Except as
8 provided in subparagraph (B), each transferred employee shall remain
9 enrolled in his or her existing retirement plan as long as he or she remains
10 employed by the Agency.

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

14 (B) OPTION FOR EMPLOYEES TRANSFERRED FROM FEDERAL RESERVE
15 SYSTEM TO BE SUBJECT TO FEDERAL EMPLOYEE RETIREMENT PROGRAM.—

16 (i) ELECTION.—Any transferred employee who was enrolled in a
17 Federal Reserve System retirement plan on the day before his or her
18 transfer to the Agency may, during the period beginning 6 months after
19 the designated transfer date and ending 1 year after the designated transfer
20 date, elect to be subject to the Federal employee retirement program.

21 (ii) EFFECTIVE DATE OF COVERAGE.—For any employee making an
22 election under clause (i), coverage by the Federal employee retirement
23 program shall begin 1 year after the designated transfer date.

1 (C) AGENCY PARTICIPATION IN FEDERAL RESERVE SYSTEM RETIREMENT
2 PLAN.

3 (i) SEPARATE ACCOUNT IN FEDERAL RESERVE SYSTEM RETIREMENT
4 PLAN ESTABLISHED.—A separate account in the Federal Reserve System
5 retirement plan shall be established for Agency employees who do not
6 make the election under subparagraph (B).

7 (ii) FUNDS ATTRIBUTABLE TO TRANSFERRED EMPLOYEES
8 REMAINING IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN
9 TRANSFERRED.—The proportionate share of funds in the Federal Reserve
10 System retirement plan, including the proportionate share of any funding
11 surplus in that plan, attributable to a transferred employee who does not
12 make the election under subparagraph (B), shall be transferred to the
13 account established under clause (i).

14 (iii) EMPLOYER CONTRIBUTIONS DEPOSITED.—The Agency shall
15 deposit into the account established under clause (i) the employer
16 contributions that the Agency makes on behalf of employees who do not
17 make the election under subparagraph (B).

18 (iv) ACCOUNT ADMINISTRATION.—The Agency shall administer the
19 account established under clause (i) as a participating employer in the
20 Federal Reserve System retirement plan.

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

23 (i) the term “existing retirement plan” means, with respect to any

1 employee transferred under this section, the particular retirement plan
2 (including the Financial Institutions Retirement Fund) and any associated
3 thrift savings plan of the agency or Federal reserve bank from which the
4 employee was transferred, which the employee was enrolled in on the day
5 before the designated transfer date.

6 (ii) The term "Federal employee retirement program" means the
7 retirement program for Federal employees established by chapters 83 and
8 84 of title 5, United States Code.

9 (2) BENEFITS OTHER THAN RETIREMENT BENEFITS FOR TRANSFERRED

10 EMPLOYEES.—

11 (A) DURING 1ST YEAR.—

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

18 (ii) EMPLOYER'S CONTRIBUTION.—The Agency shall reimburse the
19 agency or bank from which an employee was transferred for any cost
20 incurred by that agency or bank in continuing to extend coverage in the
21 benefit program to the employee as required under that program or
22 negotiated agreements.

23 (B) DENTAL, VISION, OR LIFE INSURANCE AFTER 1ST YEAR.—If, after the 1-

1 year period beginning on the designated transfer date, the Agency decides not to
2 continue participation in any dental, vision, or life insurance program of an
3 agency or bank from which employees transferred, a transferred employee who is
4 a member of such a program may, before the Agency's decision takes effect, elect
5 to enroll, without regard to any regularly scheduled open season, in—

6 (i) the enhanced dental benefits established by chapter 89A of title
7 5, United States Code;

8 (ii) the enhanced vision benefits established by chapter 89B of title
9 5, United States Code; and

10 (iii) the Federal Employees Group Life Insurance Program
11 established by chapter 87 of title 5, United States Code, without regard to
12 any requirement of insurability.

13 (C) LONG TERM CARE INSURANCE AFTER 1ST YEAR.—If, after the 1-year
14 period beginning on the designated transfer date, the Agency decides not to
15 continue participation in any long term care insurance program of an agency or
16 bank from which employees transferred, a transferred employee who is a member
17 of such a program may, before the Agency's decision takes effect, elect to apply
18 for coverage under the Federal Long Term Care Insurance Program established by
19 chapter 90 of title 5, United States Code, under the underwriting requirements
20 applicable to a new active workforce member (as defined in Part 875, title 5, Code
21 of Federal Regulations).

22 (D) EMPLOYEE'S CONTRIBUTION.— An individual enrolled in the Federal
23 Employees Health Benefits program shall pay any employee contribution required

1 by the plan.

2 (E) ADDITIONAL FUNDING.—The Agency shall transfer to the Federal
3 Employees Health Benefits Fund established under section 8909 of title 5, United
4 States Code, an amount determined by the Director of the Office of Personnel
5 Management, after consultation with the Agency and the Office of Management
6 and Budget, to be necessary to reimburse the Fund for the cost to the Fund of
7 providing benefits under this subparagraph.

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

16 (E) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE
17 BENEFITS.—

18 (i) IN GENERAL.—An annuitant (as defined in section 8901(3) of
19 title 5, United States Code) who is enrolled in a life insurance plan
20 administered by the Board of Governors of the Federal Reserve System,
21 the Federal Deposit Insurance Corporation, the Federal Trade
22 Commission, the National Credit Union Administration, the Office of the
23 Comptroller of the Currency, or the Office of Thrift Supervision on the

1 day before the designated transfer date shall be eligible for coverage by a
2 life insurance plan under sections 8706(b), 8714a, 8714b, and 8714c of
3 title 5, United States Code, or in a life insurance plan established by the
4 Agency, without regard to any regularly scheduled open season and
5 requirement of insurability.

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

9 (iii) ADDITIONAL FUNDING.—The Agency shall transfer to the
10 Employees' Life Insurance Fund established under section 8714 of title 5,
11 United States Code, an amount determined by the Director of the Office of
12 Personnel Management, after consultation with the Agency and the Office
13 of Management and Budget, to be necessary to reimburse the Fund for the
14 cost to the Fund of providing benefits under this subparagraph not
15 otherwise paid for by the employee under clause (ii).

16 (iv) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees
17 transferred under this section, enrollment in a life insurance plan
18 administered by the Board of Governors, the Federal Deposit Insurance
19 Corporation, the Federal Trade Commission, the National Credit Union
20 Administration, the Office of the Comptroller of the Currency, the Office
21 of Thrift Supervision, or a Federal reserve bank immediately before
22 enrollment in a life insurance plan under chapter 87 of title 5, United
23 States Code, shall be considered as enrollment in a life insurance plan

1 under that chapter for purposes of section 8706(b)(1)(A) of title 5, United
2 States Code.

3 (j) IMPLEMENTATION OF UNIFORM PAY AND CLASSIFICATION SYSTEM.—Not later than 2
4 years after the designated transfer date, the Agency shall implement a uniform pay and
5 classification system for all transferred employees.

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

8 (1) shall take no action that would unfairly disadvantage transferred employees
9 relative to each other based on their prior employment by the Board of Governors, the
10 Federal Deposit Insurance Corporation, the Federal Trade Commission, the National
11 Credit Union Administration, the Office of the Comptroller of the Currency, the Office of
12 Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of
13 the Federal home loan banks; and

14 (2) may take such action as is appropriate in individual cases so that employees
15 transferred under this section receive equitable treatment, with respect to those
16 employees' status, tenure, pay, benefits (other than benefits under programs administered
17 by the Office of Personnel Management), and accrued leave or vacation time, for prior
18 periods of service with any Federal agency, including the Board of Governors of the
19 Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade
20 Commission, the National Credit Union Administration, the Office of the Comptroller of
21 the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home
22 loan bank, or a joint office of the Federal home loan banks.

23 (l) NO PRIVATE RIGHT OF ACTION.—This section does not provide any transferred

1 employee with any right of action to require the Agency or any officer or employee of the
2 Agency to take any action under this section.

3 (m) IMPLEMENTATION.—In implementing the provisions of this section, the Agency will
4 work with the Office of Personnel Management and other entities with expertise in matters
5 related to employment to ensure a fair and orderly transition for affected employees.

6 **SEC. 1065. INCIDENTAL TRANSFERS.**

7 (a) INCIDENTAL TRANSFERS AUTHORIZED.—The Director of the Office of Management
8 and Budget, in consultation with the Secretary, shall make such additional incidental transfers
9 and dispositions of assets and liabilities held, used, arising from, available, or to be made
10 available, in connection with the functions transferred by this title, as the Director may determine
11 necessary to accomplish the purposes of this title.

12 (b) SUNSET.—The authority provided in this section shall terminate 5 years after the date
13 of enactment of this Act.

14 **SEC. 1066 INTERIM AUTHORITY OF THE SECRETARY.**

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

18 (b) INTERIM ADMINISTRATIVE SERVICES BY THE DEPARTMENT OF THE TREASURY.—The
19 Department of the Treasury may provide administrative services necessary to support the
20 Agency before the designated transfer date.

21 (c) INTERIM FUNDING FOR THE DEPARTMENT OF THE TREASURY.—For the purposes of
22 carrying out the authorities granted in this section, there are appropriated to the Department of
23 the Treasury such sums as are necessary. Notwithstanding any other provision of law, such

1 amounts shall be subject to apportionment under section 1517 of title 31, United States Code,
2 and restrictions that generally apply to the use of appropriated funds in title 31, United States
3 Code, and other laws.

4 **Subtitle G—Regulatory Improvements**

5 **SEC. 1071. COLLECTION OF DEPOSIT ACCOUNT DATA.**

6 (a) PURPOSE.—The purpose of this section is to promote awareness and understanding of
7 the access of individuals and communities to financial services, and to identify business and
8 community development needs and opportunities.

9 (b) IN GENERAL.—

10 (1) RECORDS REQUIRED.—For each branch, automated teller machine at which
11 deposits are accepted, and other deposit taking service facility with respect to any
12 financial institution, the financial institution shall maintain records of the number and
13 dollar amounts of deposit accounts of customers.

14 (2) GEO-CODED ADDRESSES OF DEPOSITORS.—The customers' addresses shall be
15 geo-coded so that data shall be collected regarding the census tracts of the residence or
16 business location of the customers.

17 (3) IDENTIFICATION OF DEPOSITOR TYPE.—In maintaining records on any deposit
18 account under this section, the financial institution shall also record whether the deposit
19 account is for a residential or commercial customer.

20 (4) PUBLIC AVAILABILITY.—

21 (A) IN GENERAL.—The following information shall be publicly available
22 on an annual basis—

1 (i) the address and census tracts of each branch, automated teller
2 machine at which deposits are accepted, and other deposit taking service
3 facility with respect to any financial institution;

4 (ii) the type of deposit account including whether the account was
5 a checking or savings account; and

6 (iii) data on the number and dollar amounts of the accounts,
7 presented by census tract location of the residential and commercial
8 customers.

9 (B) PROTECTION OF IDENTITY.—In the publicly available data, any
10 personally identifiable data element shall be removed so as to protect the
11 identities of the commercial and residential customers.

12 (c) AVAILABILITY OF INFORMATION.—

13 (1) SUBMISSION TO AGENCIES.—The data required to be compiled and maintained
14 under this section by any financial institution shall be submitted annually to the Agency,
15 or to a Federal banking agency, in accordance with rules prescribed by the Agency.

16 (2) AVAILABILITY OF INFORMATION.—Information compiled and maintained
17 under this section shall be retained for not less than 3 years after the date of preparation
18 and shall be made available to the public, upon request, in the form required under rules
19 prescribed by the Agency.

20 (d) AGENCY USE.—The Agency—

21 (1) shall use the data on branches and deposit accounts acquired under this section
22 as part of the examination of a financial institution under the Community Reinvestment
23 Act of 1977;

1 (2) shall assess the distribution of residential and commercial accounts at such
2 financial institution across income and minority level of census tracts; and

3 (3) may use the data for any other purpose as permitted by law.

4 (e) RULES AND GUIDANCE.—The Agency shall prescribe such rules and issue guidance as
5 may be necessary to carry out, enforce, and compile data pursuant to this section. The Agency
6 shall prescribe rules regarding the provision of data compiled under this section to the Federal
7 banking agencies to carry out the purposes of this section and shall issue guidance to financial
8 institutions regarding measures to facilitate compliance with the this section and the
9 requirements of rules prescribed thereunder.

10 (f) DEFINITIONS.—For purposes of this section, the following definitions shall apply—

11 (1) AGENCY.—The term “Agency” means the Consumer Financial Protection
12 Agency.

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

16 (3) DEPOSIT ACCOUNT.—The term “deposit account” includes any checking
17 account, savings account, credit union share account, and other type of account as defined
18 by the Agency.

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

23 (5) FINANCIAL INSTITUTION.—The term “financial institution”—

1 (A) has the meaning given to the term “insured depository institution” in
2 section 3(c)(2) of the Federal Deposit Insurance Act; and

3 (B) includes any credit union.

4 (g) EFFECTIVE DATE.—This section shall become effective on the designated transfer
5 date.

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

8 (a) IN GENERAL.—The Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*) is amended
9 by inserting after section 704A the following new section—

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

11 “(a) PURPOSE.—The purpose of this provision is to facilitate enforcement of fair lending
12 laws and enable communities, governmental entities, and creditors to identify business and
13 community development needs and opportunities of women- and minority-owned small
14 businesses.

15 “(b) IN GENERAL.—Subject to the requirements of this section, in the case of any
16 application to a financial institution for credit for a small business, the financial institution
17 shall—

18 “(1) inquire whether the business is a women- or minority-owned business,
19 without regard to whether such application is received in person, by mail, by telephone,
20 by electronic mail or other form of electronic transmission, or by any other means and
21 whether or not such application is in response to a solicitation by the financial institution;
22 and

23 “(2) maintain a record of the responses to such inquiry separate from the

1 application and accompanying information.

2 “(c) RIGHT TO REFUSE.—Any applicant for credit may refuse to provide any information
3 requested pursuant to subsection (b) in connection with any application for credit.

4 “(d) NO ACCESS BY UNDERWRITERS.—

5 “(1) Where feasible, no loan underwriter or other officer or employee of a
6 financial institution, or any affiliate of a financial institution, involved in making any
7 determination concerning an application for credit shall have access to any information
8 provided by the applicant pursuant to a request under subsection (b) in connection with
9 such application.

10 “(2) If a financial institution determines that loan underwriter or other officer or
11 employee of a financial institution, or any affiliate of a financial institution, involved in
12 making any determination concerning an application for credit should have access to any
13 information provided by the applicant pursuant to a request under subsection (b), the
14 financial institution will provide notice to the applicant of the access of the underwriter to
15 this information, along with notice that the financial institution may not discriminate on
16 this basis of this information.

17 “(e) FORM AND MANNER OF INFORMATION.—

18 “(1) IN GENERAL.—Each financial institution shall compile and maintain, in
19 accordance with regulations of the Agency, a record of the information provided by any
20 loan applicant pursuant to a request under subsection (b).

21 “(2) ITEMIZED.—Information compiled and maintained under paragraph (1) shall
22 also be itemized in order to clearly and conspicuously disclose the following—

1 “(A) The number of the application and the date the application was
2 received;

3 “(B) The type and purpose of the loan or other credit being applied for;

4 “(C) The amount of the credit or credit limit applied for and the amount of
5 the credit transaction or the credit limit approved for such applicant;

6 “(D) The type of action taken with respect to such application and the date
7 of such action;

8 “(E) The census tract in which is located the principal place of business of
9 the small business loan applicant;

10 “(F) The gross annual revenue of the business in the last fiscal year of the
11 small business loan applicant preceding the date of the application;

12 “(G) The race and ethnicity of the principal owners of the business; and

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

15 “(3) NO PERSONALLY IDENTIFIABLE INFORMATION.—In compiling and maintaining
16 any record of information under this section, a financial institution may not include in
17 such record the name, specific address (other than the census tract required under
18 paragraph (1)(E)), telephone number, electronic mail address, and any other personally
19 identifiable information concerning any individual who is, or is connected with, the small
20 business loan applicant.

21 “(4) DISCRETION TO DELETE OR MODIFY PUBLICLY-AVAILABLE DATA.—The
22 Agency may, at its discretion, delete or modify data collected under this section which is
23 or will be available to the public if the Agency determines that the deletion or

1 modification of the data would advance a compelling privacy interest.

2 “(f) AVAILABILITY OF INFORMATION.—

3 “(1) SUBMISSION TO AGENCY.—The data required to be compiled and maintained
4 under this section by any financial institution shall be submitted annually to the Agency.

5 “(2) AVAILABILITY OF INFORMATION.—Information compiled and maintained
6 under this section shall be retained for not less than 3 years after the date of preparation
7 and shall be made available to the public, upon request, in the form required under
8 regulations prescribed by the Agency. In addition, the Agency shall annually provide this
9 data to the public. The procedures for disclosing this information to the public will be
10 determined by the Agency.

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

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

15 “(1) FINANCIAL INSTITUTION.—The term ‘financial institution’ means any
16 partnership, company, corporation, association (incorporated or unincorporated), trust,
17 estate, cooperative organization, or other entity that engages in any financial activity.

18 “(2) MINORITY-OWNED BUSINESS.—The term ‘minority-owned business’ means a
19 business—

20 “(A) more than 50 percent of the ownership or control of which is held by
21 1 or more minority individuals; and

22 “(B) more than 50 percent of the net profit or loss of which accrues to 1 or
23 more minority individuals.

1 “(3) WOMEN-OWNED BUSINESS.—The term ‘women-owned business’ means a
2 business—

3 “(A) more than 50 percent of the ownership or control of which is held by
4 1 or more women; and

5 “(B) more than 50 percent of the net profit or loss of which accrues to 1 or
6 more women.

7 “(4) MINORITY.—The term ‘minority’ has the meaning given to such term by
8 section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act
9 of 1989.

10 “(5) SMALL BUSINESS LOAN.—The term ‘small business loan’ shall be defined by
11 the Agency, which may take into account—

12 “(A) the gross revenues of the borrower;

13 “(B) the total number of employees of the borrower;

14 “(C) the industry in which the borrower has its primary operations; and

15 “(D) the size of the loan.

16 “(h) AGENCY ACTION.—

17 “(1) IN GENERAL.—The Agency shall prescribe such rules and issue guidance as
18 may be necessary to carry out, enforce, and compile data pursuant to this section.

19 “(2) EXCEPTIONS.—The Agency, by rule or order, may adopt exceptions to any
20 requirement of this section and may, conditionally or unconditionally, exempt any
21 financial institution or class of institutions from the requirements of this section as the
22 Agency deems necessary or appropriate to carry out the purposes and objectives of this
23 section.

1 “(3) GUIDANCE.—The Agency shall issue guidance designed to facilitate
2 compliance with the requirements of this section, including assisting financial institutions
3 in working with applicants to determine whether the applicants are women- or minority-
4 owned for the purposes of this section.”

5 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

10 and

11 (C) by inserting after paragraph (4), the following new paragraph:

12 “(5) to make an inquiry under section 704B in accordance with the
13 requirements of such section.”; and

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

16 (c) CLERICAL AMENDMENT.—The table of sections for title VII of the Consumer Credit
17 Protection Act is amended by inserting after the item relating to section 704A the following new
18 item:

19 “704B. Small business loan data collection.”.

20 (d) EFFECTIVE DATE.—This section shall become effective on the designated transfer
21 date.

22 **Subtitle H—Conforming Amendments**

1 **SEC. 1073. AMENDMENTS TO THE INSPECTOR GENERAL ACT**

2 (a) ESTABLISHMENT.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C.
3 App. 3, § 8G(a)(2)) is amended by inserting “the Consumer Financial Protection Agency,”
4 before “the Consumer Product Safety Commission.”

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

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

8 (a) Section 552a of title 5, United States Code, is amended by adding at the end the
9 following new subsection:

10 “(w) APPLICABILITY TO CONSUMER FINANCIAL PROTECTION AGENCY.—Except as
11 provided in the Consumer Financial Protection Agency Act of 2009, this section shall apply with
12 respect to the Consumer Financial Protection Agency.”

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

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

17 (a) Section 803(1) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C.
18 3802(1)) is amended by striking paragraphs (B) and (C) in their entirety.

19 (b) Section 804 of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C.
20 3803) is amended—

21 (1) in subsection (a)—

22 (A) in paragraphs (1), (2), and (3), by inserting after the words

23 “transactions made” each place those words appear the words “on or before the

1 designated transfer date, as determined in section 1062 of the Consumer Financial
2 Protection Agency Act of 2009, ;

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

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

6 (D) by adding at the end the following new paragraph:

7 “(4) with respect to transactions made after the designated transfer date, as
8 determined in section 1062 of the Consumer Financial Protection Agency Act of 2009,
9 only in accordance with regulations governing alternative mortgage transactions as issued
10 by the Consumer Financial Protection Agency for federally chartered housing creditors,
11 in accordance with the rulemaking authority granted to the Consumer Financial
12 Protection Agency with regard to federally chartered housing creditors under laws other
13 than this section.”

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

15 “(c) An alternative mortgage transaction may be made by a housing creditor in
16 accordance with this section, notwithstanding any State Constitution, law, or regulation that
17 prohibits an alternative mortgage transaction. For purposes of this subsection, a State
18 Constitution, law, or regulation that prohibits an alternative mortgage transaction does not
19 include any State Constitution, law, or regulation that regulates mortgage transactions generally,
20 including any restriction on prepayment penalties or late charges.

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

22 “(d) The Consumer Financial Protection Agency shall—

23 “(1) review the regulations identified by the Comptroller of the Currency,

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

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

8 “(3) promulgate regulations under subsection (a)(4) after the designated transfer
9 date, as determined in section 1062 of the Consumer Financial Protection Agency Act of
10 2009.”.

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

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

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

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

19 (b) AMENDMENT TO SECTION 803.—Section 803 (12 U.S.C. 2902) is amended by adding
20 a new paragraph at the end as follows—

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

22 (c) AMENDMENT TO SECTION 804.—Section 804 (12 U.S.C. 2903) is amended—

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

1 “(a) IN GENERAL.—In connection with its examination of a financial institution—

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

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

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

10 (3) in subsection (c)(2)—

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

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

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

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

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

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

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

23 (2) in subsection (b), by—

1 (A) striking “appropriate Federal financial supervisory agency’s” and
2 inserting “Agency’s”; and

3 (B) striking “Federal financial supervisory agencies” and inserting
4 “Agency”;

5 (3) in subsection (c)—

6 (A) in paragraph (1), by adding “or to the Agency.” after “a Federal or
7 State financial supervisory agency”;

8 (B) in paragraphs (2) and (3), by striking “appropriate Federal financial
9 supervisory agency” and inserting “Agency”; and

10 (4) in subsection (d), by—

11 (A) striking “appropriate Federal financial supervisory agency” and
12 inserting “Agency”; and

13 (B) striking “Federal financial supervisory agency” and inserting
14 “Agency”.

15 (g) AMENDMENTS TO SECTION 808.—Section 808 (12 U.S.C. § 2907) is amended by
16 striking “appropriate Federal financial supervisory agency” and inserting “Agency”.

17 (h) AMENDMENTS TO SECTION 809.—Section 809 (12 U.S.C. § 2908) is amended by
18 striking “appropriate Federal financial supervisory agency” and inserting “Agency”.

19 **SEC. 1077. AMENDMENTS TO THE CONSUMER LEASING ACT OF 1976.**

20 (a) All mentions of “the Board” in the Consumer Leasing Act of 1976 (15 U.S.C. 1667 *et*
21 *seq.*) are amended by striking “the Board” and inserting “the Agency.”

22 **SEC. 1078. AMENDMENTS TO THE ELECTRONIC FUND TRANSFER ACT.**

23 (a) AMENDMENTS TO SECTION 903.—Section 903 of the Electronic Fund Transfer Act (15

1 U.S.C. 1693a) is amended—

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

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

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

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

7 (1) in subsection (a)—

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

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

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

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

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

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

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

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

21 (d) AMENDMENT TO SECTION 906.—Section 906(b) of the Electronic Fund Transfer Act
22 (15 U.S.C. 1693d(b)) is amended by striking “Board” and inserting “Agency”.

23 (e) AMENDMENT TO SECTION 907.—Section 907(b) of the Electronic Fund Transfer Act

1 (15 U.S.C. 1693e(b)) is amended by striking “Board” and inserting “Agency”.

2 (f) AMENDMENT TO SECTION 908.—Section 908(f)(7) of the Electronic Fund Transfer Act

3 (15 U.S.C. 1693f(f)(7)) is amended by striking “Board” and inserting “Agency”.

4 (g) AMENDMENT TO SECTION 910.—Section 910(a)(1)(E) of the Electronic Fund Transfer

5 Act (15 U.S.C. 1693h(a)(1)(E)) is amended by striking “Board” and inserting “Agency”.

6 (h) AMENDMENTS TO SECTION 911.—Section 911(b)(3) of the Electronic Fund Transfer Act (15

7 U.S.C. 1693i(b)(3) is amended by striking “Board” and inserting “Agency”.

8 (i) AMENDMENTS TO SECTION 915.—Section 915 of the Electronic Fund Transfer Act (15

9 U.S.C. 1693m) is amended as follows—

10 (1) in subsection (d)—

11 (A) in the title—

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

13 (ii) by striking “FEDERAL RESERVE SYSTEM” and inserting

14 “CONSUMER FINANCIAL PROTECTION AGENCY”;

15 (B) in the matter after the title—

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

17 “Agency”; and

18 (ii) by striking “Federal Reserve System” and inserting “Consumer

19 Financial Protection Agency.”

20 (j) AMENDMENTS TO SECTION 917.—Section 917 of the Electronic Fund Transfer Act (15

21 U.S.C. 1693o) is amended—

22 (1) in subsection (a)—

23 (A) in the matter after the title, by striking “Compliance” and inserting

1 “Subject to section 1022 of the Consumer Financial Protection Agency Act of
2 2009, compliance”;

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

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

6 “(2) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the
7 Agency in the case of a covered person under that Act.”;

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

9 “(c) OVERALL ENFORCEMENT AUTHORITY OF THE FEDERAL TRADE COMMISSION.—Except
10 to the extent that enforcement of the requirements imposed under this title is specifically
11 committed to some other Government agency under subsection (a) and subject to section 1022 of
12 the Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall
13 enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of
14 its functions and powers under the Federal Trade Commission Act, a violation of any
15 requirement imposed under this title shall be deemed a violation of a requirement imposed under
16 that Act. All of the functions and powers of the Federal Trade Commission under the Federal
17 Trade Commission Act are available to the Commission to enforce compliance by any person
18 subject to the jurisdiction of the Commission with the requirements imposed under this title,
19 irrespective of whether that person is engaged in commerce or meets any other jurisdictional
20 tests in the Federal Trade Commission Act.”.

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

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

1 “Agency”; and

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

3 “Agency”.

4 (l) AMENDMENTS TO SECTION 919.—Section 919 of the Electronic Fund Transfer

5 Act (15 U.S.C. 1693q) is amended by striking “Board” each place it appears and inserting

6 “Agency”.

7 (m) AMENDMENTS TO SECTION 920.—Section 920 of the Electronic Fund Transfer Act

8 (15 U.S.C. 1693r) is amended by striking “Board” each place it appears and inserting “Agency”.

9 **SEC. 1079. AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT.**

10 (a) AMENDMENTS TO SECTION 701.—Section 701 of the Equal Credit Opportunity Act

11 (15 U.S.C. 1691) is amended—

12 (1) in subsection (b)—

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

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

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

16 and

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

18 “Agency”.

19 (b) AMENDMENTS TO SECTION 702.—Section 702(c) of the Equal Credit Opportunity Act

20 (15 U.S.C. 1691a) is amended to read as follows:

21 “(c) The term ‘Agency’ refers to the Consumer Financial Protection Agency.”.

22 (c) AMENDMENTS TO SECTION 703.—Section 703 of the Equal Credit Opportunity Act

23 (15 U.S.C. 1691b) is amended—

1 (1) by striking the title and inserting the following new title:

2 “PROMULGATION OF REGULATIONS BY THE AGENCY”;

3 (2) in subsection (a)—

4 (A) by striking “(c) REGULATIONS.”;

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

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

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

8 (e).

9 (d) AMENDMENTS TO SECTION 704.—Section 704 of the Equal Credit Opportunity Act
10 (15 U.S.C. 1691c) is amended—

11 (1) in subsection (a)—

12 (A) in the matter after the title, by striking “Compliance” and inserting
13 “Subject to section 1022 of the Consumer Financial Protection Agency Act of
14 2009, compliance”;

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

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

18 “(2) Subtitle E of the Consumer Financial Protection Agency Act of 2009, by the
19 Agency in case of a covered person under that Act.”;

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

21 “(c) OVERALL ENFORCEMENT AUTHORITY OF FEDERAL TRADE COMMISSION.—Except to
22 the extent that enforcement of the requirements imposed under this title is specifically committed
23 to some other Government agency under subsection (a) and subject to section 1022 of the

1 Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall
2 enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of
3 its functions and powers under the Federal Trade Commission Act, a violation of any
4 requirement imposed under this title shall be deemed a violation of a requirement imposed under
5 that Act. All of the functions and powers of the Federal Trade Commission under the Federal
6 Trade Commission Act are available to the Commission to enforce compliance by any person
7 with the requirements imposed under this title, irrespective of whether that person is engaged in
8 commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including
9 the power to enforce any rule prescribed by the Agency under this title in the same manner as if
10 the violation had been a violation of a Federal Trade Commission trade regulation rule.”; and

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

12 (e) AMENDMENT TO SECTION 704A.—Section 704A(a)(1) of the Equal Credit
13 Opportunity Act (15 U.S.C. 1691c-1(a)(1)) is amended in by striking “Board” and inserting
14 “Agency”.

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

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

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

20 (g) AMENDMENTS TO SECTION 706.—Section 706(e) of the Equal Credit Opportunity Act
21 (15 U.S.C. 1691e(e)) is amended—

22 (1) in the title—

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

1 and

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

4 (2) in the matter after the title—

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

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

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

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

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

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

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

18 The Fair Credit Billing Act (15 U.S.C. § 1666-1666j) is amended by striking “Board”
19 each place it appears and inserting “Agency”.

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

22 (a) Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended—
23 (1) by inserting after subsection (v) the following new subsection:

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

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

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

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

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

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

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

13 (c) Section 603(k)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681a(k)(2)) is
14 amended by striking “Board of Governors of the Federal Reserve System” and inserting
15 “Agency”.

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

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

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

1 (2) by amending paragraph (5) to read as follows:

2 “(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

3 “(A) REGULATIONS REQUIRED.—The Agency may, after notice and
4 opportunity for comment, prescribe regulations that permit transactions under
5 paragraph (2) that are determined to be necessary and appropriate to protect
6 legitimate operational, transactional, risk, consumer, and other needs (and which
7 shall include permitting actions necessary for administrative verification
8 purposes), consistent with the intent of paragraph (2) to restrict the use of medical
9 information for inappropriate purposes.”

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

11 (e) Subsection 611(e)(2) of the Fair Credit Reporting Act (15 U.S.C.1681i(e)(2)) is
12 amended to read as follows:

13 “(2) EXCLUSION. Complaints received or obtained by the Agency pursuant to its
14 investigative authority under the Consumer Financial Protection Agency Act of 2009 shall not be
15 subject to paragraph (1).”

16 (f) Subparagraph 615(h)(6)(A) of the Fair Credit Reporting Act (15 U.S.C.
17 1681m(h)(6)(A)) is amended to read as follows:

18 “(A) RULES REQUIRED.—The Agency shall prescribe rules.”

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

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

21 “(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

22 “(1) Subject to section 1022 of the Consumer Financial Protection Agency Act of
23 2009, compliance with the requirements imposed under this title shall be enforced under

1 the Federal Trade Commission Act [15 U.S.C. 41 *et seq.*] by the Federal Trade
2 Commission with respect to consumer reporting agencies and all other persons subject
3 thereto, except to the extent that enforcement of the requirements imposed under this title
4 is specifically committed to some other government agency under subsection (b) hereof.
5 For the purpose of the exercise by the Federal Trade Commission of its functions and
6 powers under the Federal Trade Commission Act, a violation of any requirement or
7 prohibition imposed under this title shall constitute an unfair or deceptive act or practice
8 in commerce in violation of section 5(a) of the Federal Trade Commission Act [15 U.S.C.
9 45(a)] and shall be subject to enforcement by the Federal Trade Commission under
10 section 5(b) thereof [15 U.S.C. 45(b)] with respect to any consumer reporting agency or
11 person subject to enforcement by the Federal Trade Commission pursuant to this
12 subsection, irrespective of whether that person is engaged in commerce or meets any
13 other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade
14 Commission shall have such procedural, investigative, and enforcement powers (subject
15 to section 1022 of the Consumer Financial Protection Agency Act of 2009), including the
16 power to issue procedural rules in enforcing compliance with the requirements imposed
17 under this title and to require the filing of reports, the production of documents, and the
18 appearance of witnesses as though the applicable terms and conditions of the Federal
19 Trade Commission Act were part of this title. Any person violating any of the provisions
20 of this title shall be subject to the penalties and entitled to the privileges and immunities
21 provided in the Federal Trade Commission Act as though the applicable terms and
22 provisions thereof were part of this title.

23 “(2) (A) Subject to section 1022 of the Consumer Financial Protection Agency

1 Act of 2009, in the event of a knowing violation, which constitutes a pattern or practice
2 of violations of this title, the Commission may commence a civil action to recover a civil
3 penalty in a district court of the United States against any person that violates this title. In
4 such action, such person shall be liable for a civil penalty of not more than \$2,500 per
5 violation.

6 “(B) In determining the amount of a civil penalty under subparagraph (A),
7 the court shall take into account the degree of culpability, any history of prior
8 such conduct, ability to pay, effect on ability to continue to do business, and such
9 other matters as justice may require.

10 “(3) Notwithstanding paragraph (2), a court may not impose any civil penalty on a
11 person for a violation of section 623(a)(1) [15 U.S.C. 1681s-2] unless the person has been
12 enjoined from committing the violation, or ordered not to commit the violation, in an
13 action or proceeding brought by or on behalf of the Federal Trade Commission, and has
14 violated the injunction or order, and the court may not impose any civil penalty for any
15 violation occurring before the date of the violation of the injunction or order.”

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

17 “(b) ENFORCEMENT BY OTHER AGENCIES.—Subject to Section 1022 of the Consumer
18 Financial Protection Agency Act of 2009, compliance with the requirements imposed under this
19 title with respect to consumer reporting agencies, persons who use consumer reports from such
20 agencies, persons who furnish information to such agencies, and users of information that are
21 subject to subsection (d) of section 615 [15 U.S.C. 1681m] shall be enforced under—

22 “(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], in the case
23 of

1 “(A) national banks, and Federal branches and Federal agencies of foreign
2 banks, by the National Bank Supervisor;

3 “(B) member banks of the Federal Reserve System (other than national
4 banks), branches and agencies of foreign banks (other than Federal branches,
5 Federal agencies, and insured State branches of foreign banks), commercial
6 lending companies owned or controlled by foreign banks, and organizations
7 operating under section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 *et*
8 *seq.*, 611 *et seq.*], by the Board of Governors of the Federal Reserve System; and

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

13 “(2) Subtitle E of the Consumer Financial Protection Agency Act of 2009, by the
14 Agency in the case of a covered person under that Act;

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

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

21 “(5) the Federal Aviation Act of 1958 [49 U.S.C. App. §§ 1301 *et seq.*], by the
22 Secretary of Transportation with respect to any air carrier or foreign air carrier subject to
23 that Act [49 U.S.C. Appx §§ 1301 *et seq.*]; and

1 “(6) the Packers and Stockyards Act, 1921 [7 U.S.C. §§ 181 *et seq.*] (except as
2 provided in section 406 of that Act [7 U.S.C. §§ 226 and 227]), by the Secretary of
3 Agriculture with respect to any activities subject to that Act.

4 “The terms used in paragraph (1) that are not defined in this title or otherwise defined in
5 section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. §1813(s)) shall have the
6 meaning given to them in section 1(b) of the International Banking Act of 1978 (12
7 U.S.C. § 3101).”.

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

9 “(e) REGULATORY AUTHORITY.—The Agency shall prescribe such regulations as
10 necessary to carry out the purposes of this Act with respect to a covered person described
11 in subsection (b).”

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

13 (1) by amending subparagraph (a)(7)(D) to read as follows—

14 “(D) MODEL DISCLOSURE

15 “(i) DUTY OF AGENCY TO PREPARE.—The Agency shall prescribe a
16 brief model disclosure a financial institution may use to comply with
17 subparagraph (A), which shall not exceed 30 words.

18 “(ii) USE OF MODEL NOT REQUIRED.—No provision of this
19 paragraph shall be construed as requiring a financial institution to use any
20 such model form prescribed by the Agency.

21 “(iii) COMPLIANCE USING MODEL.—A financial institution shall be
22 deemed to be in compliance with subparagraph (A) if the financial
23 institution uses any such model form prescribed by the Agency, or the

1 financial institution uses any such model form and rearranges its format.”.

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

3 “(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED

4 “(1) GUIDELINES. The Agency shall, with respect to the entities that are subject to
5 its enforcement authority under section 621—

6 “(A) establish and maintain guidelines for use by each person that
7 furnishes information to a consumer reporting agency regarding the accuracy and
8 integrity of the information relating to consumers that such entities furnish to
9 consumer reporting agencies, and update such guidelines as often as necessary;
10 and

11 “(B) prescribe regulations requiring each person that furnishes information
12 to a consumer reporting agency to establish reasonable policies and procedures or
13 implementing the guidelines established pursuant to subparagraph (A).

14 “(2) CRITERIA. In developing the guidelines required by paragraph (1)(A), the
15 Agency shall—

16 “(A) identify patterns, practices, and specific forms of activity that can
17 compromise the accuracy and integrity of information furnished to consumer
18 reporting agencies;

19 “(B) review the methods (including technological means) used to furnish
20 information relating to consumers to consumer reporting agencies;

21 “(C) determine whether persons that furnish information to consumer
22 reporting agencies maintain and enforce policies to ensure the accuracy and
23 integrity of information furnished to consumer reporting agencies; and

1 “(D) examine the policies and processes that persons that furnish
2 information to consumer reporting agencies employ to conduct reinvestigations
3 and correct inaccurate information relating to consumers that has been furnished
4 to consumer reporting agencies.”

5 (i) Section 214(b)(1) of the Fair and Accurate Credit Transactions Act of 2003 is
6 amended by striking “The Federal banking agencies, the National Credit Union Administration,
7 and the Commission, with respect to the entities that are subject to their respective enforcement
8 authority under section 621 of the Fair Credit Reporting Act and” and inserting “The Agency,
9 with respect to a person subject to its enforcement authority, and”.

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

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

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

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

15 (2) renumbering the following paragraphs respectively.

16 (b) AMENDMENTS TO SECTION 813.—Section 813(e) of the Fair Debt Collection Practices
17 Act (15 U.S.C. § 1692k(e)) is amended by striking “Commission” and inserting “Agency”.

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

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

21 “(a) FEDERAL TRADE COMMISSION.—Subject to section 1022 of the Consumer Financial
22 Protection Agency Act of 2009, compliance with this title shall be enforced by the Commission,
23 except to the extent that enforcement of the requirements imposed under this title is specifically

1 committed to another agency under subsection (b). For purpose of the exercise by the
2 Commission of its functions and powers under the Federal Trade Commission Act, a violation of
3 this title shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the
4 functions and powers of the Commission under the Federal Trade Commission Act are available
5 to the Commission to enforce compliance by any person with this title, irrespective of whether
6 that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade
7 Commission Act, including the power to enforce the provisions of this title in the same manner
8 as if the violation had been a violation of a Federal Trade Commission trade regulation rule.”;

9 (2) in subsection (b)—

10 (A) in the matter after the title, by striking “Compliance” and inserting
11 “Subject to section 1022 of the Consumer Financial Protection Agency Act of
12 2009, compliance”.

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

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

16 “(2) subtitle E of the Consumer Financial Protection Agency Act of 2009 by the
17 Agency in the case of a covered person under the Act”; and

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

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

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

23 **SEC. 1084. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.**

1 (a) Section 8(t) the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to add
2 a new paragraph (6), as follows:

3 “(6) REFERRAL TO CONSUMER FINANCIAL PROTECTION COMMISSION.—Each
4 appropriate Federal banking agency shall make a referral to the Consumer Financial
5 Protection Agency when the Federal banking agency has a reasonable belief that a
6 violation of an enumerated consumer law, as defined in section 1022(e)(2) of the
7 Consumer Financial Protection Agency Act of 2009, by any insured depository institution
8 or institution-affiliated party within the jurisdiction of that appropriate Federal banking
9 agency.”.

10 (b) Section 43of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended—

11 (1) in subsection (c), by striking “Federal Trade Commission” and inserting
12 “Agency”;

13 (2) in subsection (d), by striking “Federal Trade Commission” and inserting
14 “Agency”;

15 (3) in subsection (e)—

16 (A) in paragraph (1), by striking “Federal Trade Commission” and
17 inserting “Agency”; and

18 (B) by adding at the end the following new paragraph:

19 “(5) AGENCY.—The term “Agency” means the Consumer Financial
20 Protection Agency.”.

21 (e) Section 43(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(f)) is
22 amended—

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

1 “(1) LIMITED ENFORCEMENT AUTHORITY.— Compliance with the requirements of
2 subsections (b), (c) and (e), and any regulation prescribed or order issued under such
3 subsection, shall be enforced under the Consumer Financial Protection Agency Act of
4 2009 by the Agency.”;

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

6 “(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If
7 the Agency has instituted an enforcement action for a violation of this section, no
8 appropriate State supervisory may, during the pendency of such action, bring an
9 action under this section against any defendant named in the complaint of the
10 Agency for any violation of this section that is alleged in that complaint.”.

11 **SEC. 1085. AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.**

12 (a) Section 504(a)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)(1)) is
13 amended—

14 (1) by striking “The Federal banking agencies, the National Credit Union
15 Administration, the Secretary of the Treasury,” and inserting “The Consumer Financial
16 Protection Agency and”; and

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

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

19 (1) in the matter after the title of subsection, by striking “This subtitle and the
20 regulations prescribed thereunder shall be enforced by” and inserting “Subject to section
21 1022 of the Consumer Financial Protection Agency Act of 2009, this subtitle and the
22 regulations prescribed thereunder shall be enforced by the Consumer Financial Protection
23 Agency,”;

1 (2) by striking paragraph (1)(D); and

2 (3) by inserting after paragraph (7) the following new paragraph:

3 “(8) Under the Consumer Financial Protection Agency Act of 2009, by the
4 Consumer Financial Protection Agency in the case of financial institutions and
5 other covered persons subject to the jurisdiction of the Agency under that Act, but
6 not with respect to the standards under section 501.”.

7 (c) Section 505(b)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(b)(1)) is amended
8 by inserting “, other than the Consumer Financial Protection Agency, ” after “subsection (a)”.

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

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

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

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

14 (2) by redesignating existing paragraphs (1) through (6) as paragraphs (2) through
15 (7).

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

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

21 “(h) SUBMISSION TO AGENCIES.—The data required to be disclosed under
22 subsection (b) shall be submitted to the Agency and to the appropriate agency for each
23 institution reporting under this title. Notwithstanding the requirement of section

1 304(a)(2)(A) for disclosure by census tract, the Agency, in cooperation with other
2 appropriate regulators, including—

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

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

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

11 “(4) the Secretary of Housing and Urban Development for other lending
12 institutions not regulated by the agencies referred to in paragraphs (1) through (4), shall
13 develop regulations prescribing the format for such disclosures, the method for
14 submission of the data to the appropriate regulatory agency, and the procedures for
15 disclosing the information to the public. These regulations shall also require the
16 collection of data required to be disclosed under subsection (b) with respect to loans sold
17 by each institution reporting under this title, and, in addition, shall require disclosure of
18 the class of the purchaser of such loans. Any reporting institution may submit in writing
19 to the Agency or to the appropriate agency such additional data or explanations as it
20 deems relevant to the decision to originate or purchase mortgage loans.”

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

23 (1) by amending subsection (b) to read as follows—

1 “(b) POWERS OF CERTAIN OTHER AGENCIES.—Compliance with the requirements
2 imposed under this title shall be enforced under—

3 “(1) section 8 of the Federal Deposit Insurance Act, in the case of—

4 “(A) national banks, and Federal branches and Federal agencies of
5 foreign banks, by the National Bank Supervisor;

6 “(B) member banks of the Federal Reserve System (other than
7 national banks), branches and agencies of foreign banks (other than
8 Federal branches, Federal agencies, and insured State branches of foreign
9 banks), commercial lending companies owned or controlled by foreign
10 banks, and organizations operating under section 25 or 25(a) of the
11 Federal Reserve Act, by the Board; and

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

19 “(2) subtitle E of the Consumer Financial Protection Agency Act of 2009,
20 by the Agency in the case of a covered person under that Act;

21 “(3) the Federal Credit Union Act, by the Administrator of the National
22 Credit Union Administration with respect to any credit union; and

23 “(4) other lending institutions, by the Secretary of Housing and Urban

1 Development.

2 The terms used in paragraph (1) that are not defined in this title or otherwise
3 defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s))
4 shall have the meaning given to them in section 1(b) of the International Banking
5 Act of 1978 (12 U.S.C. 3101).”

6 (2) by inserting at the end of section 305 the following new subsection:

7 “(d) OVERALL ENFORCEMENT AUTHORITY OF THE CONSUMER FINANCIAL PROTECTION
8 AGENCY.—Subject to section 1022 of the Consumer Financial Protection Agency Act of 2009,
9 enforcement of the requirements imposed under this title is committed to each of the agencies
10 under subsection (b). The Agency may exercise its authorities under the Consumer Financial
11 Protection Agency Act of 2009 to exercise principal authority to examine and enforce
12 compliance by any person with the requirements under this title.”

13 (e) Subsection 306(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b))
14 is amended to read as follows—

15 “(b) The Agency may by regulation exempt from the requirements of this title any State
16 chartered depository institution within any State or subdivision thereof if it determines that,
17 under the law of such State or subdivision, that institution is subject to requirements substantially
18 similar to those imposed under this title, and that such law contains adequate provisions for
19 enforcement. Notwithstanding any other provision of this subsection, compliance with the
20 requirements imposed under this subsection shall be enforced by the National Bank Supervisor
21 under section 8 of the Federal Deposit Insurance Act in the case of national banks and savings
22 association the deposits of which are insured by the Federal Deposit Insurance Corporation.”

23 (f) Section 307 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806) is

1 amended to read as follows:

2 “(a)(1) The Director of the Consumer Financial Protection Agency, with the
3 assistance of the Secretary, the Director of the Bureau of the Census, the Board of
4 Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation,
5 and such other persons as the Consumer Financial Protection Agency deems appropriate,
6 shall develop or assist in the improvement of, methods of matching addresses and census
7 tracts to facilitate compliance by depository institutions in as economical a manner as
8 possible with the requirements of this title.

9 “(2) There is authorized to be appropriated such sums as may be necessary
10 to carry out this subsection.

11 “(3) The Director of the Consumer Financial Protection Agency is
12 authorized to utilize, contract with, act through, or compensate any person or
13 agency in order to carry out this subsection.

14 “(b) The Director of the Consumer Financial Protection Agency shall recommend
15 to the Committee on Financial Services of the House of Representatives and the
16 Committee on Banking, Housing, and Urban Affairs of the Senate such additional
17 legislation as the Director of the Consumer Financial Protection Agency deems
18 appropriate to carry out the purpose of this title.”

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

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

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

23 (3) at the end of paragraph (4), by striking the period; and

1 (4) by adding at the end of section 304(b) the following new paragraphs:

2 “(5) the number and dollar amount of mortgage loans grouped according to the
3 following measurements:

4 “(A) the total points and fees payable at origination in connection with the
5 mortgage as determined by the Agency, taking into account 15 U.S.C.
6 1602(aa)(4);

7 “(B) the difference between the annual percentage rate associated with the
8 loan and a benchmark rate or rates for all loans;

9 “(C) the term in months of any prepayment penalty or other fee or charge
10 payable on repayment of some portion of principal or the entire principal in
11 advance of scheduled payments; and

12 “(D) such other information as the Agency may require.

13 “(6) the number and dollar amount of mortgage loans and completed applications
14 grouped according to the following measurements:

15 “(A) the value of the real property pledged or proposed to be pledged as
16 collateral;

17 “(B) the actual or proposed term in months of any introductory period
18 after which the rate of interest may change;

19 “(C) the presence of contractual terms or proposed contractual terms that
20 would allow the mortgagor or applicant to make payments other than fully-
21 amortizing payments during any portion of the loan term;

22 “(D) the actual or proposed term in months of the mortgage loan;

23 “(E) the channel through which application was made, including retail,

1 broker, and other relevant categories;

2 “(F) as the Agency may determine to be appropriate, a unique identifier
3 that identifies the loan originator as set forth in Section 1503 of the S.A.F.E.
4 Mortgage Licensing Act of 2008;

5 “(G) as the Agency may determine to be appropriate, a universal loan
6 identifier that corresponds to the real property pledged or proposed to be pledged
7 as collateral;

8 “(H) as the Agency may determine to be appropriate, the parcel number
9 that corresponds to the real property pledged or proposed to be pledged as
10 collateral;

11 “(I) the credit score of mortgage applicants and mortgagors in such form
12 as the Agency may proscribe; and

13 “(J) such other information as the Agency may require.”;

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

16 (6) in subsection (h)—

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

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

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

23 (8) in subsection(j)—

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

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

5 “(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the
6 disclosure requirement of paragraph (1) if the institution provides the information
7 required under such paragraph in such formats as the Agency may require”;

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

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

12 “(m)(2) FORM OF INFORMATION.— In complying with paragraph (1), a depository
13 institution shall provide the person requesting the information with a copy of the
14 information requested in such formats as the Agency may require”.

15 **SEC. 1087. AMENDMENTS TO THE HOME OWNERSHIP AND EQUITY**

16 **PROTECTION ACT OF 1994.**

17 (a) Section 158(a) of the Home Ownership and Equity Protection Act of 1994 (15 U.S.C.
18 1601 note) is amended by striking “Consumer Advisory Council of the Board” and inserting
19 “Advisory Board to the Agency”.

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

22 **SEC. 1088. AMENDMENTS TO THE OMNIBUS APPROPRIATIONS ACT, 2009 (AS**

23 **AMENDED BY THE CREDIT CARD ACCOUNTABILITY**

1 **RESPONSIBILITY AND DISCLOSURE ACT OF 2009).**

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

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

4 “(1) The Consumer Financial Protection Agency shall have authority to prescribe
5 rules with respect to mortgage loans in accordance with section 553 of title 5, United
6 States Code. Such rulemaking shall relate to unfair or deceptive acts or practices
7 regarding mortgage loans, which may include unfair or deceptive acts or practices
8 involving loan modification and foreclosure rescue services Any violation of a rule
9 prescribed under this subsection shall be treated as a violation of a rule prohibiting unfair,
10 deceptive, or abusive acts or practices under the Consumer Financial Protection Agency
11 Act of 2009.”;

12 (2) by striking paragraph (2);

13 (3) by striking paragraph (3); and

14 (4) by amending paragraph (4) to read as follows—

15 “(4) The Consumer Financial Protection Agency shall enforce the rules issued
16 under paragraph (1) in the same manner, by the same means, and with the same
17 jurisdiction, powers, and duties as though all applicable terms and provisions of the
18 Consumer Financial Protection Agency Act of 2009 were incorporated into and made
19 part of this section.”

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

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

23 (2) by striking “the Commission” and inserting “the Consumer Financial

1 Protection Agency”; and

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

4 **SEC. 1089. AMENDMENTS TO THE REAL ESTATE SETTLEMENT PROCEDURES**
5 **ACT.**

6 (a) Section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2602) is
7 amended by adding at the end the following new paragraph—

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

9 (b) Section 4 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2603) is
10 amended—

11 (1) in subsection (a), by striking the first sentence and inserting the following:

12 “The Agency shall publish a single, integrated disclosure for mortgage loan transactions,
13 including real estate settlement cost statements, which include the disclosure requirements of this
14 title, in conjunction with the disclosure requirements of the Truth in Lending Act (15 U.S.C.
15 1601 note *et seq.*) that, taken together, may apply to transactions subject to both or either law.
16 The purpose of such model disclosure shall be to facilitate compliance with the disclosure
17 requirements of those titles, and to aid the borrower or lessee in understanding the transaction by
18 utilizing readily understandable language to simplify the technical nature of the disclosures.”;

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

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

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

23 (1) by striking “Secretary” each place it appears, and inserting “Agency”; and

1 (2) by striking the first sentence of subsection (a), and inserting—
2 “The Agency shall prepare and distribute booklets jointly complying with the requirements of
3 the Truth in Lending Act (15 U.S.C. 1601 note *et seq.*) and the provisions of this title, in order to
4 help persons borrowing money to finance the purchase of residential real estate better to
5 understand the nature and costs of real estate settlement services.”.

6 (d) Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is
7 amended by striking “Secretary” and inserting “Agency”; and by striking “by regulations that
8 shall take effect not later than April 20, 1991,”.

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

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

13 (1) in the title, by inserting “AGENCY AND” before “SECRETARY”;

14 (2) in paragraph (4), by striking “The Secretary,” and inserting “The Agency, the
15 Secretary,”; and

16 (3) at the end of paragraph (4), inserting the following—

17 “However, to the extent that a Federal law authorizes the Agency and other federal
18 and state agencies to enforce or administer the law, the Agency shall have primary
19 authority to enforce or administer that Federal law in accordance with section 1022
20 of the Consumer Financial Protection Agency Act of 2009.”

21 (g) Section 10(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. §
22 2609(d)) is amended by striking “Secretary” and inserting “Agency”.

23 (h) Section 16 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2614)

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

2 (i) Section 18 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2616) is
3 amended by striking “Secretary” and inserting “Agency”.

4 (j) Section 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2617) is
5 amended by striking “Secretary” each place where it appears and inserting “Agency”.

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

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

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

10 “(1) ‘financial institution’ means any national bank, card issuer as defined in
11 section 1602(n) of Title 15, credit union or consumer finance institution located in any
12 State or territory of the United States, the District of Columbia, Puerto Rico, Guam,
13 American Samoa, or the Virgin Islands;”;

14 (2) in paragraph (6)—

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

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

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

18 (3) in paragraph (7)—

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

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

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

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

23 (b) AMENDMENTS TO SECTION 1112.—Section 1112 of the Right to Financial

1 Privacy Act (12 U.S.C. 3412) is amended in subsection (e) by deleting “and the Commodity
2 Futures Trading Commission is permitted.” and inserting “the Commodity Futures Trading
3 Commission, and the Consumer Financial Protection Agency is permitted.”.

4 (c) AMENDMENTS TO SECTION 1113.—Section 1113 of the Right to Financial Privacy Act
5 (12 U.S.C. 3413) is amended by adding at the end the following new subsection—

6 “(r) DISCLOSURE TO THE CONSUMER FINANCIAL PROTECTION AGENCY.—Nothing in this
7 chapter shall apply to the examination by or disclosure to the Consumer Financial Protection
8 Agency of financial records or information in the exercise of its authority with respect to a
9 financial institution.”.

10 **SEC. 1091. AMENDMENTS TO THE SECURE AND FAIR ENFORCEMENT FOR**
11 **MORTGAGE LICENSING ACT OF 2008.**

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

14 (1) by striking the definition of “FEDERAL BANKING AGENCIES” and inserting the
15 following—

16 “AGENCY.—The term ‘Agency’ means the Consumer Financial
17 Protection Agency.”; and

18 (2) by striking the definition of “SECRETARY” and inserting the following—

19 “DIRECTOR.—The term ‘Director’ means the Director of the Consumer
20 Financial Protection Agency.”

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

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

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“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

1 BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM”; and

2 (2) adding at the end the following new subsection—

3 “(f)(1) The Agency is authorized to promulgate regulations setting minimum net worth or
4 surety bond requirements for residential mortgage loan originators and minimum requirements
5 for recovery funds paid into by loan originators.

6 “(2) Such regulations shall take into account the need to provide originators
7 adequate incentives to originate affordable and sustainable mortgage loans as well as the
8 need to ensure a competitive origination market that maximizes consumers’ access to
9 affordable and sustainable mortgage loans.”.

10 (e) Section 1510 of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5109) is
11 amended to read as follows:

12 **“SEC. 1510. FEES.**

13 “The Agency, the Farm Credit Administration, and the Nationwide Mortgage Licensing
14 System and Registry may charge reasonable fees to cover the costs of maintaining and providing
15 access to information from the Nationwide Mortgage Licensing System and Registry, to the
16 extent that such fees are not charged to consumers for access to such system and registry.”.

17 (f) Section 1513 of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5112) is
18 amended to read as follows—

19 **“SEC. 1513. LIABILITY PROVISIONS.**

20 “The Agency, any State official or agency, or any organization serving as the
21 administrator of the Nationwide Mortgage Licensing System and Registry or a system
22 established by the Director under section 5108 of this title, or any officer or employee of any
23 such entity, shall not be subject to any civil action or proceeding for monetary damages by

1 reason of the good faith action or omission of any officer or employee of any such entity, while
2 acting within the scope of office or employment, relating to the collection, furnishing, or
3 dissemination of information concerning persons who are loan originators or are applying for
4 licensing or registration as loan originators.”.

5 (g) Section 1514 of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5113) is
6 amended in the title by striking “**UNDER HUD BACKUP LICENSING SYSTEM**” and
7 inserting “**BY THE AGENCY**”.

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

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

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

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

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

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

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

17 (2) as provided in subsection (d).

18 (c) Section 105(b) of the Truth in Lending Act (15 U.S.C. 1604(b)) is amended by
19 striking the first sentence and inserting the following:

20 “The Agency shall publish a single, integrated disclosure for mortgage loan transactions,
21 including real estate settlement cost statements, which include the disclosure requirements of this
22 title, in conjunction with the disclosure requirements of the Real Estate Settlement Procedures
23 Act (Pub. L. 93-533, 12 U.S.C. 2601 *et seq.*) that, taken together, may apply to transactions

1 subject to both or either law. The purpose of such model disclosure shall be to facilitate
2 compliance with the disclosure requirements of those titles, and to aid the borrower or lessee in
3 understanding the transaction by utilizing readily understandable language to simplify the
4 technical nature of the disclosures.”.

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

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

7 “(a) ENFORCING AGENCIES.—Subject to Section 1022 of the Consumer Financial
8 Protection Agency Act of 2009, compliance with the requirements imposed under this title shall
9 be enforced under—

10 “(1) section 8 of the Federal Deposit Insurance Act, in the case of—

11 “(A) national banks, and Federal branches and Federal agencies of foreign
12 banks, by the National Bank Supervisor;

13 “(B) member banks of the Federal Reserve System (other than national
14 banks), branches and agencies of foreign banks (other than Federal branches,
15 Federal agencies, and insured State branches of foreign banks), commercial
16 lending companies owned or controlled by foreign banks, and organizations
17 operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

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

22 “(2) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the
23 Agency in the case of a covered person under that Act.

1 “(3) the Federal Credit Union Act, by the Director of the Bureau of Federal Credit
2 Unions with respect to any Federal credit union.

3 “(4) the Federal Aviation Act of 1958, by the Secretary of Transportation with
4 respect to any air carrier or foreign air carrier subject to that Act.

5 “(5) the Packers and Stockyards Act, 1921 (except as provided in section 406 of
6 that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

7 “(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect
8 to any Federal land bank, Federal land bank association, Federal intermediate credit bank,
9 or production credit association.”.

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

11 “(c) OVERALL ENFORCEMENT AUTHORITY OF THE FEDERAL TRADE COMMISSION.—Except
12 to the extent that enforcement of the requirements imposed under this title is specifically
13 committed to some other Government agency under subsection (a) and subject to Section 1022
14 of the Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall
15 enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of
16 its functions and powers under the Federal Trade Commission Act, a violation of any
17 requirement imposed under this title shall be deemed a violation of a requirement imposed under
18 that Act. All of the functions and powers of the Federal Trade Commission under the Federal
19 Trade Commission Act are available to the Commission to enforce compliance by any person
20 with the requirements under this title, irrespective of whether that person is engaged in
21 commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.”

22 (e) The Truth in Lending Act (15 U.S.C. 1601 *et seq.*) is amended by striking “Federal
23 Trade Commission” each place it appears and inserting “Agency” except—

1 (1) Section 108(c) of the Truth in Lending Act (15 U.S.C. 1607(c)), which is to be
2 amended as specified in subsection (d);

3 (2) Section 127(b)(11)(C) of the Truth in Lending Act (15 U.S.C. 1637) is
4 amended to read as follows—

5 “(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with
6 respect to which compliance with this title is enforced by the Agency, the following
7 statement, in a prominent location on the front of the billing statement, disclosed clearly
8 and conspicuously: "Minimum Payment Warning: Making only the required minimum
9 payment will increase the interest you pay and the time it takes to repay your balance. For
10 example, making only the typical 5% minimum monthly payment on a balance of \$300 at
11 an interest rate of 17% would take 24 months to repay the balance in full. For an estimate
12 of the time it would take to repay your balance, making only minimum monthly
13 payments, call the Consumer Financial Protection Agency at this toll-free number:

14 _____ (the blank space to be filled in by
15 the creditor)." A creditor who is subject to this subparagraph shall not be subject to
16 subparagraph (A) or (B).”; and

17 (3) Section 129(m) of the Truth in Lending Act (15 U.S.C. 1639(m)) is amended
18 to read as follows—

19 “(m) CIVIL PENALTIES IN FEDERAL TRADE COMMISSION ENFORCEMENT ACTIONS.—For
20 purposes of enforcement by the Federal Trade Commission, any violation of a regulation issued
21 by the Agency pursuant to subsection (l)(2) of this section shall be treated as a violation of a rule
22 promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding
23 unfair or deceptive acts or practices.”.

1 **SEC. 1093. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.**

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

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

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

9 (d) AMENDMENTS TO SECTION 269.—Section 269 of the Truth in Savings Act
10 (12 U.S.C. 4308) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1), by striking “Board” and inserting “Agency”;

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

14 (C) in paragraph (4), by striking “Board” and inserting “Agency”;

15 (2) in subsection (b)—

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

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

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

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

23 (1) in subsection (a)—

1 (A) in the matter after the title, by striking “Compliance” and inserting
2 “Subject to section 1022 of the Consumer Financial Protection Agency Act of
3 2009, compliance”;

4 (B) in paragraph (1)—

5 (i) by amending subparagraph (A) to read as follows:

6 “(A) by the Director of the National Bank Supervisor for national banks,
7 and Federal branches and Federal agencies of foreign banks;”;

8 (ii) by striking subparagraph (C); and

9 (C) by adding at the end, the following new paragraph:

10 “(3) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the
11 Agency in the case of a covered person under that Act.”

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

13 (f) AMENDMENTS TO SECTION 272.—Section 272 of the Truth in Savings Act (12
14 U.S.C. 4311) is amended—

15 (1) in subsection (a), by striking “Board” and inserting “Agency”; and

16 (2) in subsection (b), by striking the phrase “regulation prescribed by the Board”
17 each place it appears and inserting “regulation prescribed by the Agency”.

18 (g) AMENDMENTS TO SECTION 273.—Section 273 of the Truth in Savings Act (12
19 U.S.C. 4312) is amended in the last sentence by striking “Board” and inserting “Agency”.

20 (h) AMENDMENTS TO SECTION 274.—Section 274 of the Truth in Savings Act (12
21 U.S.C. 4313) is amended—

22 (1) in paragraph (2) by striking “Board” and inserting “Agency”; and

23 (2) by amending paragraph (4) to read as follows:

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

3 **SEC. 1094. EFFECTIVE DATE.**

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