

114TH CONGRESS }
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT
114-624

FINANCIAL SERVICES AND GENERAL
GOVERNMENT APPROPRIATIONS BILL, 2017

R E P O R T

OF THE

COMMITTEE ON APPROPRIATIONS

together with

DISSENTING VIEWS

[TO ACCOMPANY H.R. 5485]



JUNE 15, 2016.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

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BILL, 2017**

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Mr. CRENSHAW, from the Committee on Appropriations,
 submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5485]

The Committee on Appropriations submits the following report in
 explanation of the accompanying bill making appropriations for fi-
 nancial services and general government for the fiscal year ending
 September 30, 2017.

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HIGHLIGHTS OF THE BILL

The Financial Services and General Government Subcommittee has jurisdiction over a diverse group of agencies responsible for regulating the financial and telecommunications industries; collecting taxes and providing taxpayer assistance; supporting the operations of the White House, the Federal Judiciary, and the District of Columbia; managing Federal buildings; and overseeing the Federal workforce. The activities of these agencies impact nearly every American and are integral to the operations of our government.

However, with the gross Federal debt growing in excess of \$19 trillion, the Subcommittee is committed to reducing the cost and size of government. The bill provides a total of \$21,735,000,000 in discretionary budget authority for fiscal year 2017 which is \$1,500,000,000, or 6.5 percent, below the fiscal year 2016 discretionary allocation. The bill is \$2,692,335,000, or 11 percent, below the Administration's request.

TOTAL BUDGET AUTHORITY

(\$ in millions)

	FY 2016 Enacted	FY 2017 Request	FY 2017 Recommendation
Discretionary	23,235	24,427	21,735
Mandatory	21,512	21,937	21,937

INTERNAL REVENUE SERVICE

The Internal Revenue Service (IRS) revels in paying out over \$400 billion in refunds annually, but the respect and affection of the American people is not for sale. The IRS betrayed the trust of Americans when it became known that the IRS inappropriately singled out certain tax-exempt groups for extra scrutiny based on

their political beliefs. The magnitude of this betrayal cannot be overstated, but it is just one incident—albeit a mammoth one—of the seemingly never-ending torrent of IRS mismanagement.

To address the inappropriate scrutiny, the bill includes language to:

- Prohibit funds for finalizing any regulation related to the standards used to determine the tax-exempt status of a 501(c)(4) organization;
- Prohibit funds for targeting groups for regulatory scrutiny based on their ideological beliefs;
- Prohibit funds for targeting citizens for exercising their First Amendment rights;
- Prohibit the White House from ordering the IRS to determine the tax-exempt status of an organization;
- Require compliance with the Federal Records Act, which prohibits the destruction of official records;
- Require IRS employees to be trained in the impartial application of tax law; and
- Provide the Treasury Inspector General for Tax Administration (TIGTA) with \$170 million to enhance its audit and investigative oversight of the IRS.

The Committee is troubled by the IRS's willingness to neglect taxpayers in need of assistance and by a recent revelation of cybersecurity weaknesses. The IRS blames budget cuts without acknowledging the degree of discretion it has to spend funds relatively unencumbered. The Government Accountability Office, however, has observed, "Although resources are constrained, IRS has flexibility in how it allocates resources to ensure that limited resources are utilized as effectively as possible . . . [magnifying] the importance of strategically managing operations to make tough choices about which services to continue providing and which services to cut." The Committee strongly advises the IRS to make improving the quality and security of customer service a high priority and includes an additional \$290,000,000 for this purpose.

The Committee continues to be concerned with the IRS' role in implementation of the Affordable Care Act and, in particular, the individual mandate. At a time when the IRS has demonstrated little ability to either self-police or self-correct, the IRS has even more authority over Americans' health coverage. The Committee finds this expansion of IRS authority to be unacceptable and, therefore, prohibits funding to implement the individual mandate and prohibits transfers from the Department of Health and Human Services to fund the IRS' implementation of the Affordable Care Act.

SMALL BUSINESS AND JOB CREATION

The bill makes programs that support small businesses and assist in private sector job creation a priority by providing \$157,064,000 for the Small Business Administration's business loan program to support \$28,500,000,000 in 7(a) lending and \$7,500,000,000 in 504 lending. The bill also provides \$125,000,000 for Small Business Development Centers, \$19,000,000 for Women's Business Centers, \$31,000,000 for Microloan Technical Assistance, and \$250,000,000 for the Treasury's Community Development Financial Institutions Fund program. In support of small breweries and distilleries, the bill provides \$111,439,000 for the Alcohol and

Tobacco Tax and Trade Bureau, including additional funds for label and formula processing and enforcement activities. The bill also requires certain regulatory agencies to report to the Committee on their efforts to eliminate duplicative, outdated and burdensome regulations.

LAW ENFORCEMENT AND COUNTERTERRORISM

The bill provides \$6,955,503,000 in discretionary funds for the operations of the Federal Judiciary to fulfill their statutory requirements to process criminal, civil, bankruptcy and appellate cases; to supervise defendants and offenders living in our communities; and provide defendant representation to those that cannot afford it.

The bill continues to make combating illegal drugs a priority by providing \$253,000,000 for High Intensity Drug Trafficking Areas, which is \$56,590,000 above the Administration's request, and \$97,000,000 for the Drug-Free Communities program, which is \$8,470,000 above the Administration's request.

For the District of Columbia, the bill provides \$274,541,000 for the operations of the District of Columbia Courts and \$246,386,000 for the supervision of offenders and defendants, which are \$140,000 and \$1,622,000, respectively, less than the request.

For Treasury's financial intelligence activities, the bill provides \$120,000,000 for the Office of Terrorism and Financial Intelligence to enhance their capabilities to combat drug lords, terrorists, weapons of mass destruction proliferators, rogue nations and other threats. This is \$3,000,000 above the enacted level and the Administration's request. In addition, the bill provides \$116,000,000 for the Financial Crimes Enforcement Network to support the financial intelligence requirements of law enforcement and intelligence agencies.

PROGRAM REDUCTIONS AND TERMINATIONS

In order to pay for the small business and law enforcement priorities described above while reducing overall spending, the Committee has reduced the operating expenses for many agencies below the fiscal year 2016 level including: the Bureau of Fiscal Service; the Internal Revenue Service; National Security Council and Homeland Security Council; the Office of Management and Budget (OMB); the Office of National Drug Control Policy—Salaries and Expenses; OMB—Information and Technology Oversight and Reform; the Court of Appeals for the Federal Circuit; Fees for Jurors; Federal payments for Resident Tuition Support; the Consumer Product Safety Commission; Election Assistance Commission; the Federal Communications Commission; the General Services Administration; the Privacy and Civil Liberties Oversight Board; Securities and Exchange Commission; the Small Business Administration—Disaster Loan Administration; and the Postal Service.

In addition, the bill eliminates funding for several programs including: Department of the Treasury—Department-Wide Systems and Capital Investments; Executive Office of the President—Unanticipated Needs; Federal payment for the District of Columbia Water and Sewer Authority; the Harry S Truman Scholarship Foundation; the Morris K. Udall and Stewart L. Udall Foundation;

and the Public Company and Accounting Oversight Board's scholarship program.

OVERSIGHT AND ACCOUNTABILITY

In furtherance of the Committee's oversight responsibilities and commitment to accountability, the Committee has included the following language:

- Makes the Office of Financial Research (OFR) and the Consumer Financial Protection Bureau (CFPB) subject to the appropriations process starting in fiscal year 2018.
- Requires the CFPB to notify Congress when it requests a transfer of funds from the Board of Governors of the Federal Reserve System in fiscal year 2017.
- Changes the leadership structure of the CFPB from a single director to a five-member commission.
- Prohibits the CFPB from outlawing pre-dispute arbitration.
- Prohibits the Financial Stability Oversight Council from designating nonbanks as systemically important financial institutions until it identifies the risks to financial stability presented by the nonbank and allows the nonbank to present a plan to modify its business, structure, or operation to mitigate the identified risk prior to final designation.
- Requires additional reporting on mandatory expenses from OFR, CFPB, the Office of Financial Stability and the Judgment Fund.
- Makes the General Services Administration provide extensive reports on spending and activities.
- Freezes pay for the Vice President and senior Executive Branch political appointees.
- Checks the expansion of Executive Branch authorities by: prohibiting funds for signing statements that abrogate existing law; prohibiting funds for Executive Orders that contravene existing law; requiring budgetary impact statements for new or revoked Executive Orders and Presidential Memorandums; prohibits funding for so-called "czars"; and prohibiting changes in agency spending without the enactment of an appropriations bill.
- Rescinds unobligated balances from the Securities and Exchange Commission's (SEC) mandatory reserve fund, making the SEC live within the appropriation provided.
- Prohibits the SEC from requiring firms to disclose their political contributions.
- Prohibits funds to be used in contravention of the Federal Records Act.
- Requires agencies to conduct investigations in compliance with the Fourth Amendment.
- Prohibits funds to implement Executive Order No. 13690 (entitled "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input") until certain conditions are met.
- Requires the Office of Management and Budget to report on the costs of Dodd-Frank.
- Prohibits the Federal Communications Commission (FCC) from implementing, administering, or enforcing any rule unless the FCC published the text of the rule at least 21 days before a vote on the rule.

- Prohibits the FCC from regulating rates for either broadband or wireless internet providers.
- Prohibits the FCC from implementing the net neutrality order until certain court challenges are decided.
- Prohibits the FCC from going forward with a proposed rule on set-top boxes until a peer-reviewed study is done by an academic institution and the FCC addresses concerns expressed by stakeholders.

The Committee expects agencies to respond to Congressional requests for information in the form and manner requested and in a timely fashion. The process for handling Congressional requests, on occasion, necessitates a negotiation of mutual accommodation, but without resulting in delay or denial.

OPERATING PLAN AND REPROGRAMMING PROCEDURES

The Committee will continue to evaluate reprogrammings proposed by agencies. Although reprogrammings may not change either the total amount available in an account or the purposes for which the appropriation is legally available, they represent a significant departure from budget plans presented to the Committee in an agency's budget justification and supporting documents, which are the basis of this appropriations Act. The Committee expects agencies' reprogramming requests to explain thoroughly the reasons for the reprogramming and to include an assessment of whether the reprogramming will affect budget requirements for the subsequent fiscal year.

Section 608 of this Act requires agencies or entities funded by the Act to notify the Committee and obtain prior approval from the Committee for any reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; (5) augments existing programs, projects, or activities in excess of \$5,000,000 or 10 percent, whichever is less; (6) reduces existing programs, projects, or activities by \$5,000,000 or 10 percent, whichever is less; or (7) creates or reorganizes offices, programs, or activities.

Additionally, the Committee expects to be promptly notified of all reprogramming actions which involve less than the above-mentioned amounts if such actions would have the effect of significantly changing an agency's funding requirements in future years, or if programs or projects specifically cited in the Committee's reports are affected by the reprogramming. Reprogrammings meeting these criteria must be approved by the Committee regardless of the amount proposed to be reallocated.

Section 608 also requires agencies to consult with the Committees on Appropriations prior to any significant reorganization or restructuring of offices, programs, or activities. This provision applies regardless of whether the reorganization or restructuring involves a reprogramming of funds. Agencies are encouraged to consult with the Committees early in the process so that any questions or concerns the Committees may have can be addressed in a timely manner.

Agencies are directed under section 608 to submit operating plans for the Committee's review within 60 days of the bill's enactment. Each operating plan should include: (1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level; (2) a delineation in the table for each appropriation both by object class and program, project, and activity as detailed in the budget appendix for the respective appropriation; and (3) an identification of items of special congressional interest.

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$222,500,000
Budget request, fiscal year 2017*	334,376,000
Recommended in the bill	250,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+27,500,000
Budget request, fiscal year 2017	-84,376,000

*Funding for the Office of Terrorism and Financial Intelligence was requested within the Departmental Office heading. Funding for the Department-wide Systems and Capital Investments Program and a new Cybersecurity Enhancement Account was requested as a separate heading.

The Departmental Offices' function in the Department of the Treasury is to support the Secretary of the Treasury in his capacity as the chief operating executive of the Department and in his role in determining the tax, economic, and financial management policies of the Federal Government. The Secretary's responsibilities funded by the Salaries and Expenses appropriation include: recommending and implementing domestic and international economic and tax policy; providing recommendations regarding fiscal policy; governing the fiscal operations of the government; managing the public debt; managing development of financial policy; representing the U.S. on international monetary, trade and investment issues; overseeing Treasury Department overseas operations; directing the administrative operations of the Treasury Department; and providing executive oversight of the bureaus within the Treasury Department.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$250,000,000 for Departmental Offices, Salaries and Expenses. The recommendation fully funds the Department's contributions to international governmental associations, and administrative expenses for implementing Resources and Ecosystems Sustainability, Tourism Opportunities, and Revived Economy of the Gulf Coast Act (RESTORE Act). The Committee provides sufficient funds to support the Department's cyber security initiatives.

Wildlife Trafficking and Ivory Poaching.—The Department is directed to pursue and enforce money laundering and other related laws as related to wildlife trafficking and the illegal ivory trade, particularly in Africa, and to report to the Committees on Appropriations of the House and Senate semiannually during fiscal year 2017 on enforcement actions and other steps taken to carry out the

Implementation Plan of the National Strategy on Wildlife Trafficking during such fiscal year.

The Committee is encouraged by the variety of programs that apply innovative, science and data-based analytical tools to combat wildlife trade and trafficking and encourages enhanced monitoring and evaluation mechanisms and sharing of interagency findings and best practices to comprehensively target the financial underpinnings of wildlife trafficking. The Committee directs Treasury to work with the Department of State, the United States Agency for International Development, and the United States Fish and Wildlife Service to integrate information and share existing data and analytic capabilities to support a common operating platform that will inform strategies to combat money laundering and illicit trafficking and trade.

Financial Transactions.—The Committee encourages the Department of the Treasury to work with Federal bank regulators, financial institutions, and money service businesses to ensure that legitimate financial transactions move freely and globally. The Committee is frustrated that the Department has failed to report on its efforts to ensure the appropriate flow of legitimate financial transactions and directs the Department to submit a report to the Committees on Appropriations of the House and Senate on this matter not later than 90 days after enactment of this Act.

Puerto Rico.—Within 90 days of the date of enactment of this Act, the Department is directed to provide a report to the Committees on Appropriations of the House and Senate describing how the Department has used its authority to provide technical assistance to Puerto Rico in fiscal year 2016 and how it plans to use it in fiscal year 2017.

Data Localization.—Laws that require U.S. financial institutions to build in-country data centers in order to operate in foreign markets are becoming increasingly challenging. These laws compound risks, increase the complexity of regulatory obligations, add security challenges, and raise the cost of operating globally. Since various Federal agencies have been examining the effect of these laws on different sectors of U.S. economy, the Committee assumes the Department of the Treasury is conducting the assessment on the financial sector and expects to be kept apprised on potential risks posed.

Financial Stability Oversight Council and the Office of Financial Research.—The Committee believes the Office of Financial Research (OFR), established under P.L. 111–203, is unnecessarily opaque in its operations. The OFR and Financial Stability Oversight Council (FSOC) set their own budgets and then assess private institutions to pay for their operations, with no Congressional review of their funding. The Committee believes there should be adequate checks on OFR and FSOC actions, procedures, and funding. Therefore, the Committee has included language (sections 128, 129, and 130) which requires quarterly reporting on budget obligations, 90 day notice and comment for OFR reports and rules, and brings OFR under the appropriations process so that this office can be more transparent to the American people and Congress. For fiscal year 2017, the Administration estimates OFR and FSOC spending will total \$105,000,000 and \$18,000,000, respectively. When conducting research to support regulation of large swaths of the econ-

omy, both OFR and FSOC should be more receptive to the concerns, oversight, and counsel from the Legislative Branch.

International Negotiations.—The Committee believes that there should be more transparency surrounding negotiations, agreements, meetings, and consultations conducted by members of FSOC with the Financial Stability Board (FSB) and other international financial and economic organizations. Better coordination among global financial regulators is critical due to the far reaching impact these negotiations have on businesses across the globe. Currently, there is a significant lack of public information about these activities. The U.S. must retain its ability to compete in the global marketplace and, as such, a transparent dialog between international and U.S. regulators that justifies the rationale for risk management systems is critical to making certain U.S. companies are not placed at a competitive disadvantage. The Committee advises FSOC not to pursue failed or untested domestic policies through international agreements.

Basel Standards.—The Committee remains concerned that the U.S. prudential regulators have inappropriately applied several standards developed by the Basel Committee on Bank Supervision (Basel), including liquidity coverage ratio and the Advanced Approaches Risk-Based Capital Framework, which are explicitly designed for only the most internationally active, globally systemic, and highly complex banking organizations, also known as Globally Systemically Important Banks (G-SIBs), to less complex organizations like regional banking organizations, which have only limited foreign exposure and do not pose a threat to the U.S. or global financial system. The Committee encourages Treasury and other prudential regulators to reexamine the impact of certain liquidity and capital standards as they apply to U.S. regional banks and other less complex organizations.

Cybersecurity.—The Committee recognizes the need to protect the financial services sector and its customers from the devastating effects of cyberattacks. While both industry and government have taken significant steps to mitigate this threat, there is more work to be done. The Committee encourages the continued coordination to develop consistent and workable cybersecurity safeguards across the financial services sector. Consistent with this goal, the Committee directs the Office of Critical Infrastructure Protection and Compliance Policy (OCIP) to report to the Committees on Appropriations of the House and Senate, the Committee on Financial Services of the House, and the Committee on Banking, Housing, and Urban Affairs of the Senate within 60 days of enactment of this Act on the status of this collaboration and ways to improve cybersecurity controls and safeguards.

SIFI Designations.—The Committee is concerned that the FSOC is misusing its authority by designating certain nonbank financial institutions as systemically important financial institutions (SIFI). As such, the Committee believes that the FSOC would benefit from early and close consultation with the primary regulators of nonbank financial companies before determining a SIFI designation.

The Committee strongly encourages the FSOC, in designating SIFIs, to take into account the distinctions between different asset management organizations, as well as the true risk to markets and

the U.S. financial system. The FSOC should focus on activity-based designations, not size-based designations. In addition, the Committee expects the FSOC to solicit expert advice from and work closely with the Securities and Exchange Commission (SEC) in areas regarding securities regulation and management.

The Committee has included section 626 which allows nonbank financial companies to shed any risk-prone areas of their business, as identified by the FSOC, prior to designation.

The Committee notes the recent court decision related to the FSOC's SIFI designation of a nonbank. In light of this verdict, the Committee advises the FSOC to be prudent when making SIFI designations in the future. The Committee will continue to monitor this as the case works its way through the judicial review process. In addition, the Committee believes the FSOC should review and reevaluate SIFI designations annually and at the request of nonbank financial companies if there is a material change in their operations, activities, or in regulatory market conditions. During this review process, the FSOC should give companies a written analysis outlining specific activities that would be relevant to reevaluation, and the opportunity for the company to respond with relevant materials.

Insurance.—Under P.L. 111–203, the Federal Reserve Board (Board) was given authority to oversee certain nonbank holding companies, including a few bank and savings and loan holding companies with insurance affiliates, as well as certain SIFIs, which currently include three insurance companies. P.L. 111–203 also gave the Federal Insurance Office (FIO), within the Department of the Treasury, the authority to consult with the States on international issues and represent the U.S., as appropriate, in the International Association of Insurance Supervisors (IAIS).

The Committee notes that the State-based system of insurance regulation has served our nation well for more than 150 years. Any federal regulation of insurance can take final form only with explicit approval by Congress. It is important to note that other international financial agreements have had deleterious impacts on some of our nation's financial institutions.

The Committee is concerned about the ongoing negotiations held by the IAIS to develop standards on a variety of issues, including capital and a definition of non-traditional, non-insurance products, and believes the U.S. agencies party to those negotiations must appropriately fulfill their duties to advocate for the U.S. insurance market and State-based regulatory regime. The Committee also notes the importance of developing a domestic capital standard, pursuant to P.L. 111–203 and P.L. 113–279, that is based on the existing domestic regulatory structure. The Committee believes it essential that a domestic standard should be set before approval of any international standard that will or could ultimately be applied to U.S. insurers. Finally, the Committee reminds those Federal agencies party to IAIS or Financial Stability Board (FSB) negotiations to not support consolidated group-wide insurance capital standards for domestically-chartered internationally active insurance groups that are inconsistent with current state-based insurance standards, which are designed solely for the protection of the policyholder.

DATA Act.—The Committee is supportive of the Department’s efforts to implement the Digital Accountability and Transparency Act of 2014 (DATA Act) and directs the Department to continue to emphasize a data-centric approach to federal financial reporting and to work with the Office of Management and Budget (OMB) to assure fully standardized automated agency data submissions. The Department is expected to keep the Committee informed on its DATA implementation efforts.

Cross-border Regulatory Cooperation and Harmonization.—The Committee is concerned that both the Dodd-Frank Act and U.S. prudential regulators are creating a fragmented international financial system through an excessive ring-fencing regime of U.S. subsidiaries that does not recognize, and may disincentivize, cross-border regulatory cooperation. U.S. regulators should take into account the extent to which a foreign financial company is subject to home country standards, on a consolidated basis, that are comparable to, or exceed, those applied to financial companies in the United States. The Committee expects U.S. regulators to demonstrate cross-border regulatory cooperation, to include the mutual recognition of comparable or higher standards in certain jurisdictions, and to better coordinate with home country regulators to establish a mutual recognition framework so as to create greater incentives for all jurisdictions to raise their standards to U.S. levels.

Multiemployer Pension Plans.—The Committee is concerned by possible federal budget implications of current means to address the insolvency of multiemployer pension plans.

Hardest Hit.—The Hardest Hit Fund provides significant resources to States that were hardest hit by the economic crisis for 2008 and targets critical resources toward programs that help Americans avoid foreclosure and stabilize housing markets. Using the Hardest Hit Fund to maintain vacant and abandoned properties and to demolish commercial structures would also be beneficial. The Committee does not recommend that additional funding for the Hardest Hit Fund be provided through this Act.

OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$117,000,000
Budget request, fiscal year 2017*	117,000,000
Recommended in the bill	120,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+3,000,000
Budget request, fiscal year 2017	+3,000,000

*Funding for the Office of Terrorism and Financial Intelligence was requested within the Departmental Office heading.

Economic and trade sanctions issued and enforced by the Office of Terrorism and Financial Intelligence’s (TFI) Office of Foreign Assets Control (OFAC) protect the financial system from being polluted with criminal and illicit activities and counteract national security threats from drug lords, terrorists, weapons of mass destruction proliferators, and rogue nations, among others. In addition to the enforcement of sanctions, TFI also produces vital analysis with regards to foreign intelligence and counterintelligence across all elements of the national security community.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$120,000,000 for the Office of Terrorism and Financial Intelligence to carry out its central role in detecting and defeating security threats. The recommended level is \$3,000,000 above the amount requested for these activities within “Departmental Offices, Salaries and Expenses” in fiscal year 2017 and \$3,000,000 above the fiscal year 2016 level. The Committee expects these additional funds to be used to strengthen the development and enforcement of sanction programs.

Iran Sanctions Act.—The Committee directs the Department of the Treasury to report to Congress on the status of implementation and enforcement of non-nuclear, bilateral and multilateral sanctions against Iran and actions taken by the U.S. and international community to enforce such sanctions.

Iran Nuclear Deal.—The Committee notes that the Joint Comprehensive Plan of Action (JCPOA), also known as the Iran nuclear deal is not binding for State and local governments. The existing framework under which States have passed restrictions on doing business with Iran is still in place, and States are fully within their rights to enact new restrictions, or maintain current laws.

Sanctions Enforcement in Africa.—Protracted conflicts in nations such as Sudan, South Sudan, the Central African Republic, and the Democratic Republic of Congo have led to sanctions regimes and international arms embargoes to cut off the money flows that are fueling wars and contributing to regional destabilization. The Committee is concerned about the escalation of conflict and failure to abide by diplomatic agreements in these particular African states, even after sanctions have been imposed. The Committee supports the use of funds to enhance regional expertise and capacity for sanctions investigations, policy development, and enforcement of sanctions.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$35,416,000
Budget request, fiscal year 2017	37,044,000
Recommended in the bill	37,044,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,628,000
Budget request, fiscal year 2017	---

The Office of Inspector General (OIG) provides agency-wide audit and investigative functions to identify and correct operational and administrative deficiencies that create conditions for fraud, waste, and mismanagement. The audit function provides contract, program, and financial statement audit services. Contract audits provide professional advice to agency contracting officials on accounting and financial matters relative to negotiation, award, administration, repricing, and settlement of contracts. Program audits review and evaluate all facets of agency operations. Financial statement audits assess whether financial statements fairly present the agency’s financial condition and results of operations, the adequacy of accounting controls, and compliance with laws and regulations. The investigative function provides for the detection and investiga-

tion of improper and illegal activities involving programs, personnel, and operations.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$37,044,000 for the OIG. The recommendation fully funds the cost of overseeing the Department’s Resources and Ecosystems Sustainability, Tourism Opportunities, and Revived Economy of the Gulf Coast Act (RE-STORE Act) activities.

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$167,275,000
Budget request, fiscal year 2017	169,634,000
Recommended in the bill	169,634,000
Bill compared with:	
Appropriation, fiscal year 2016	+2,359,000
Budget request, fiscal year 2017	— — —

The Office of Treasury Inspector General for Tax Administration (TIGTA) conducts audits, investigations, and evaluations to assess the operations and programs of the IRS and its related entities, the IRS Oversight Board, and the Office of Chief Counsel. The purpose of those audits and investigations is as follows: (1) To promote the economic, efficient, and effective administration of the Nation’s tax laws and to detect and deter fraud and abuse in IRS programs and operations; and (2) to recommend actions to resolve fraud and other serious problems, abuses, and deficiencies in these programs and operations.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$169,634,000 for TIGTA. The Committee appreciates the many issues that TIGTA has brought to its attention and provides funding above the request to enhance TIGTA’s oversight of IRS activities and use of appropriated funds.

Cybersecurity.—Since cyberattacks continue to be a threat to the Federal Government, the Committee is concerned with the potential damage such an attack would have on the Internal Revenue Service. Therefore, the Committee directs the TIGTA to submit a report to the Committees on Appropriations of the House and Senate not less than six months after enactment of this Act describing the cyberattacks and attempted cyberattacks against the agency and their consequences; the steps taken to prevent, mitigate or otherwise respond to such attacks; the cybersecurity policies and procedures in place, including policies about ensuring safe use of computer and mobile devices by individual employees; and a description of all outreach efforts undertaken to increase awareness among employees and contractors of cybersecurity risks as well as an update on prior reported cyber incidents.

SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$40,671,000
Budget request, fiscal year 2017	41,160,000
Recommended in the bill	41,160,000
Bill compared with:	
Appropriation, fiscal year 2016	+489,000
Budget request, fiscal year 2017	---

The Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) was established in the Emergency Economic Stabilization Act of 2008 (Public Law 110–343). Its mission is to conduct, supervise, and coordinate audits and investigations of the purchase, management, and sale of assets by the Secretary of the Treasury under programs established pursuant to the Troubled Asset Relief Program (TARP).

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$41,160,000 for SIGTARP.

SIGTARP’s operating expenses were initially funded with mandatory appropriations in the TARP. These funds, however, were provided in a limited amount. As such, every year the amount of remaining mandatory funds has been decreasing over time. In order to continue vigorous oversight of the outstanding TARP amounts, additional discretionary appropriations are provided.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$112,979,000
Budget request, fiscal year 2017	115,003,000
Recommended in the bill	116,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+3,021,000
Budget request, fiscal year 2017	+997,000

The Financial Crimes Enforcement Network (FinCEN) is responsible for implementing Treasury’s anti-money laundering regulations through administration of the Bank Secrecy Act (BSA). It also collects and analyzes information to assist in the investigation of money laundering and other financial crimes. FinCEN supports law enforcement investigative efforts by Federal, State, local and international agencies, and fosters interagency and global cooperation against domestic and international financial crimes.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$116,000,000 for FinCEN. The recommended amount is intended to ensure FinCEN’s information is accessible to the law enforcement and intelligence communities and to ensure FinCEN can respond to requests for assistance from law enforcement. The data compiled and analyzed by FinCEN is a critical tool for investigating, among other crimes, money laundering, mortgage fraud, drug cartels, and terrorist financing.

Human Trafficking.—The Committee appreciates FinCEN’s history of supporting law enforcement cases that combat human trafficking, including its 2014 Guidance on Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking to financial institutions, and emphasizes the importance of continuing this effort as part of the bureau’s broader mission to detect and disrupt all forms of financial crime. Wherever possible, FinCEN shall marshal its unique expertise in analyzing financial flows for this important effort in the course of ongoing strategic operations, such as the Southwest Border Initiative, and provide the appropriate assistance to law enforcement agencies in their human trafficking investigations.

TREASURY FORFEITURE FUND

(RESCISSION)

Appropriation, fiscal year 2016	-\$700,000,000
Budget request, fiscal year 2017	- 657,000,000
Recommended in the bill	- 753,610,000
Bill compared with:	
Appropriation, fiscal year 2016	- 53,610,000
Budget request, fiscal year 2017	- 96,600,000

COMMITTEE RECOMMENDATION

The Committee recommends a rescission of \$753,610,000 of unobligated balances in the Treasury Forfeiture Fund. The funds collected, disbursed and rescinded out of the Treasury Forfeiture Fund (the Fund) are incidental to law enforcement activities and priorities that led to the seizures and forfeitures. Disrupting and dismantling criminal organizations that pose the greatest threat to public safety and security is the highest priority of any law enforcement agency. The Fund can ensure resources are managed efficiently to cover the costs of an effective asset seizure and forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertising, forfeiting and disposing of property, but it must neither augment agency funding nor circumvent the appropriations process. Reliance on the Fund to offset the day-to-day operations, or to pay for new activities, creates an incentive to pursue cases suspected of high valued forfeitures rather than to target individuals or organizations that perpetrate the worst crimes against society.

The Committee directs the Department to submit to the Committees on Appropriations of the House and Senate a detailed table every month reporting the interest earned, forfeiture revenue collected, unobligated balances, recoveries, expenses to date, and expenses estimated for the remainder of the fiscal year.

BUREAU OF THE FISCAL SERVICE

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$363,850,000
Budget request, fiscal year 2017	353,057,000
Recommended in the bill	353,057,000
Bill compared with:	
Appropriation, fiscal year 2016	- 10,793,000
Budget request, fiscal year 2017	- - -

The mission of the Bureau of the Fiscal Service is to promote the financial integrity and operational efficiency of the U.S. Government through accounting, borrowing, collections, payments, and shared services. The Fiscal Service is the Federal Government's central financial agent. The Fiscal Service also develops and implements reliable and efficient financial methods and systems to operate the government's cash management, credit management, and debt collection programs in order to maintain government accounts and report on the status of the government's finances. In addition, the Fiscal Service is the primary agency for collecting Federal non-tax debt owed to the government, and is responsible for the conduct of all public debt operations and the promotion of the sale of U.S. securities.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$353,057,000 for the Fiscal Service. Of the funds provided, \$4,210,000 is available until September 30, 2019, for information systems modernization.

The Committee is pleased that the Fiscal Service continues to realize cost-savings from the consolidation of the Bureau of Public Debt and the Financial Management Service.

DATA Act.—The Committee is supportive of the Department's implementation of the DATA Act (P.L. 113–101). The Fiscal Service has worked to establish a DATA Act Schema that leverages industry standards to create a government-wide data structure for federal spending information. However, the Committee is concerned about the Administration's ability to meet the May 2017 reporting deadline without clear, final guidance from the Office of Management and Budget (OMB). Specifically, the Committee is concerned by the findings in a recent January 2016 GAO report (“Data Standards Established, but More Complete and Timely Guidance Is Needed to Ensure Effective Implementation”; GAO 16 261), which found that many of the 57 draft data elements released by OMB and the Treasury Department in August 2015 (“Federal Spending Transparency Data Standards”) to have ambiguous or vague definitions that could inhibit government-wide aggregation of agency reported data. Moreover, final reporting guidance needs to be issued to agencies to clarify how they are to extract, compile, standardize, and report their spending data in advance of the law's May 2017 deadline.

Within this appropriation, funding is included for USAspending.gov. The Committee expects the Fiscal Service to meet its transparency goals within USAspending.gov related to the DATA Act and will monitor progress in achieving government spending transparency. The Committee directs the Fiscal Service to meet its transparency goals within USAspending.gov and coordinate with OMB to publish all unclassified vendor contracts and grant awards for all federal agencies on USAspending.gov. The Committee directs the Fiscal Service to display this information online and report to the Committees on Appropriations of the House and Senate within 90 days of the enactment of this Act on its progress in achieving government spending transparency.

Judgment Fund.—The Committee appreciates Treasury's release of the fiscal year 2015 annual report regarding payments made by the Judgment Fund under 31 U.S.C. 1304. The Committee directs

the Department to issue the 2016 report within 60 days of enactment of this Act for the 2016 fiscal year, and directs that the report include all judgment fund payments since 2008, unless the disclosure of such information is otherwise prohibited by law or court order. The report shall consist of: (1) the name of the plaintiff or claimant; (2) the name of the counsel for the plaintiff or claimant; (3) the name of the agency that submitted the claim; (4) a brief description of the facts that gave rise to the claim; and (5) the amount paid representing principal, attorney fees, and interest, if applicable.

Do Not Pay Business Center.—The Committee supports the Do Not Pay Business Center’s goal of preventing ineligible recipients from receiving payments or awards from the Federal Government. This program supports the implementation of the Improper Payments Elimination and Recovery Improvement Act of 2012 (P.L. 112–248) which requires executive agencies to review all payments and awards before issuance. The Committee expects the Fiscal Service to sufficiently support the Do Not Pay Business Center within the Fiscal Service appropriation for fiscal year 2017.

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$106,439,000
Budget request, fiscal year 2017	106,439,000
Recommended in the bill	111,439,000
Bill compared with:	
Appropriation, fiscal year 2016	+5,000,000
Budget request, fiscal year 2017	+5,000,000

The Alcohol and Tobacco Tax and Trade Bureau (TTB) is responsible for the enforcement of laws designed to eliminate certain illicit activities and to regulate lawful activities relating to distilled spirits, beer, wine, and nonbeverage alcohol products, and tobacco. TTB focuses on collecting revenue; reducing taxpayer burden and improving service while preventing diversion; and protecting the public and preventing consumer deception in certain regulated commodities.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$111,439,000 for the TTB.

Within this amount, an additional \$5,000,000 is included to help accelerate processing time for label and formula applications, and an additional \$5,000,000 is included for increased enforcement of the Federal Alcohol Administration Act (FAA Act).

Enforcement.—The Committee has included an additional \$5,000,000 over the fiscal year 2016 level for TTB to increase enforcement efforts for industry trade practice violations. Enforcement of basic trade practice functions, required under the FAA Act, is critical to ensuring a competitive, fair, and safe marketplace. The Committee directs the TTB to report to the Committees on Appropriations of the House and Senate, within 60 days of enactment of this Act, on how the additional funding will be used to bolster enforcement, forensic audits, and investigations particularly in known points in the supply chain that are susceptible to illegal activity.

Processing Time.—The Committee has again included \$5,000,000 for TTB to accelerate processing times for formula and label applications. The Committee continues to be concerned by the delays involved in securing basic label and formula approvals required under the FAA Act and has directed additional funding to the agency for enforcement of the regulations under the FAA Act. Building on the report from last year, the Committee directs the TTB to again report to the Committees on Appropriations of the House and Senate, within 60 days of enactment of this Act, on how the additional funding will be used to create greater efficiencies in responding to the growing demand from stakeholders.

UNITED STATES MINT

UNITED STATES MINT PUBLIC ENTERPRISE FUND

The United States Mint manufactures coins, receives deposits of gold and silver bullion, and safeguards the Federal Government’s holdings of monetary metals. In 1997, Congress established the United States Mint Public Enterprise Fund (Public Law 104–52), which authorized the Mint to use proceeds from the sale of coins to finance the costs of its operations and consolidated all existing Mint accounts into a single fund. Public Law 104–52 also provided that, in certain situations, the levels of capital investments for circulating coins and protective services shall factor into the decisions of the Congress.

COMMITTEE RECOMMENDATION

The Committee recommends a spending level for capital investments by the Mint for circulating coinage and protective services of \$30,000,000 for fiscal year 2017.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND
PROGRAM ACCOUNT

Appropriation, fiscal year 2016	\$233,523,000
Budget request, fiscal year 2017	245,923,000
Recommended in the bill	250,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+16,477,000
Budget request, fiscal year 2017	+4,077,000

The Community Development Financial Institutions (CDFI) Fund provides grants, loans, equity investments, and technical assistance, on a competitive basis, to new and existing CDFIs such as community development banks, community development credit unions, and housing and microenterprise loan funds. Recipients use the funds to support mortgages, small business and economic development lending in underserved and distressed neighborhoods and to support the availability of financial services in these neighborhoods. The CDFI Fund is also responsible for implementation of the New Markets Tax Credits.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$250,000,000 for the CDFI Fund program. Of the amounts provided, \$184,000,000 is for financial and technical assistance grants, \$6,000,000 is for CDFIs to provide technical and financial assistance to individuals

with disabilities, \$16,000,000 is for Native Initiatives, \$19,000,000 is for the Bank Enterprise Award Program, and \$25,000,000 is for the administrative expenses for all programs of which no less than \$2,000,000 is to build a stronger network of CDFIs to integrate their programs with individuals with disabilities. In addition, the Committee recommends a loan level of \$250,000,000 for the Bond Guarantee Program.

CDFIs in U.S. Insular Areas.—The Committee notes the absence of CDFIs serving American Samoa, Northern Mariana Islands and other U.S. insular areas and recommends that the CDFI Fund use its Capacity Building Initiative to expand service, to the extent practical, to these areas.

Likewise, the Committee encourages the expansion of CDFIs in Puerto Rico.

CDFI Program Integration for Individuals with Disabilities.—The Committee is pleased to provide dedicated funds for financial and technical assistance grants to position more CDFI's to respond to the housing, transportation, education, and employment needs of underserved, low-income, individuals with disabilities. By increasing the visibility of the disability community, the Committee expects CDFI's to incorporate the needs of the disabled into their business plans and practices. Additional funds are provided for capacity building to provide instruction and education on how the needs of low-income, individuals with disabilities can be integrated into an array of investments and financial services.

The Committee directs the CDFI to submit a quarterly report no later than 30 days following the end of each calendar quarter in fiscal year 2017 to the Committees on Appropriations of the House and Senate that include a summary of the progress made toward developing a competitive application pool of CDFIs to compete for these funds along with objective selection criteria, promoting CDFI growth to assist individuals with disabilities, and creating a timeline with milestones to complete these activities. Additionally, the Committee is interested in the number of awards, amount of each award, types of programs and impact the funding has made on the disability community. The report should also include CDFI's findings and recommendations to improve upon the implementation of these activities.

INTERNAL REVENUE SERVICE

The Committee recommends providing \$10,999,000,000 for the IRS, which is \$236,000,000 below current level and \$1,281,095,000 below the request. This recommendation would fund the IRS, in total, below their fiscal year 2008 level. Funding for the Taxpayer Service account is at \$2,156,554, which is equal to their current level. However, Congress recommends an additional \$290,000,000 dedicated to improve taxpayer services, identity theft, and cybersecurity.

In addition, the Committee includes language to:

- Prohibit funds for finalizing any regulation related to the standards used to determine the tax-exempt status of a 501(c)(4) organization;
- Prohibit funds for IRS employee bonuses and awards that do not consider the conduct and tax compliance of such employees;

- Prohibit funds for hiring former IRS employees without considering the employees past conduct and tax compliance;
- Prohibit funds for targeting groups for regulatory scrutiny based on their ideological beliefs;
- Prohibit funds for targeting citizens for exercising their First Amendment rights;
- Prohibit funds for conferences that do not comply with the Treasury Inspector General for Tax Administration’s (TIGTA) recommendations regarding conferences;
- Prohibit funds for the production of videos that have not been reviewed for cost, topic, tone, and purpose and certified to be appropriate;
- Prohibit the White House from ordering the IRS to determine the tax-exempt status of an organization;
- Require extensive reporting on IRS spending; and
- Provide TIGTA with \$170 million for its audit and investigative oversight of the IRS.

The Committee remains aggrieved by the IRS’ past attempt to propose new regulations for determining the tax-exempt status of 501(c)(4) organizations, which offended organizations across the political spectrum. It is not evident what clarity these proposed regulations will provide and it is likely they will breed confusion among organizations regarding their tax-exempt status. Given these concerns, the Committee continues a funding prohibition to prevent the Department of the Treasury from implementing their proposed or revised regulation regarding the standards and definitions used to determine the tax-exempt status of organizations under section 501(c)(4) of the Internal Revenue Code.

A description of the Committee’s recommendation by appropriation is provided below.

TAXPAYER SERVICES

Appropriation, fiscal year 2016	\$2,156,554,000
Budget request, fiscal year 2017	2,406,318,000
Recommended in the bill	2,156,554,000
Bill compared with:	
Appropriation, fiscal year 2016	— — —
Budget request, fiscal year 2017	– 249,764,000

The Taxpayer Services appropriation provides for taxpayer services, including forms and publications; processing tax returns and related documents; filing and account services; taxpayer advocacy services; and assisting taxpayers to understand their tax obligations, correctly file their returns, and pay taxes due in a timely manner.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$2,156,554,000 for Taxpayer Services, which is \$83 million below the account’s pre-sequestration funding level. Within the amount provided, the Committee expects the IRS to sufficiently fund the Taxpayer Advocate Service.

Identity Theft.—Identity theft remains a persistent obstacle to accurate, fair, and efficient tax collection. Innocent taxpayers, who otherwise comply with their tax obligations, have their refunds delayed and are drawn unwittingly into the IRS examination process

because their identity was stolen and misused. This problem is especially pernicious in the U.S. territories and possessions, where organized schemes fraudulently use the taxpayer identification numbers of territorial residents to obtain credits or refunds on tax returns filed with the United States, costing American taxpayers billions of dollars.

The Committee requires a report, reviewed by the National Taxpayer Advocate, from the IRS that covers 2010–2016 period on: the number of taxpayers who have had their tax return rejected because their Social Security or taxpayer identification number was improperly used by another individual to commit tax fraud; the average time to resolve the situation and provide innocent taxpayers with their refund, when a refund is due; and the number of cases involving taxpayer identification numbers of residents of the territories. The report will also include a discussion on IRS's progress and plans to expedite resolution for these taxpayers, to prevent non-victims from becoming victims, to educate the public on the threat of identity theft, and to detect, prevent, and combat identity-based tax fraud and actions. The report should address IRS' plans and progress to implement the GAO recommendations listed in its March 28, 2016, report "Information Security". The Committee directs the IRS to submit the report to the Committees on Appropriations of the House and Senate by June 17, 2017.

Pre-Filled or Simple Tax Returns.—The Committee believes that converting a voluntary compliance system to a bill presentment model would represent a significant change in the relationship between taxpayers and their government. The simple return model would also strain IRS resources and the data retrieval systems required would create new burdens on employers, particularly small businesses. In addition, a fundamental conflict of interest seems to be inherent in the nation's tax collector and compliance enforcer taking on the simultaneous role of tax preparer and financial advisor. The Committee expects that the IRS will not begin work on a simple tax return pilot program or associated systems without first seeking specific authorization and appropriations from Congress, and should instead focus on helping Congress and the Administration achieve real tax simplification and reform.

Level of Service Plan.—The IRS would benefit from exploring new customer service innovations to deliver quality and timely telephone and written correspondence service to taxpayers. The Committee agrees with the Government Accounting Office recommendation that the IRS should systematically and periodically compare its level of telephone service to the best in business to identify gaps between actual and desired performance and directs IRS to submit a plan to the Committees on Appropriations of the House and Senate six months after the enactment of this Act. This should include a customer service plan with specific goals, strategies, and resources to achieve those goals.

Earned Income Tax Credits.—The Committee recognizes the importance of continued efforts to improve the administration of the Earned Income Tax Credits (EITC) for all taxpayers and encourages the IRS to explore new strategies to reduce fraudulent EITC claims.

ENFORCEMENT

Appropriation, fiscal year 2016	\$4,860,000,000
Budget request, fiscal year 2017	5,216,263,000
Recommended in the bill	4,760,000,000
Bill compared with:	
Appropriation, fiscal year 2016	– 100,000,000
Budget request, fiscal year 2017	– 456,263,000

The Enforcement appropriation provides for the examination of tax returns, both domestic and international; the administrative and judicial settlement of taxpayer appeals of examination findings; technical rulings; monitoring employee pension plans; determining qualifications of organizations seeking tax-exempt status; examining tax returns of exempt organizations; enforcing statutes relating to detection and investigation of criminal violations of the internal revenue laws; identifying underreporting of tax obligations; securing unfiled tax returns; and collecting unpaid accounts.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$4,760,000,000 for Enforcement. Of the funds provided, the Committee recommends not less than \$60,257,000 to support IRS activities under the Interagency Crime and Drug Enforcement program. None of the funds requested for implementation of the Patient Protection and Affordable Care Act are provided.

Regulation of Paid Preparers.—Last year, the Committee requested a report by the IRS on the regulation of paid preparers to be reviewed by the Government Accountability Office. The Committee is looking forward to the report in order to learn more about the cost-effectiveness of education and filing season readiness standards.

Favorable Determination Letters.—The Committee believes the Favorable Determination Letter program is a valuable and useful service, assuring tax administrators that they are operating employee plans in compliance with tax law.

Guidelines for Pari-mutuel Winnings.—The Committee appreciates the Department of the Treasury's proposed rule (REG-132253-11) published on March 4, 2015, along with the associated public hearing held on June 17, 2015. The Committee encourages the Treasury to expedite final consideration of the guidance which would modernize the rules governing pari-mutuel wagering.

Foreign Account Tax Compliance Act.—No later than 180 days after enactment of this Act, the Department of the Treasury shall submit a report to the Committees of Appropriations of the House and Senate on its decision (TD 9610 (78 FR 5874)) and TD 9657 (79 FR 12811)) to require withholding on non-cash value insurance premiums, including payments by foreign insurance brokers. No later than 180 days after enactment of this Act, the Committee directs the Government Accountability Office to determine the impacts of FATCA on United States citizens living abroad and make recommendations on FATCA implementation.

OPERATIONS SUPPORT

Appropriation, fiscal year 2016	\$3,638,446,000
Budget request, fiscal year 2017	4,314,099,000
Recommended in the bill	3,502,446,000
Bill compared with:	
Appropriation, fiscal year 2016	– 136,000,000
Budget request, fiscal year 2017	– 811,653,000

The Operations Support appropriation provides for overall planning and direction of the IRS, including shared service support related to facilities services, rent payments, printing, postage, and security. Specific activities include headquarters management activities such as strategic planning, communications and liaison, finance, human resources, Equal Employment Opportunity and diversity, research, information technology, and telecommunications.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$3,502,446,000 for Operations Support. None of the funds requested for implementation of the Patient Protection and Affordable Care Act are provided.

Printed Forms and Instructions.—The Committee encourages the IRS to continue to provide printed forms and instructions to vulnerable populations, especially rural communities where internet usage rates are below the national average.

Obligations and Employment.—Not later than 45 days after the end of each quarter, the Internal Revenue Service shall submit reports on its activities to the House and the Senate Committees on Appropriations. The reports shall include information about the obligations made during the previous quarter by appropriation, object class, office, and activity; the estimated obligations for the remainder of the fiscal year by appropriation, object class, office, and activity; the number of full-time equivalents within each office during the previous quarter; and the estimated number of full-time equivalents within each office for the remainder of the fiscal year.

Information Technology Reports.—The Committee directs the IRS to submit quarterly reports on particular major project activities to the Committees on Appropriations of the House and the Senate and the GAO, no later than 30 days following the end of each calendar quarter in fiscal year 2017. The Committee expects the reports to include detailed, plain English explanations of the cumulative expenditures and schedule performance to date, specified by fiscal year; the costs and schedules for the previous 3 months; the anticipated costs and schedules for the upcoming 3 months; and the total expected costs to complete the following major information technology project activities: IRS.gov; Returns Remittance Processing; EDAS/IPM; Information Returns and Document Matching; E-services; Taxpayer Advocate Service Integrated System; Affordable Care Act administration; and other projects associated with significant changes in law. In addition, the quarterly report should clearly explain when the project was started; the expected date of completion; the percentage of work completed as compared to planned work; the current and expected state of functionality; any changes in schedule; and current risks unrelated to funding amounts and mitigation strategies. The Committee directs the Department of the Treasury to conduct a semi-annual review of IRS's

IT investments to ensure the cost, schedule, and scope of the projects goals are transparent. The Committee further directs GAO to review and provide an annual report to the Committees evaluating the cost and schedule of activities of all major IRS information technology projects for the year, with particular focus on the projects about which the IRS is submitting quarterly reports to the Committee.

Identity Protection Personal Identification Numbers.—The IRS’ Identity Protection Personal Identification Numbers (IP PIN) pilot program, conducted in Florida, Georgia, and the District of Columbia to prevent tax refund fraud by identity theft, was suspended in FY 2016 due to ID PIN theft. The Committee directs the IRS to submit a detailed report to the Committees of Appropriations in the House and Senate not later than 120 days after enactment of this Act on the security enhancements implemented to prevent stolen ID PINs and make the system operational again, cost of system improvements, the number of people with stolen ID PINs, the number and total dollar amount of refunds provided as a result of the stolen ID PINs and the timeframe and assistance provided to victims of ID PIN theft to file their taxes, obtain their refunds, and secure their personal information.

BUSINESS SYSTEMS MODERNIZATION

Appropriation, fiscal year 2016	\$290,000,000
Budget request, fiscal year 2017	343,415,000
Recommended in the bill	290,000,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	- 53,415,000

The Business Systems Modernization (BSM) appropriation provides funding to modernize key business systems of the Internal Revenue Service.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$290,000,000 for BSM. The Committee continues to support IRS in its efforts to modernize its business systems such as CADE 2 and the Enterprise Case Management systems as well as the Return Review Program that enhances IRS capabilities to detect, address, and prevent tax refund fraud.

Information Technology Reports.—The Committee expects the IRS to continue to submit quarterly reports to the Committees and GAO during fiscal year 2017, no later than 30 days following the end of each calendar quarter. The Committee expects the reports to include detailed, plain English explanations of the cumulative expenditures and schedule performance to date, specified by fiscal year; the costs and schedules for the previous 3 months; the anticipated costs and schedules for the upcoming 3 months; and the total expected costs to complete CADE2 and MeF. In addition, the quarterly report should clearly explain when the project was started; the expected date of completion; the percentage of work completed as compared to planned work; the current and expected state of functionality; any changes in schedule; and current risks unrelated to funding amounts and mitigation strategies. The Committee directs the Department of the Treasury to conduct a semi-annual re-

view of CADE2 and MeF to ensure the cost, schedule, and scope goals of the projects are transparent. The Committee further directs GAO to review and provide an annual report to the Committee evaluating the cost and schedule of CADE2 and MeF activities for the year, as well as an assessment of the functionality achieved.

Audit Trail Compliance.—Audit trails are a key component of effective information technology security. Maintaining sufficient audit trails is critical to establishing accountability over users and their actions within information systems. The Committee directs the IRS to submit quarterly reports to the Committees on Appropriations of the House and Senate and Treasury Inspector General for Tax Administration (TIGTA) on its progress towards implementing the audit trail requirements described in TIGTA’s “Semi-annual Report to Congress April 1, 2015—September 30, 2015”, consistent with the Internal Revenue Manual, for legacy and planned business systems modernization investments with priority consideration to business systems presenting the most significant threats to taxpayer information.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Section 101. The Committee continues a provision that allows for the transfer of five percent of any appropriation made available to the IRS to any other IRS appropriation, upon the advance approval of the Committees on Appropriations of the House and Senate.

Section 102. The Committee continues a provision that requires the IRS to maintain a training program to include taxpayer rights, dealing courteously with taxpayers, cross-cultural relations, and the impartial application of tax law.

Section 103. The Committee continues a provision that requires the IRS to institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information and protect taxpayers against identity theft.

Section 104. The Committee continues a provision that makes funds available for improved facilities and increased staffing to provide efficient and effective 1–800 number help line service for taxpayers.

Section 105. The Committee continues a provision with modifications requiring videos produced by the IRS to be approved in advance by the Service-Wide Video Editorial Board.

Section 106. The Committee continues a provision that requires the IRS to notify employers of any address change request and to give special consideration to offers in compromise for taxpayers who have been victims of payroll tax preparer fraud.

Section 107. The Committee continues a provision with modifications that prohibits the IRS from targeting U.S. citizens for exercising their First Amendment rights.

Section 108. The Committee continues a provision with modifications that prohibits the IRS from targeting groups based on their ideological beliefs.

Section 109. The Committee continues a provision with modifications that requires the IRS to comply with procedures and policies

on conference spending as recommended by the Treasury Inspector General for Tax Administration.

Section 110. The Committee includes a new provision that prohibits funds made available in the healthcare reform act to the Department of Health and Human Services from being transferred to the IRS for implementing the healthcare reform act.

Section 111. The Committee includes a new provision that prohibits funds from being used to implement the individual mandate of the Affordable Care Act.

Section 112. The Committee continues a provision with modifications that prohibits funds for giving bonuses to employees or hiring former employees without considering conduct and compliance with Federal tax law.

Section 113. The Committee continues a provision with modifications that prohibits funds to violate the confidentiality of tax returns.

Section 114. The Committee continues a provision with modifications that prohibits funds for pre-populated returns.

Section 115. In addition to the amounts otherwise made available in this Act for the Internal Revenue Service, \$290,000,000, to be available until September 30, 2018, shall be transferred by the Commissioner to the “Taxpayer Services”, “Enforcement”, or “Operations Support” accounts of the Internal Revenue Service for an additional amount to be used solely for measurable improvements in the customer service representative level of service rate, to improve the identification and prevention of refund fraud and identity theft, and to enhance cybersecurity to safeguard taxpayer data. The required spending plan must include objective, and quantifiable measures to improve the level of customer service during and after the tax filing season, reduce the number of taxpayer ID thefts and improve cybersecurity in order for Congress and the public to evaluate how well the IRS achieved its goals.

ADMINISTRATIVE PROVISIONS—DEPARTMENT OF THE TREASURY

(INCLUDING TRANSFERS OF FUNDS)

Section 116. The Committee continues a provision that authorizes the Department to purchase uniforms, insurance for motor vehicles that are overseas, and motor vehicles that are overseas without regard to the general purchase price limitations; to enter into contracts with the State Department for health and medical services for Treasury employees who are overseas; and to hire experts or consultants.

Section 117. The Committee continues a provision, with modification, that authorizes transfers, up to two percent, between “Departmental Offices—Salaries and Expenses”, “Office of Inspector General”, “Special Inspector General for the Troubled Asset Relief Program”, “Financial Crimes Enforcement Network”, “Bureau of the Fiscal Service”, “Community Development Financial Institutions Fund Program Account”, and “Alcohol and Tobacco Tax and Trade Bureau” appropriations under certain circumstances.

Section 118. The Committee continues a provision that authorizes transfers, up to two percent, between the Internal Revenue Service and the Treasury Inspector General for Tax Administration under certain circumstances.

Section 119. The Committee continues a provision that prohibits the Department of the Treasury from undertaking a redesign of the one dollar Federal Reserve note.

Section 120. The Committee includes a provision that provides for transfers from the Bureau of the Fiscal Service to the Debt Collection Fund as necessary for the purposes of debt collection.

Section 121. The Committee continues a provision that requires congressional approval for the construction and operation of a museum by the United States Mint.

Section 122. The Committee continues a provision prohibiting funds in this or any other Act from being used to merge the United States Mint and the Bureau of Engraving and Printing without the approval of the House and Senate committees of jurisdiction.

Section 123. The Committee continues a provision deeming that funds for the Department of the Treasury's intelligence-related activities are specifically authorized in fiscal year 2017 until enactment of the Intelligence Authorization Act for fiscal year 2017.

Section 124. The Committee continues a provision permitting the Bureau of Engraving and Printing to use \$5,000 from the Industrial Revolving Fund for reception and representation expenses.

Section 125. The Committee continues a provision that requires the Department to submit a capital investment plan.

Section 126. The Committee continues a provision that requires a report on the Department's Franchise Fund.

Section 127. The Committee continues a provision that prohibits the Department from finalizing any regulation related to the standards used to determine the tax-exempt status of a 501(c)(4) organization.

Section 128. The Committee continues a provision that requires quarterly reports of the Office of Financial Research (OFR) and Office of Financial Stability.

Section 129. The Committee includes a new provision requiring the OFR to provide public notice of not less than 90 days before issuing a rule, report, or regulation.

Section 130. The Committee includes a new provision that limits the fees available for obligation by the OFR to the amount provided in appropriations acts beginning in fiscal year 2018. The Committee believes that the activities of OFR should be subject to the annual review of Congress.

Section 131. The Committee includes a new provision that prohibits the Department from enforcing guidance for U.S. positions on multilateral development banks which engage with developing countries on coal-fired power generation.

Section 132. The Committee includes a new provision with respect to the so-called people-to-people category of travel. As set forth in title 31, section 515.565(b)(2) of the Code of Federal Regulations, this category of travel contravenes the explicit prohibition against tourist activities as provided in section 910(b) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA). Furthermore, the stated purpose of people-to-people travel, which is to promote the Cuban people's independence from Cuban authorities, cannot be accomplished through itineraries that mainly feature interactions with representatives of a dictatorship that actively oppresses the Cuban people, nor can it be accomplished

through itineraries that do not require meetings with pro-democracy activists or independent members of Cuban civil society.

Section 133. The Committee includes a new provision to prohibit funds to approve, license, facilitate, authorize, or otherwise allow the importation of property confiscated by the Cuban Government.

Section 134. The Committee includes a new provision to prohibit funds to approve, license, facilitate, authorize, or otherwise allow any financial transactions with the Cuban military or intelligence service. This section does not apply to exports permitted under the Trade Sanctions Reform and Export Enhancement Act of 2000 or to financial transactions necessary for the maintenance and improvement of the military base at Guantanamo Bay, Cuba.

Section 135. The Committee includes a new provision to prohibit funds to approve or otherwise allow the licensing of a mark, trade name, or commercial name that is substantially similar to one that was used in connection with a business or assets that were confiscated unless expressly consented.

Section 136. The Committee includes a new provision to prohibit funds for the Internal Revenue Service (IRS) to determine that a church is not exempt from taxation for participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidates for public office unless the IRS Commissioner consents to such determination, the Commissioner notifies the tax committees of Congress, and the determination is effective 90 days after such notification.

TITLE II—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

Funds appropriated in this title provide for the staff and operations of the White House, along with other organizations within the Executive Office of the President (EOP), which formulate and coordinate policy on behalf of the President, such as the National Security Council and the Office of Management and Budget. The title also includes funding for the Office of National Drug Control Policy and certain expenses of the Vice President.

THE WHITE HOUSE

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$55,000,000
Budget request, fiscal year 2017	55,214,000
Recommended in the bill	55,000,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	- 214,000

The White House Salaries and Expenses account supports staff and administrative services necessary for the direct support of the President.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$55,000,000 for the White House.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

Appropriation, fiscal year 2016	\$12,723,000
Budget request, fiscal year 2017	12,723,000
Recommended in the bill	12,723,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

These funds provide for the care, maintenance, staffing and operations of the Executive Residence, including official and ceremonial functions of the President.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$12,723,000 for the Operating Expenses of the Executive Residence. The bill continues the same restrictions on reimbursable expenses for use of the Executive Residence as were included in past years.

WHITE HOUSE REPAIR AND RESTORATION

Appropriation, fiscal year 2016	\$750,000
Budget request, fiscal year 2017	750,000
Recommended in the bill	750,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

Funding in this account provides for the repair, alteration, and improvement of the Executive Residence at the White House.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$750,000 for White House Repair and Restoration.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$4,195,000
Budget request, fiscal year 2017	4,201,000
Recommended in the bill	4,200,000
Bill compared with:	
Appropriation, fiscal year 2016	+5,000
Budget request, fiscal year 2017	-1,000

The Council of Economic Advisers analyzes the national economy and its various segments, advises the President on economic developments, recommends policies for economic growth and stability, appraises economic programs and policies of the Federal Government, and assists in preparation of the annual Economic Report of the President.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$4,200,000 for the Council of Economic Advisers.

NATIONAL SECURITY COUNCIL AND HOMELAND SECURITY COUNCIL
SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$12,800,000
Budget request, fiscal year 2017	13,069,000
Recommended in the bill	10,896,000
Bill compared with:	
Appropriation, fiscal year 2016	-1,904,000
Budget request, fiscal year 2017	-2,173,000

The National Security Council and the Homeland Security Council have been combined to form the National Security Staff which advises and assists the President in the integration of domestic, foreign, military, intelligence, and economic aspects of national security policy, and serves as the principal means of coordinating executive departments and agencies in the development and implementation of national security and homeland security policies.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$10,896,000 for the National Security Council and Homeland Security Council.

Staffing report.—The Committee is concerned about the size of the National Security Council (NSC). What once was an inter-agency review process has become a growing bureaucracy that inhibits Secretary-level recommendations especially as they relate to critical national security policy decisions. In an effort to streamline the NSC, the Committee has reduced funding for the NSC relative to its enacted level. In addition, the Committee directs, within 90 days of enactment of this Act, the NSC provide a report outlining the roles and responsibilities of all of its full time equivalent (FTE) employees. This report shall include a breakout of all positions and FTEs that are assigned from other agencies to the NSC and all FTEs which the NSC has detailed to other agencies as well as associated start and end dates of assignment and any unreimbursed costs. Finally, the report shall contain a staffing reduction plan on how the NSC proposes to meet the budget reduction.

OFFICE OF ADMINISTRATION
SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$96,116,000
Budget request, fiscal year 2017	96,116,000
Recommended in the bill	96,116,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

The Office of Administration is responsible for providing administrative services to the Executive Office of the President. These services include financial, personnel, procurement, information technology, records management, and general office services.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$96,116,000 for the Office of Administration. Of the recommended amount, not to exceed \$12,760,000 is available until expended for modernization of the information technology infrastructure within the Executive Office of the President.

PRESIDENTIAL TRANSITION ADMINISTRATIVE SUPPORT

(INCLUDING TRANSFER OF FUNDS)

Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	\$7,582,000
Recommended in the bill	7,582,000
Bill compared with:	
Appropriation, fiscal year 2016	+7,582,000
Budget request, fiscal year 2017	---

The Presidential Transition Administrative Support account is for costs of processing of records of departing President and Vice President under the Presidential Records Act for transfer to the National Archives and Records Administration and other transition-related administrative expenses.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$7,582,000 for the Presidential Transition Administrative Support account. The Committee directs the Office of Administration to provide the Committee on Appropriations of the House and Senate with quarterly reports detailing how funds in this account are spent.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$95,000,000
Budget request, fiscal year 2017	100,725,000
Recommended in the bill	91,000,000
Bill compared with:	
Appropriation, fiscal year 2016	-4,000,000
Budget request, fiscal year 2017	-9,725,000

The Office of Management and Budget (OMB) assists the President in the discharge of budgetary, economic, management, and other executive responsibilities.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$91,000,000 for OMB. The recommendation also continues several long-standing provisos, not requested by the President, limiting certain OMB activities.

Budget Submission.—The recommendation provides sufficient funds for OMB to consult with and provide Congressional Committees with an appropriate number of printed and electronic copies of the President's fiscal year 2018 budget request, including documents such as the Appendix, Historical Tables, and Analytical Perspectives. The Committee believes that if the Administration wants the Congress to consider its proposed budget that it should provide the Congress with copies of the budget request.

Personnel and Obligations Report.—The Committee directs OMB to provide the Committees on Appropriations of the House and Senate with quarterly reports on personnel and obligations consisting of on-board staffing levels, estimated staffing levels by office for the remainder of the fiscal year, total obligations incurred to date, estimated total obligations for the remainder of the fiscal year, and a narrative description of current hiring initiatives.

Unobligated Balances Report.—OMB is directed to report to the Committees on Appropriations of the House and Senate within 45 days of the end of each fiscal quarter on available balances at the start of the fiscal year, current year obligations, and resulting unobligated balances for each discretionary account within the Financial Services and General Government subcommittee’s jurisdiction.

Contracting models.—The Committee notes that in some instances using transaction-based or no-cost contracting models for delivering or procuring information technology goods and services can save resources and increase efficiencies. The Committee believes that OMB should provide guidance to agencies on transaction-based and no-cost funding models, including when it is appropriate to consider using these contract tools, how to calculate potential savings from their use, and standards and best practices for conducting their procurement.

Social Cost of Carbon.—The Committee believes that the OIRA should not allow any regulations to be finalized using the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, Interagency Working Group on Social Cost of Carbon, United States Government, May 2013 until a new working group is convened. The working group should include the relevant agencies and affected stakeholders, re-examine the social cost of carbon using the best available science, and revise the estimates using an accurate discount rate and domestic estimate in accordance with Executive Order 12866 and OMB Circular A-94. To increase transparency, the working group should solicit public comment prior to finalizing any updates.

Intellectual Property.—The Committee continues to strongly support the Office of the Intellectual Property Enforcement Coordinator (IPEC), including its important work promoting private sector efforts to reduce online copyright infringement. The Committee encourages IPEC to work with U.S.-based Internet registrars and registries to ensure that parties are taking voluntary, cooperative action against illegal activities online. Given the growing threat of cybercrime and the link between intellectual property theft and other forms of cybercrime, including malware and hacking, OMB should provide IPEC with an additional full-time equivalent position above its current staffing level to focus on the area of cybercrime.

Rulemakings.—The Committee notes that Executive Order 13563 requires each agency to ensure the objectivity of any scientific and technological information and processes used to support the agency’s regulatory actions. The Committee emphasizes the requirement that federal agencies are appropriately evaluating the quality, objectivity, utility, and integrity of any scientific and economic information used to support agency guidance and rulemakings.

Travel.—As part of OMB Memorandum M-12-12, Federal agencies are directed to reduce their travel expenses by 30 percent below the fiscal year 2010 level. The Committee supports OMB’s efforts to reduce costs across Federal agencies by eliminating unnecessary travel expenses and directs OMB to submit a report to the Committee on Appropriations of the House and Senate no later than 120 days after enactment of this Act on whether agencies have complied with this memorandum during the previous fiscal

year. The report shall identify the savings achieved by each agency, whether the 30 percent savings goal was achieved, and how or if the changes in travel and conference policies have impacted agencies' ability to perform mission critical activities. The report shall also include recommendations to improve upon OMB's travel policies. OMB shall ensure that agencies are implementing policies regarding travel, event, meeting or conference locations based on the most efficient use of taxpayer funds.

Improper Payments.—The Committee believes OMB should work with agencies across the Federal Government to ensure processes are in place to eliminate payments to deceased persons. OMB is directed to report to the Committees on Appropriations of the House and Senate within 120 days of enactment of this Act on how it is ensuring that agencies are not making improper payments to deceased individuals.

DATA Act.—The Committee recognizes OMB's responsibilities related to implementation of the Digital Accountability and Transparency Act of 2014 (DATA Act). The Committee is concerned that OMB has not adequately prioritized DATA Act implementation. The Committee directs OMB to ensure agency compliance of the data-centric approach to federal financial reporting and fully standardized automated agency data submissions. The Committee includes funding for activities associated with DATA Act implementation and expects OMB to keep the Committee informed on its DATA implementation efforts.

Federal Privacy Council.—In accordance with Executive Order 13719, OMB shall convene the Federal Privacy Council at least annually. The Director shall issue a public notice to Congress regarding its meetings. The Council will be comprised of the Senior Agency Officials for Privacy from the 24 departments and agencies listed in the Executive Order, and any others that the Office of Management and Budget may deem appropriate.

Customer Service.—The Committee appreciates that the Administration has tried to improve customer service in accordance with Executive Order 13571—Streamlining Service Delivery and Improving Customer Service. However, more needs to be done to improve the services that the government provides whether it is citizens calling the Internal Revenue Service with questions, or Office of Personnel Management processing Federal employment retirement claims. The Committee directs OMB to develop standards to improve customer service for all agencies, and provide to the Committees on Appropriations of the House and Senate a report on how these standards are incorporated into the performance plans required under 31 U.S.C. 1115 within 90 days of the enactment of this Act.

Performance Measures.—In fiscal year 2014, the Committee directed that the head of each agency link its performance plans with their funding requests included in the President's budget request. While some progress was made on this effort in fiscal years 2015, 2016, and 2017, more needs to be done. Performance measures in future budget justifications should clearly demonstrate the extent to which performance reporting under 31 U.S.C. 1116 demonstrates that prior year investments in programs, projects, and activities are tied to progress toward achieving performance and priority goals and include estimates for how proposed investments will con-

tribute to additional progress. In particular, performance measures should examine outcome measures, output measures, efficiency measures and customer service measures as defined in 31 U.S.C. 1115(h). The Committee urges OMB to work with agencies to ensure that agency funding requests in fiscal year 2018 are directly linked to agency performance plans. The Committee directs OMB to report to the Committees on Appropriations of the House and Senate within 180 days of enactment of this Act on its progress improving the use of performance measures in the Executive Branch’s budgeting processes.

Poverty.—Strengthening America’s social safety net to better help those in need and improving education and training programs will give individuals the ability to enter or reenter, remain in, and, ultimately, succeed in the workforce. The Federal Government administers over 100 programs and tax credits designed to provide a pathway out of poverty. The impact of this funding, however, is dulled by the bureaucratic, fragmented, and formulaic nature of these programs. In its central role for developing budget and policy, OMB can access and coordinate the effectiveness of these programs.

Merit-based Grant Making Procedures.—The Committee notes that current OMB Uniform Guidance requires agencies to design and execute a merit review process for competitive grant applications.

Online Budget Repository.—The Committee encourages OMB to develop a central online repository where all Federal agency budgets and their respective justifications are publicly available in a consistent searchable, sortable, and machine readable format.

Human Trafficking.—The Committee directs OMB to ensure agencies fully comply with the Executive Order 13627.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$20,047,000
Budget request, fiscal year 2017	19,274,000
Recommended in the bill	19,274,000
Bill compared with:	
Appropriation, fiscal year 2016	– 773,000
Budget request, fiscal year 2017	– – –

The Office of National Drug Control Policy (ONDCP) was established by the Anti-Drug Abuse Act of 1988. As the President’s primary source of support for counter-drug policy development and program oversight, ONDCP is responsible for developing and updating a National Drug Control Strategy, developing a National Drug Control Budget, and coordinating and evaluating the implementation of Federal drug control activities. In addition, ONDCP manages several counter-drug programs which are discussed under the “Federal Drug Control Programs” heading below. These programs include the High Intensity Drug Trafficking Areas (HIDTA) program and Drug-Free Communities grants.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$19,274,000 for ONDCP Salaries and Expenses. The Committee expects ONDCP to

focus resources on the counter-drug policy development, coordination and evaluation functions which are the primary mission of the Office and the origins of its existence.

The Committee is pleased that the ONDCP is addressing the heroin epidemic. It is the responsibility of ONDCP to ensure that all Federal agencies involved in the Heroin Response Strategy are coordinated and using resources efficiently. The Committee directs ONDCP to report 180 days after enactment of this Act to the Committees on Appropriations of the House and Senate regarding all the expenditures and activities that the ONDCP is overseeing in regards to the Heroin Response Strategy.

The Committee is aware of and recognizes the difficulty that small and rural law enforcement agencies face with regard to overtime compensation for participation in multi-agency drug task forces. The Committee expects the ONDCP to coordinate with small and rural law enforcement agencies and develop strategies to improve the effectiveness of drug eradication efforts through shared intelligence, technology, and manpower despite limited resources.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

Appropriation, fiscal year 2016	\$250,000,000
Budget request, fiscal year 2017	196,410,000
Recommended in the bill	253,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+3,000,000
Budget request, fiscal year 2017	+56,590,000

The High Intensity Drug Trafficking Areas (HIDTA) Program provides resources to Federal and State, local, and tribal agencies in designated HIDTAs to combat the production, transportation and distribution of illegal drugs; to seize assets derived from drug trafficking; to address violence in drug-plagued communities; and to disrupt the drug marketplace.

Currently, 28 HIDTAs operate in 48 States plus the District of Columbia, Puerto Rico, and the Virgin Islands. Each HIDTA is managed by an Executive Board comprised of equal numbers of Federal, State, local or tribal officials. Each HIDTA Executive Board is responsible for designing and implementing initiatives for the specific drug trafficking threats in its region. Intelligence and information sharing are key elements of all HIDTA programs.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$253,000,000 for the HIDTA Program. The Committee believes that the HIDTA program has demonstrated its effectiveness and can serve as an important tool in combating problems of drug trafficking and drug-related violence.

The Committee includes language requiring that existing HIDTAs receive funding at least equal to the fiscal year 2016 level unless the Director submits a justification for doing otherwise to the Committees on Appropriations, based on clearly articulated priorities and published performance measures.

The recommendation includes language directing ONDCP to notify the Committees on Appropriations of the initial allocation of HIDTA funds no later than 45 days after enactment, and to notify the Committees of the proposed use of funds no later than 90 days after enactment. The language directs the ONDCP Director to work in consultation with the HIDTA Directors in determining the uses of that discretionary funding.

Finally, the Committee recommendation specifies that up to \$2,700,000 may be used for auditing services and related activities.

OTHER FEDERAL DRUG CONTROL PROGRAMS
(INCLUDING TRANSFERS OF FUNDS)

Appropriation, fiscal year 2016	\$109,810,000
Budget request, fiscal year 2017	98,480,000
Recommended in the bill	111,871,000
Bill compared with:	
Appropriation, fiscal year 2016	+2,061,000
Budget request, fiscal year 2017	+13,391,000

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$111,871,000 for Other Federal Drug Control Programs. The recommended level for fiscal year 2017 is distributed among specific programs and activities as follows:

Drug-Free Communities	\$97,000,000
[Training (Section 4 of P.L. 107-82)	2,000,000]
Drug court training and technical assistance	2,000,000
Anti-Doping activities	9,500,000
World Anti-Doping Agency dues	2,121,000
Activities as authorized by Section 1105 of P.L. 109-469	1,250,000

Within the total for the account, the Committee recommends \$97,000,000 for the Drug-Free Communities program. Within this amount, \$2,000,000 is for training authorized by Section 4 of P.L. 107-82. This program makes grants of up to \$125,000 per year available to support local coalitions to develop and implement community-based plans to reduce drug abuse among youth. These coalitions are required to include participants from a wide range of interests, including local government agencies, schools, the media, service organizations, law enforcement, parents, youth, and the business community. Local matching contributions are required. Grants are awarded on a competitive basis, and may be renewed for up to five years, after which time the coalition must compete again for any further funding.

Within this account, the Committee recommends \$2,000,000 for drug court training and technical assistance and \$9,500,000 for anti-doping activities. Anti-doping activities support athlete drug testing programs, research initiatives, educational programs, and enforce compliance with the World Anti-Doping Code. Additionally, the Committee recommends \$2,121,000 for the United States membership dues to the World Anti-Doping Agency (WADA). WADA is the international agency created to promote, coordinate, and monitor efforts against doping and illicit drug use in sport on a global basis.

In addition, the Committee includes \$1,250,000 for assistance to States in implementing effective drug laws (section 1105 of P.L.

109–469). All funds under this heading are to be awarded under a competitive process.

INFORMATION TECHNOLOGY OVERSIGHT AND REFORM
(INCLUDING TRANSFER OF FUNDS)

Appropriation, fiscal year 2016	\$30,000,000
Budget request, fiscal year 2017	35,200,000
Recommended in the bill	25,000,000
Bill compared with:	
Appropriation, fiscal year 2016	– 5,000,000
Budget request, fiscal year 2017	– 10,200,000

These funds support efforts to make the Federal Government’s investments in information technology (IT) more efficient, secure and effective.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$25,000,000. The Committee appreciates OMB’s efforts to improve program and contract management of information technology investments as well as the Administration’s efforts to utilize cloud computing and consolidate data centers. The Committee expects OMB to improve the processes used to develop information technology systems. The Committee directs OMB to provide the Committees on Appropriations of the House and the Senate with quarterly reports on savings this program identifies by fiscal year, agency and appropriation.

SPECIAL ASSISTANCE TO THE PRESIDENT
SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$4,228,000
Budget request, fiscal year 2017	4,228,000
Recommended in the bill	4,228,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

These funds support the executive functions of the Office of the Vice President.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$4,228,000 for the Office of the Vice President.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT
OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Appropriation, fiscal year 2016	\$299,000
Budget request, fiscal year 2017	299,000
Recommended in the bill	299,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

These funds support the care and operation of the Vice President’s residence and specifically support equipment, furnishings,

dining facilities, and services required to perform and discharge the Vice President's official duties, functions and obligations.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$299,000 for the Operating Expenses of the Vice President's residence.

ADMINISTRATIVE PROVISIONS—EXECUTIVE OFFICE OF THE
PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

(INCLUDING TRANSFER OF FUNDS)

Section 201. The Committee includes language permitting the transfer of not to exceed ten percent of funds between various accounts within the Executive Office of the President, with advance approval of the Committees on Appropriations. The amount of an appropriation shall not be increased by more than 50 percent.

Section 202. The Committee continues language requiring the Director of the Office of Management and Budget to report on the costs of implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203).

Section 203. The Committee includes language requiring the Director of the Office of Management and Budget to include a statement of budgetary impact with any Executive Order or Presidential Memorandum issued or rescinded during fiscal year 2017. The Committee believes the American people should understand the impact on costs and revenues when the President issues Executive Orders or Presidential Memorandums.

Section 204. The Committee includes language prohibiting funds to prepare, sign or approve statements abrogating legislation passed by the House of Representatives and the Senate and signed by the President.

Section 205. The Committee includes language prohibiting funds to prepare or implement Executive Orders or Presidential Memorandums in contravention of existing law.

TITLE III—THE JUDICIARY

The funds recommended by the Committee in title III of the accompanying bill are for the operation and maintenance of United States Courts and include the salaries of judges, probation and pre-trial services officers, public defenders, court clerks, law clerks, and other supporting personnel, as well as security costs, information technology, and other expenses of the Federal Judiciary. The Committee recommends a total of \$6,955,503,000 in discretionary funding for the Judiciary in fiscal year 2017.

In addition to direct appropriations, the Judiciary collects various fees and has certain multiyear funding authorities. The Judiciary uses these non-appropriated funds to offset its direct appropriation requirements. Consistent with prior year practices and section 608 of this Act, the Committee expects the Judiciary to submit a financial plan, within 60 days of enactment of this Act, allocating all sources of available funds including appropriations, fee collections, and carryover balances. This financial plan will be the baseline for purposes of reprogramming notification.

Improving the physical security at buildings occupied by the Judiciary and U.S. Marshals Service (USMS) and ensuring the integrity of the judicial process by providing secure facilities to conduct judicial business is a priority for the Committee. Under the General Services Administration's (GSA) Federal Buildings Fund appropriation, the Committee recommends \$26,700,000 for the Judiciary Capital Security program for alterations to improve physical security in buildings occupied by the Judiciary and USMS.

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$75,838,000
Budget request, fiscal year 2017	76,668,000
Recommended in the bill	76,668,000
Bill compared with:	
Appropriation, fiscal year 2016	+830,000
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$76,668,000 for fiscal year 2017 for the salaries and expenses of personnel and the cost of operating the Supreme Court, excluding the care of the building and grounds. The Committee includes bill language making \$1,500,000 available until expended for the purpose of making information technology investments. The Committee directs the Court to include an annual report with its budget justification materials, showing information technology carryover balances and describing expenditures made in the previous fiscal year and planned expenditures in the budget year.

CARE OF THE BUILDING AND GROUNDS

Appropriation, fiscal year 2016	\$9,964,000
Budget request, fiscal year 2017	14,868,000
Recommended in the bill	14,868,000
Bill compared with:	
Appropriation, fiscal year 2016	+4,904,000
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$14,868,000 for fiscal year 2017, to remain available until expended, for personnel and other services relating to the structural and mechanical care of the Supreme Court building and grounds. The Architect of the Capitol has responsibility for these functions and supervises the use of this appropriation.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$30,872,000
Budget request, fiscal year 2017	30,108,000
Recommended in the bill	30,108,000
Bill compared with:	
Appropriation, fiscal year 2016	- 764,000
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

The Court of Appeals for the Federal Circuit has exclusive national jurisdiction over a large number of diverse subject areas, including government contracts, patents, trademarks, Federal personnel, and veterans' benefits. The Committee recommends an appropriation of \$30,108,000 for fiscal year 2017.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$18,160,000
Budget request, fiscal year 2017	18,462,000
Recommended in the bill	18,462,000
Bill compared with:	
Appropriation, fiscal year 2016	+302,000
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

The Court of International Trade has exclusive nationwide jurisdiction of civil actions against the United States and certain civil actions brought by the United States, arising out of import transactions and administration and enforcement of the Federal customs and international trade laws. The Committee recommends an appropriation of \$18,462,000 for fiscal year 2017.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$4,918,969,000
Budget request, fiscal year 2017	5,045,785,000
Recommended in the bill	5,010,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+91,031,000
Budget request, fiscal year 2017	-35,785,000

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$5,010,000,000 for the operations of the regional courts of appeals, district courts, bankruptcy courts, the Court of Federal Claims, and probation and pretrial services offices.

The Committee recommends a reimbursement of \$6,260,000 for fiscal year 2017 from the Vaccine Injury Compensation Trust Fund to cover expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986.

DEFENDER SERVICES

Appropriation, fiscal year 2016	\$1,004,949,000
Budget request, fiscal year 2017	1,056,326,000
Recommended in the bill	1,056,326,000
Bill compared with:	
Appropriation, fiscal year 2016	+51,377,000
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

This account provides funding for the operation of the Federal Public Defender and Community Defender organizations and for compensation and reimbursement of expenses of panel attorneys appointed pursuant to the Criminal Justice Act for representation in criminal cases. The Committee recommends an appropriation of \$1,056,326,000 for fiscal year 2017.

FEES OF JURORS AND COMMISSIONERS

Appropriation, fiscal year 2016	\$44,199,000
Budget request, fiscal year 2017	43,723,000
Recommended in the bill	43,723,000
Bill compared with:	
Appropriation, fiscal year 2016	- 476,000
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$43,723,000 for payments to jurors and land commissioners for fiscal year 2017.

COURT SECURITY

(INCLUDING TRANSFERS OF FUNDS)

Appropriation, fiscal year 2016	\$538,196,000
Budget request, fiscal year 2017	565,388,000
Recommended in the bill	565,388,000
Bill compared with:	
Appropriation, fiscal year 2016	+27,192,000
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$565,388,000 for Court Security in fiscal year 2017 to provide for necessary expenses of security and protective services in courtrooms and adjacent areas. The recommendation will provide for the highest priority security needs identified by the courts and the U.S. Marshals Service.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$85,665,000
Budget request, fiscal year 2017	87,748,000
Recommended in the bill	87,500,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,835,000
Budget request, fiscal year 2017	- 248,000

COMMITTEE RECOMMENDATION

The Administrative Office of the United States Courts (AO) provides administrative and management support to the United States Courts, including the probation and bankruptcy systems. It also supports the Judicial Conference of the United States in determining Federal Judiciary policies, in developing methods to assist the courts to conduct business efficiently and economically, and in enhancing the use of information technology in the courts. The Committee recommends an appropriation of \$87,500,000 for the AO for fiscal year 2017.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$27,719,000
Budget request, fiscal year 2017	28,335,000
Recommended in the bill	28,200,000
Bill compared with:	
Appropriation, fiscal year 2016	+481,000
Budget request, fiscal year 2017	-135,000

COMMITTEE RECOMMENDATION

The Federal Judicial Center (FJC) improves the management of Federal Judicial dockets and court administration through education for judges and staff, and research, evaluation, and planning assistance for the courts and the Judicial Conference. The Committee recommends an appropriation of \$28,200,000 for the FJC for fiscal year 2018.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$17,570,000
Budget request, fiscal year 2017	18,150,000
Recommended in the bill	18,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+430,000
Budget request, fiscal year 2017	-150,000

COMMITTEE RECOMMENDATION

The purpose of the U.S. Sentencing Commission is to establish, review, and revise sentencing guidelines, policies, and practices for the Federal criminal justice system. The Commission is also required to monitor the operation of the guidelines and to identify and report necessary changes to the Congress. The Committee recommends \$18,000,000 for the Commission for fiscal year 2017.

ADMINISTRATIVE PROVISIONS—THE JUDICIARY

(INCLUDING TRANSFER OF FUNDS)

Section 301. The Committee continues language to permit funds for salaries and expenses to be available for employment of experts and consultant services as authorized by 5 U.S.C. 3109.

Section 302. The Committee continues language that permits up to five percent of any appropriation made available for fiscal year 2017 to be transferred between Judiciary appropriations provided that no appropriation shall be decreased by more than five percent or increased by more than ten percent by any such transfer except in certain circumstances. In addition, the language provides that any such transfer shall be treated as a reprogramming of funds under sections 604 and 608 of the accompanying bill and shall not be available for obligation or expenditure except in compliance with the procedures set forth in those sections.

Section 303. The Committee continues language authorizing not to exceed \$11,000 to be used for official reception and representation expenses incurred by the Judicial Conference of the United States.

Section 304. The Committee continues language through fiscal year 2017 regarding the delegation of authority to the Judiciary for contracts for repairs of less than \$100,000.

Section 305. The Committee continues language to authorize a court security pilot program.

Section 306. The Committee includes language requested by the Judicial Conference of the United States to extend temporary judgeships in Alabama, Arizona, California, Florida, Kansas, Missouri, New Mexico, North Carolina and Texas.

Section 307. The Committee includes new language to authorize an increase of the daily juror attendance fee by \$10.

Section 308. The Committee includes language requested by the Judicial Conference of the United States to extend temporary bankruptcy judgeships in Virginia, Michigan, Puerto Rico, Delaware, and Florida.

TITLE IV—DISTRICT OF COLUMBIA

FEDERAL FUNDS

The Appropriations Committees have a special relationship with the District of Columbia that is unlike any other city in the country. For example, the Appropriations Committees are authorized by law to fund the court operations of the District of Columbia. Title IV of this Act provides a Federal payment totaling \$612,176,000 for the cost of judges, court personnel, offender and defendant supervision, and defendant representation. Title IV also provides Federal Payments to District of Columbia programs in areas such as education and security. In addition, the United States Department of Justice provides hundreds of United States Attorneys and Deputy United States Marshals to prosecute local crimes and provide security for the D.C. Court system. The Federal Bureau of Prisons houses thousands of District of Columbia prisoners. Federal taxpayers do not fund similar activities for any other city.

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

Appropriation, fiscal year 2016	\$40,000,000
Budget request, fiscal year 2017	40,000,000
Recommended in the bill	20,000,000
Bill compared with:	
Appropriation, fiscal year 2016	- 20,000,000
Budget request, fiscal year 2017	- 20,000,000

The Resident Tuition Support program, also known as the DC Tuition Assistance Grant (DCTAG) program, provides up to \$10,000 annually for undergraduate District students to attend eligible four-year public universities and colleges nationwide at in-state tuition rates. Grants of up to \$2,500 per year are available for students to attend private universities and colleges in the D.C. metropolitan area, private Historically Black Colleges and Universities nationwide, and public two-year community colleges nationwide.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$20,000,000 for the resident tuition support program. The District of Columbia can contribute local funds to this program and is authorized to

prioritize applications based on income and need if there is demand for the program beyond the available level of Federal funds.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS
IN THE DISTRICT OF COLUMBIA

Appropriation, fiscal year 2016	\$13,000,000
Budget request, fiscal year 2017	34,895,000
Recommended in the bill	40,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+27,000,000
Budget request, fiscal year 2017	+5,105,000

As the seat of the national government, the District of Columbia has a unique and significant responsibility for protecting the property and personnel of the Federal Government. The Federal Payment for Emergency Planning and Security Costs is provided to help address the impact of the Federal presence on public safety in the District of Columbia.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$40,000,000 for emergency planning and security costs. The recommendation includes an increase for Presidential inauguration-related activities. Prior-year balances are available if needs exceed the funds provided in the bill.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

Appropriation, fiscal year 2016	\$274,401,000
Budget request, fiscal year 2017	274,681,000
Recommended in the bill	274,541,000
Bill compared with:	
Appropriation, fiscal year 2016	+140,000
Budget request, fiscal year 2017	- 140,000

Under the National Capital Revitalization and Self-Government Improvement Act of 1997, the Federal Government is required to finance the District of Columbia Courts. This Federal payment to the District of Columbia Courts funds the operations of the District of Columbia Court of Appeals, Superior Court, the Court System, and the Capital Improvement Program.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$274,541,000 for operation of the District of Columbia Courts. This amount includes \$14,303,000 for the Court of Appeals; \$124,800,000 for the Superior Court; \$74,783,000 for the Court System; and \$60,655,000 for capital improvements to courthouse facilities.

The District of Columbia Courts are directed to provide quarterly expenditures, unobligated balances and staffing reports to the Committees on Appropriations of the House and Senate for all programs, to be submitted within 30 days after the end of each quarter.

FEDERAL PAYMENT FOR DEFENDER SERVICES IN THE DISTRICT OF
COLUMBIA COURTS

Appropriation, fiscal year 2016	\$49,890,000
Budget request, fiscal year 2017	49,890,000
Recommended in the bill	49,890,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

The District of Columbia Courts appoint and compensate attorneys to represent persons who are financially unable to obtain such representation.

COMMITTEE RECOMMENDATION

The Committee recommends \$49,890,000 for Defender Services in the District of Columbia Courts.

The District of Columbia Courts are directed to provide quarterly expenditure and unobligated balance reports to the Committees on Appropriations of the House and Senate, within 30 days after the end of each quarter.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER
SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Appropriation, fiscal year 2016	\$244,763,000
Budget request, fiscal year 2017	248,008,000
Recommended in the bill	246,386,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,623,000
Budget request, fiscal year 2017	-1,622,000

The Court Services and Offender Supervision Agency (CSOSA) for the District of Columbia is an independent Federal agency created by the National Capital Revitalization and Self-Government Improvement Act of 1997. CSOSA acquired the operational responsibilities for the former District agencies in charge of probation and parole, and houses the Pretrial Services Agency (PSA) for the District of Columbia within its framework.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$246,386,000 for the CSOSA. Of the amounts provided, \$182,564,000 is for Community Supervision and Sex Offender Registration and \$63,822,000 is for the PSA.

In January 2016, the District of Columbia Courts, Public Defender Service, and Court Services and Offender Supervision Agency Act of 2015 (Public Law 114-118) was signed into law, giving permanent authority for CSOSA to accept, solicit, and use in-kind donations.

CSOSA is directed to provide a quarterly report on its expenditures, unobligated balances and staffing to the Committees on Appropriations of the House and Senate, to be submitted within 30 days after the end of each quarter.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA PUBLIC DEFENDER SERVICE

Appropriation, fiscal year 2016	\$40,889,000
Budget request, fiscal year 2017	41,829,000
Recommended in the bill	41,359,000
Bill compared with:	
Appropriation, fiscal year 2016	+470,000
Budget request, fiscal year 2017	- 470,000

The Public Defender Service (PDS) for the District of Columbia is an independent organization authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, whose purpose is to provide legal representation services within the District of Columbia justice system.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$41,359,000 for the PDS for the District of Columbia.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING COUNCIL

Appropriation, fiscal year 2016	\$1,900,000
Budget request, fiscal year 2017	2,000,000
Recommended in the bill	2,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+100
Budget request, fiscal year 2017	- - -

The Criminal Justice Coordinating Council (CJCC) provides a forum for District of Columbia and Federal law enforcement to identify criminal justice issues and solutions, and improve the coordination of their efforts. In addition, the CJCC developed and maintains the Justice Integrated Information System which provides for the seamless sharing of information with Federal and local law enforcement.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$2,000,000 to the CJCC.

FEDERAL PAYMENT FOR JUDICIAL COMMISSIONS

Appropriation, fiscal year 2016	\$565,000
Budget request, fiscal year 2017	585,000
Recommended in the bill	585,000
Bill compared with:	
Appropriation, fiscal year 2016	+20,000
Budget request, fiscal year 2017	- - -

This appropriation provides funding for the two judicial commissions. The first is the Judicial Nomination Commission (JNC), which recommends a panel of three candidates to the President for each judicial vacancy in the District of Columbia Court of Appeals and Superior Court. From the panel selected by the JNC, the President nominates a person for each vacancy and submits his or her name for confirmation to the Senate. The second commission is the Commission on Judicial Disabilities and Tenure (CJDT), which has jurisdiction over all judges of the Court of Appeals and Superior Court to determine whether a judge's conduct warrants disciplinary action and whether involuntary retirement of a judge for health

reasons is warranted. In addition, the CJDT conducts evaluations of judges seeking reappointment and judges who retire and wish to continue service as a senior judge.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$310,000 for the Commission on Judicial Disabilities and Tenure, and \$275,000 for the Judicial Nomination Commission.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

Appropriation, fiscal year 2016	\$45,000,000
Budget request, fiscal year 2017	43,200,000
Recommended in the bill	45,000,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	+1,800,000

The Scholarships for Opportunity and Results (SOAR) Act authorizes funds to be evenly divided between District of Columbia Public Schools, Public Charter Schools and Opportunity Scholarships.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$45,000,000 for school improvement. Based on the statutory funding formula, this will provide \$15,000,000 for District of Columbia Public Schools, \$15,000,000 for Public Charter Schools and \$15,000,000 for Opportunity Scholarships.

FEDERAL PAYMENT FOR THE DISTRICT OF COLUMBIA NATIONAL GUARD

Appropriation, fiscal year 2016	\$435,000
Budget request, fiscal year 2017	450,000
Recommended in the bill	450,000
Bill compared with:	
Appropriation, fiscal year 2016	+15,000
Budget request, fiscal year 2017	---

The Major General David F. Wherley, Jr. District of Columbia National Guard Retention and College Access Program pays for the costs of a tuition assistance program for guard members.

COMMITTEE RECOMMENDATION

The Committee recommends a Federal payment of \$450,000 for the Major General David F. Wherley, Jr. District of Columbia National Guard Retention and College Access Program. The Committee acknowledges the unique role of the D.C. National Guard in addressing emergencies that may occur as a result of the presence of the Federal Government.

FEDERAL PAYMENT FOR TESTING AND TREATMENT OF HIV/AIDS

Appropriation, fiscal year 2016	\$5,000,000
Budget request, fiscal year 2017	5,000,000
Recommended in the bill	5,000,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

Currently, 2.4 percent of the population of the District of Columbia has been diagnosed with HIV. The World Health Organization

defines an HIV epidemic as “severe” when the percent of infection among residents exceeds one percent.

COMMITTEE RECOMMENDATION

The Committee recommendation includes \$5,000,000 for a Federal payment for testing and treatment of HIV/AIDS.

DISTRICT OF COLUMBIA FUNDS

The Committee continues to consider the referendum providing local funds budget autonomy as an expression of the opinion of the District of Columbia residents without any authority to change or alter the existing relationship between Federal appropriations and the District. The Committee’s position was affirmed by the Government Accountability Office in a January 2014 opinion. Notwithstanding the Superior Court of the District of Columbia’s decision of March 18, 2016, the bill appropriates local funds to the District of Columbia in accordance with and required by Article I, Section 8, clause 17 and Article I, Section 9, clause 7 of the Constitution.

This bill provides local funds for the operation of the District of Columbia as approved by the District of Columbia Council and the Mayor. The local budget proposed by the Mayor provides an appropriation of \$14,089,565,000 for operations of the District of Columbia. This amount includes estimated funding of \$8,190,263,000 of local funds, \$2,191,023,000 in Medicaid payments, and the remainder from other Federal and local funds.

The Committee includes language that provides the District with the authority to spend their local funds in the following fiscal year in the event of an absence in appropriations. This authority is continued in section 816 of this Act.

TITLE V—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$3,100,000
Budget request, fiscal year 2017	3,200,000
Recommended in the bill	3,100,000
Bill compared with:	
Appropriation, fiscal year 2016	— — —
Budget request, fiscal year 2017	– 100,000

The Administrative Conference of the United States (ACUS) is an independent agency that studies Federal administrative procedures and processes to recommend improvements to the President, Congress and other agencies.

COMMITTEE RECOMMENDATION

The Committee recommends \$3,100,000 for ACUS.

BUREAU OF CONSUMER FINANCIAL PROTECTION

ADMINISTRATIVE PROVISIONS

Five-Member Commission.—The CFPB has oversight over a wide range of consumer financial products. As such, the CFPB’s activities have the potential to significantly affect consumers’ access to

credit and the operations of both banks and nonbanks. The Committee believes the Dodd-Frank Wall Street Reform and Consumer Protection Act provides inadequate checks on the CFPB's powers. The Committee's experience overseeing the Federal Communications Commission, the Federal Trade Commission, the Securities and Exchange Commission, the Consumer Product Safety Commission, and other Federal agencies with powers to protect consumers and investors leads the Committee to conclude that a five-member commission is more suitable for guiding the CFPB than a single director. A commission ensures that multiple disciplines, experiences, and perspectives are brought to bear on CFPB rules, policies, and enforcement actions. The appointment and removal process and staggered terms of commissioners can provide checks and balances to an agency's operations and priorities, as well as a measure of continuity that a single director cannot. The Committee includes section 505 to address this issue.

Arbitration.—The Committee has included bill language that prohibits any funding to be used by the CFPB and restricts the legal effectiveness of any rule or regulation finalized by the CFPB to regulate pre-dispute arbitration agreements, including any rules or guidelines pursuant to section 1028(b) of Public Law 111–203 (12 U.S.C. 5518(b)), until the CFPB fully complies with requirements regarding pre-dispute arbitration as follows.

Prior to completion of the study and before preparation of the report to Congress, the Bureau shall issue a public notice identifying with specificity the topics that may be addressed in the report and soliciting public comment with respect to the appropriateness of addressing those topics, and any additional topics that should be addressed in the report. After considering the comments, the CFPB shall publish a notice identifying with specificity the topics that may be addressed in the report and soliciting public comment, including empirical data, regarding those topics. The deadline for filing comments shall be no earlier than ninety days after publication of the notice in the Federal Register. The topics addressed in the report shall also include the following: (A) how, for the kinds of disputes that most consumers are likely to have, the accessibility, cost, fairness, and efficiency of the process afforded by litigation compares to the accessibility, cost, fairness, and efficiency of the process afforded by pre-dispute arbitration; (B) the extent to which arbitration and litigation encourage companies to resolve disputes before their customers file formal claims; (C) whether consumers' use of arbitration is adversely affected by a lack of information and the steps that could be taken to better inform consumers about arbitration and to make arbitration more accessible to consumers; (D) the extent to which private class action proceedings on behalf of consumers regarding consumer financial products and services will provide net benefits to consumers in light of the CFPB's enforcement and examination authority; (E) the extent to which particular limitations or conditions on the use of pre-dispute arbitration will have the practical effect of eliminating pre-dispute arbitration; and (F) the impact on cost and availability of credit to consumers and small businesses of prohibiting or limiting pre-dispute arbitration.

After it has adopted tentative conclusions, but before those conclusions have been finalized, the CFPB shall publish those conclusions together with sufficient supporting and explanatory informa-

tion, and solicit public comment regarding the tentative conclusions. The deadline for filing comments shall be no earlier than forty-five days after publication of the tentative conclusions. The CFPB shall consider the public comments in formulating its final conclusions and shall explain in the report to Congress its reason for disagreeing with significant comments. In carrying out the study, the CFPB shall use a research process that includes peer review of the CFPB's methodology and findings by a diverse group of individuals with relevant expertise in quantitative and qualitative research methods from the private and public sectors. The Director of the CFPB shall select individuals whose expertise in research methods is unrelated to dispute resolution. The composition of the peer review panel shall be subject to the procedures for a rulemaking under section 553 of title 5, United States Code, including its procedures for notice and comment. No political appointee may participate on a peer review panel. The Director of the CFPB shall promulgate a conflict of interest policy that ensures public transparency and accountability, and requires full disclosure of any real or potential conflicts of interest on the parts of individuals that participate in the peer review process. The term "political appointee" means any individual who is employed in a position described in sections 5312 through 5316 of title 5, United States Code (relating to the executive schedule); is a limited term appointee, limited emergency appointee, or non-career appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5, United States Code; is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5, Code of Federal Regulations; or is employed in a position described in section 1011(b) of Public Law 111-203 (12 U.S.C. 5491(b)).

When the CFPB submits the report to Congress, the CFPB shall at the same time make publicly available a description of the peer review process, including an explanation of the peer review panel's conclusions about the CFPB's methodology and findings, sufficient to provide a basis for judicial review under section 706 of title 5 United States Code, of the report's conclusions to the extent the CFPB sought to use them as the basis for a proposed or final regulation under section 1028(b) of Public Law 111-203 (12 U.S.C. 5518(b)). The deadline for filing comments shall be no earlier than ninety days after publication of the notice in the Federal Register. In addition, in determining whether any rule or final regulation implementing a prohibition or imposition of conditions or limitations on the use of an agreement between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future dispute between the parties is in the public interest and for the protection of consumers, the CFPB shall consider the costs and benefits to consumers including: (1) the practical effect on consumers' access to low cost, fair, and efficient means of resolving claims for the types of injuries that consumers most often incur and that are less likely to be the subject of government enforcement actions; (2) the extent to which private class action proceedings on behalf of consumers regarding consumer financial products and services provide net benefits to consumers in light of the CFPB's and other regulators' enforcement and exam-

ination authority; (3) the practical effect of any proposed or final regulation on the availability of pre-dispute arbitration; and (4) the impact of any proposed or final regulation on the cost and availability of credit to consumers and small business. The CFPB shall make a determination based on the information before it that the demonstrable benefits of any proposed or final regulation or rule to consumers outweigh the costs to consumers, taking into account the factors enumerated just above and other relevant factors; and, the rule subjects pre-dispute arbitration to no more regulation than is necessary to serve the public interest and protect consumers. Such determinations, together with the CFPB analysis and underlying data, shall be published in the Federal Register.

Small Institutions Exemption.—The Committee believes the CFPB should strongly consider the impact the Bureau’s rules have on small institutions, like community banks and credit unions. While these entities are not under direct supervisory oversight by the Bureau, they are still required to comply with rules written for entities many times their size. The Committee is concerned the Bureau may be unintentionally burdening community-based financial institutions and limiting their ability to provide consumer credit. The Dodd-Frank Act gave the Bureau explicit power in section 1022 to tailor its regulations to exempt “any class” of entity from individual rulemakings. To date, the CFPB has made very limited use of this authority. The Committee believes that the CFPB must do more in this area to better tailor its rules to ensure that the Bureau’s regulations do not unnecessarily burden smaller institutions.

The Committee directs the Bureau to report to the Committees on Appropriations of the House and Senate, the Committee on Financial Services of the House, and the Committee on Banking, Housing, and Urban Affairs of the Senate, within 120 days of enactment of this Act, on how it has used its authority under section 1022 in rulemakings to exempt certain classes, any plans to revisit previous rulemakings to more carefully tailor or grant exemptions to rules that have been especially burdensome, and the process for the Bureau to consider exemptions to community institutions in future rulemakings.

Short-term Lending.—The Committee supports meaningful safeguards to prevent predatory lending practices in the short-term lending market. However, the Committee believes the Bureau has not carefully balanced existing regulatory frameworks within States and the need to provide consumers with access to a range of short-term financial services products. In order to ensure viable credit options for all consumers, the Committee believes the Bureau needs to better engage stakeholders, including States with robust statutes in this area, in an open and transparent manner as the Bureau considers any proposed rules. The Committee expects the Bureau to base any regulatory action on complete data and sound analysis, taking into consideration successful State models which have encouraged lending practices that are fair and transparent without restricting access to credit.

Pursuant to its mandate in section 1021 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau shall ‘enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services’. The Committee believes the

Bureau is statutorily prohibited from taking any action that would in any way restrict consumer access to credit.

State-based Insurance.—The U.S. has a strong history of promoting State-based regulation of the business of insurance. The Committee remains concerned about preemption of these effective State-based regulatory models, including those products that helps consumers manage the risks associated with owning a motor vehicle. Furthermore, the Committee supports these products being regulated by State insurance commissioners and reiterates that they are exempt under the Dodd-Frank Act from direct oversight by the Consumer Financial Protection Bureau (CFPB).

Manufactured Housing.—The Committee does not support abusive home financing practices. However, the Committee is concerned that since Dodd-Frank, new tests for high-cost loans are pricing consumers out of the market, particularly for homes valued at \$250,000 and below. The Committee believes this especially affects consumers who want to purchase manufactured homes. Credit for these consumers should not be reduced because of overregulation by the Federal Government.

Indirect Auto Lending.—The Committee is concerned the Bureau's recent actions related to auto lending are reducing competition, regulating auto dealers—over which the Bureau has no jurisdiction—and raising costs to consumers. The Committee strongly supports fair lending protections for consumers but believes that the Bureau needs to act within the law established by Congress and believes that there are significant deficiencies in the Bureau's statistical methodology and approach to enforcing the Equal Credit Opportunity Act with regard to indirect auto lending.

Qualified Mortgages.—The Committee is supportive of recent efforts to allow for residential mortgages held in portfolio by lenders to be recognized as qualified mortgages for the purposes of the Bureau's mortgage lending rules. These efforts would especially help community bankers and credit unions who have decreased their mortgage lending business in recent years due to onerous regulatory requirements.

In addition, the Committee supports efforts to clarify the definition of “points and fees” for qualified mortgages in order to improve access to credit for low and moderate income borrowers. The change in definition under Dodd-Frank has caused many borrowers to be unable to obtain a qualified mortgage, causing higher costs and less convenience for the consumers.

Financial Literacy.—The Committee directs the CFPB, in consultation with the Financial Literacy and Education Commission, to report to the Committees on Appropriations of the House and Senate, not less than one year after enactment of this Act, on the feasibility of designating qualified institutions, like universities, State and local educational agencies, and qualified nonprofit agencies or financial institutions as centers of excellence to develop and implement effective financial literacy programs.

The Committee includes the following provisions in the bill:

Section 501. The Committee repeals the prohibition against the Committees on Appropriations reviewing transfers from the Federal Reserve System to the CFPB. Congress has a duty to examine and critique the activities of the CFPB, especially since its expendi-

tures, like any other Federal agency, contribute to a growing Federal debt.

Section 502. The Committee changes the CFPB’s source of funding from transfers from the Federal Reserve System to annual appropriations beginning in fiscal year 2018. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB can spend more than half a billion dollars without an annual review by Congress. The Committee believes the CFPB needs oversight as much as banks and nonbanks do and further reminds the CFPB to remain steadfast to its mission to promote fairness and transparency for mortgages, credit cards, and other consumer financial products and services and not to stray into consumer advocacy.

Section 503. The Committee repeats, with modifications, a provision enacted in fiscal year 2016 that requires CFPB to notify the Committees on Appropriations of the House and Senate, the Committee on Financial Services of the House, and the Committee on Banking, Housing, and Urban Affairs of the Senate of requests for a transfer of funds from the Federal Reserve System.

Section 504. The Committee directs the CFPB to submit quarterly reports on its activities and to testify on its activities when requested. The report shall include, among other things, how the CFPB allocates its funds and staff.

Section 505. The Committee changes the management of the CFPB to a five-member Board of Directors, to be appointed by the President and approved by the Senate. Most financial regulatory agencies have a five-member commission or board. More voices at the top of the Bureau’s management structure will help the CFPB become attuned to more diverse viewpoints.

Section 506. The Committee prohibits the CFPB from implementing a rule regarding the use of arbitration until the Bureau addresses certain requirements.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$125,000,000
Budget request, fiscal year 2017	130,500,000
Recommended in the bill	121,300,000
Bill compared with:	
Appropriation, fiscal year 2016	– 3,700,000
Budget request, fiscal year 2017	– 9,200,000

The Consumer Product Safety Act established the Consumer Product Safety Commission (CPSC), an independent Federal regulatory agency, to reduce the risk of injury associated with consumer products.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$121,300,000 for the CPSC for fiscal year 2017. Within the amount provided under this heading, \$1,300,000 is for the Virginia Graeme Baker Pool and Spa Safety Act grant program and \$1,000,000 is for CPSC to establish three advisory committees to address (1) the importation of products within CPSC’s jurisdiction (2) consumer product recalls (3) public disclosures of information. Each advisory committee shall consist of 20 members appointed by the Chairperson of the Com-

mission and approved by a majority of Commissioners; meet at least once per quarter and submit a quarterly report to the Commission, the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science, and Transportation of the Senate. Not later than 30 days after the second quarterly meeting of an advisory committee, each such advisory committee is directed to submit a report on the findings of the advisory committee to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science, and Transportation of the Senate. These advisory committees will terminate at the end of fiscal year 2017.

Test Burden Reduction.—In fiscal years 2015 and 2016, the Committee provided the Commission a total of \$2 million for the specific purpose of carrying out the congressionally mandated responsibility of reducing the burden associated with third-party testing rules. The Committee is frustrated that there has been no real tangible relief to small businesses despite the amount of resources the Commission has been provided. The CPSC has identified a significant number of opportunities for test burden reduction, however, to date nothing in the way of meaningful burden reduction has been accomplished. The Committee directs the Commission to continue to provide quarterly reports updating the Committees on Appropriations of the House and Senate on its efforts to reduce the costs of third-party testing, including any that the Commission has chosen not to pursue.

Voluntary Recall.—The Committee remains concerned about proposed changes to the voluntary recall system that would serve to negatively impact small businesses. Despite overwhelming opposition, the Commission continues to move forward with a final rule on voluntary recalls. The Committee opposes making unnecessary changes to a recall system that has worked well over the past 40 years, owing to a successful partnership between businesses and the Commission. To that end, the Committee prohibits funds to finalize, implement, or enforce the proposed rule on voluntary recalls.

Public Disclosures of Information.—Section 6(b) of the Consumer Product Safety Act (CPSA) requires CPSC to take reasonable steps to ensure that any disclosure of information relating to a consumer product safety incident is accurate and fair. The Committee remains concerned that the Commission is proceeding with a proposed rule on section 6(b) that threatens to undermine a successful partnership based on openness and trust between industry and the Commission. The Committee cautions the Commission about making changes to a process that has succeeded in both protecting the consumer against harm and protecting industry against inaccurate disclosures of information before an investigation has been completed. Consequently, the Committee prohibits funds to finalize, implement, or enforce the proposed rule on information disclosures under Section 6(b).

Window Coverings.—The Committee continues to support the cooperative efforts of CPSC and the window coverings industry to educate consumers on window covering safety. The Committee encourages continued cooperation between CPSC and industry on de-

veloping voluntary standards for its products through the current voluntary standards setting process.

Pool and Spa Safety.—The Committee commends the CPSC for continuing to provide resources for the national and grassroots “Pool Safely” campaign, a safety information and education program designed to reduce child drownings and near-drowning injuries and maintain a zero fatality rate for drain entrapments. This multifaceted initiative includes consumer and industry education efforts, press events, partnerships, outreach, and advertising. The Committee provides \$1,000,000 for the Pool Safely campaign.

In fiscal year 2016, the Commission awarded five local governments more than \$780,000 for pool and spa safety grants established by the Virginia Graeme Baker Pool and Spa Safety Act. The funding will provide assistance to local governments for education, training, and enforcement of pool safety requirements that are intended to save lives and prevent serious injuries. The Committee applauds the Commission’s efforts to distribute guidance and model legislation to assist all states in becoming active participants in the enforcement and education of the Virginia Graeme Baker Pool and Spa Safety Act.

Flame Retardant Chemicals.— As the Commission considers new upholstered furniture flammability standards, the Committee encourages the Commission to take steps to reduce or limit the use of flame retardant chemicals.

ADMINISTRATIVE PROVISION—CONSUMER PRODUCT SAFETY COMMISSION

Section 510. The Committee continues language prohibiting funds to finalize, implement, or enforce the proposed rule on recreational off-highway vehicles until a study is completed by the National Academy of Sciences.

ELECTION ASSISTANCE COMMISSION

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$9,600,000
Budget request, fiscal year 2017	9,800,000
Recommended in the bill	4,900,000
Bill compared with:	
Appropriation, fiscal year 2016	–4,700,000
Budget request, fiscal year 2017	–4,900,000

The Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA) and is charged with implementing provisions of that Act relating to the reform of Federal election administration.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$4,900,000 for the Salaries and Expenses of the EAC.

The Committee strongly supports the successful administration of Federal elections and the Help America Vote Act (HAVA) of 2002. However, the Committee believes the EAC is no longer effectively carrying out its mandate. At present, one seat remains vacant and the agency has been operating without legislative authorization since 2005. For six years the Administration has not re-

requested additional grant funding for HAVA grants, and there is currently less than \$10 million left in grants to distribute. The work of the EAC consists largely of auditing HAVA grant money previously distributed, some of which is carried out by the EAC Inspector General, and examining new voting technologies, the technology aspects of which are performed by the National Institute of Standards and Technology and private testing laboratories.

In February 2013, rather than turn to the EAC, the President chose to form a new ad hoc commission by Executive Order to review and propose best practices related to concerns from the 2012 elections regarding polling place wait times, and military and overseas voting.

This Committee is not advocating doing away with the changes made to voting law in HAVA. Rather, the Committee believes these laws do not require an independent Federal agency. The Committee supports legislation that was introduced in the 114th Congress and reported by the Committee on House Administration to terminate the EAC.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$384,012,000
Budget request, fiscal year 2017	358,286,000
Recommended in the bill	314,844,000
Bill compared with:	
Appropriation, fiscal year 2016	- 69,168,000
Budget request, fiscal year 2017	- 43,442,000

The mission of the Federal Communications Commission (FCC) is to implement the Communications Act of 1934 and assure the availability of high quality communications services for all Americans.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$314,844,000 for the Salaries and Expenses of the FCC, all of which is to be derived from offsetting collections.

The Committee recommendation includes bill language, similar to language included in previous Appropriations Acts, which allows: (1) up to \$4,000 for official reception and representation expenses; (2) purchase and hire of motor vehicles; (3) special counsel fees; (4) collection of \$314,844,000 in section 9 fees; (5) a prohibition on amounts collected in excess of \$314,844,000 from being available for obligation; (6) a prohibition on remaining offsetting collections from prior years from being available for obligation; (7) a cap of \$106,000,000 for the administration and implementation of incentive auctions, as required by P.L. 112-96; and (8) provides not less than \$11,751,000 for the Office of the Inspector General. The Committee notes its support for the Office of Engineering and Technology.

Net Neutrality/Open Internet.—The Committee has purposefully kept funding for the FCC flat since fiscal year 2012 to keep the agency focused on mission-critical work. Instead, the FCC has prioritized politically polarizing rulemakings at the expense of the important work the Commission has to do. The U.S. has four times

more capital investment in broadband, twice as much investment in mobile services, and more competition and access to high-speed networks than Europe. At a time when U.S. innovation, investment, and demand in this area is expanding, it is truly concerning that the FCC would act to limit both future investment and, potentially, consumer choice. With an increased level of competition in the marketplace, there should be less need for regulation. The internet has been an unparalleled catalyst for innovation, yet the FCC has voted to constrain and control something that has brought about innumerable technological advancements and American jobs.

The Committee has included sections 630, 631, and 632 to address some of these concerns.

Incentive Auction.—The Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112–96) authorized the FCC to conduct a voluntary broadcast incentive auction and Congress allocated \$1.75 billion to reimburse the service and equipment costs of channel relocation incurred by the television broadcast industry, such as changes to antennas, transmitters, transmission lines, and towers. The Committee is aware of concerns about the length of time and funds available to broadcasters to repack stations at the conclusion of the incentive auction. The Committee intends to monitor this issue closely. Both broadcasters and those purchasing spectrum must participate in good faith for the incentive auction to be successful. The Committee supports the Commission’s administration of these auctions and expects the FCC to take into careful consideration any participating entity’s concerns. The Committee has consistently supported the incentive auction and expects the FCC to continue to work toward its success.

Auction Administration.—The Committee has been supportive of the FCC’s administration of the incentive auction, as required by Public Law 112–96, and recognizes the substantial work associated with the implementation of these auctions. Over the past three years, the Committee has increased the FCC’s auction administration cap in order to support the administration of the incentive auction. However, the Committee is concerned the Commission may have confused increased funding for a specific time-limited activity with increased funding in general. Any increase in funding for auction administration is less funding for deficit reduction. The FCC should carefully consider any further requested increases to the auction administration cap and provide sufficient justification for the increase in funding.

In addition, the Committee believes greater budget transparency is still needed in order to better understand how the use of these funds fits into the Commission’s overall budget request. In fiscal year 2015, the Committee directed the Commission to provide annually in the budget submission a detailed justification on how the Commission intends to spend these funds, including FTE levels and programmatic initiatives. The Committee believes the disclosures of how auction administration funds are spent is an important part of its oversight of the Commission and directs the FCC to continue to include a detailed justification in its annual budget submission and to make the detailed report on the use of auction funds publically available on the Commission’s website.

Enforcement.—The Committee is concerned that the penalties the Commission has imposed in recent years are less tied to the

evidence of harm and clear metrics, and more to bring attention to the Commission. While the Committee generally supports FCC's efforts in protecting consumers, the Commission must be cognizant of its responsibility to find clear evidence of violations before imposing penalties, and to provide the subject of an enforcement action adequate prior notice and the opportunity to respond to the alleged violation. If the Commission finds evidence of wrongdoing, the Committee expects the Commission to collect fines in a timely manner.

Fines.—The Committee is concerned that the Commission is not collecting fines in a timely manner, potentially rendering fines uncollectable due to the statute of limitations. Beginning not later than 90 days after enactment of this Act, the FCC shall submit quarterly reports to the Committees on Appropriations of the House and Senate, the Committee on Energy and Commerce in the House, and the Committee on Commerce, Science, and Transportation in the Senate on the status of its efforts on tracking and collecting monetary penalties assessed by the agency. The reports shall include a list of all Notices of Apparent Liability (NALs) pending, including the date it was issued; all NALs released, including the date of release; all forfeiture orders pending, including the date it was issued; all forfeiture orders released, including date of release and date upon which payment is due; all timely paid forfeiture orders; all forfeiture orders referred to the Department of Justice for collection, including date of referral; all consent decrees, including date adopted; and all consent decrees that have resulted in a payment, including date of payment. Additionally, for each of the items listed above, the Commission shall provide the date on which the U.S. Government will no longer be able to effectively prosecute the alleged violation as a result of the statute of limitations. The initial report shall also include a description of the FCC's collection process.

Set-Top Boxes.—The Committee has strong concerns with the recent proposal related to set-top boxes. While the Committee supports advances in technology in this area that benefit consumers, the Committee believes the Commission's proposal falls short, especially with regard to privacy and copyright concerns. Consumer privacy and legal copyright concerns are not adequately addressed in the FCC's proposal, nor is the clear fact that most set-top boxes will be obsolete in the coming years. It seems that technology and active marketplace competition are outpacing the Commission's rulemakings. The Committee strongly encourages the Commission to further review its proposal for the widespread impact it may have on consumer privacy, all parties in the video programming marketplace, content diversity, and intellectual property and content licensing. These impacts should be carefully studied and considered before the Commission moves forward with any final rule. The Committee has included section 636 to address this issue.

Telephone Consumer Protection Act.—The Committee believes that the FCC must do more to ensure that consumers are able to receive important notifications and timely updates about financial developments that will impact their existing accounts at depository institutions. The Committee is concerned that the FCC's recent Order related to the Telephone Consumer Protection Act (TCPA) will make it more difficult for financial institutions to contact their

members about identity theft or data breaches. While the FCC adopted an exemption for “free end user calls” made by financial institutions, specifically for the purpose of: (1) calls intended to prevent fraudulent transactions or identity theft; (2) data security breach notifications; (3) measures consumers may take to prevent identity theft following a data breach; and (4) money transfer notifications, there is still a great deal of confusion. The Committee strongly encourages the FCC to revisit the Order and address technical questions that have been raised that may be impossible for a financial institution to resolve, such as whether or not the consumer will be charged for such texts or calls by their plan provider, or if they will count against their plan limits. The Committee also believes that the FCC should provide more flexibility to the prescriptive requirements for financial institutions using this exemption, especially because this exemption was meant to apply in exigent circumstances to protect consumers. The Committee notes the Commission currently has a number of outstanding petitions to clarify its TCPA Order.

Broadband Access.—The Committee strongly encourages the FCC to continue to work with the Universal Service Administrative Company (USAC) to allocate Universal Service Funds for broadband expansion, especially in areas that could most benefit from increased job opportunities that can come from access to broadband. In particular, the Committee believes the Commission should support and focus efforts on broadband expansion in rural and economically disadvantaged areas in order to maximize the use of USF funds. The Committee believes the deployment of broadband in rural and economically disadvantaged areas is a driver of economic development and jobs and expects the Commission to prioritize these efforts.

Rate floor.—As the Commission works to complete a rule to develop a “rate floor” methodology, the Committee encourages the Commission to be sure the methodology is more reflective of the effective value of local voice telephony service to a given customer in high-cost rural areas (including the number of other customers that can be reached via a local call) and that ultimately sets the “rate floor” at a range below the national average of local urban rates plus state regulated fees for such service that better reflects reasonable comparability of local voice telephony rates as required by law.

Universal Service.—In recognition of the ongoing rapidly changing communications industry landscape, the Committee believes it is imperative that the Federal State Joint Board on Universal Service identify and provide Universal Service Fund (USF) contributions reform recommendations to the FCC. The committee further urges that such recommendations should expressly recognize that continuing to base contributions only on legacy telecommunications services revenues (and a limited number of other service revenues) will undermine, and ultimately threaten universal access to advanced communications by eroding the sustainability of the USF program and placing unfair and inequitable burdens for support of the program on a small subset of communications network users.

Universal Service Fund High Cost Program.—The Committee believes the Commission should continue to move toward concluding

its work of updating the rate-of-return distribution mechanism of the Universal Service Fund (USF) High Cost program in a manner that is consistent with the statutory mandate of providing specific, predictable, and sufficient support to ensure universal access to reasonably comparable services at reasonably comparable rates. The reformed mechanism should allow rural consumers to purchase standalone broadband at affordable rates, and support the construction, maintenance, and operation of networks that can be efficiently upgraded over time to keep pace with consumer needs. The FCC should also be mindful of the potential impacts of any reforms on other important federal governmental programs, such as those administered by the Rural Utilities Service (RUS), which promote and sustain the deployment of broadband-capable networks to customers in rural areas, particularly given that such impacts could also adversely affect the Federal budget. Finally, the Commission should work quickly and collaboratively with Congress, the RUS, other agencies, and other affected stakeholders if any adverse or negative unintended consequences arise out of the reforms.

Call Completion.—The FCC shall submit a report to the Committees on Appropriations of the House and Senate within 90 days of enactment of this Act detailing the agency’s efforts to resolve call completion issues and to prevent discriminatory delivery of calls to any area of the country.

Territories and Tribal Lands.—The Committee is concerned about the disparity in access to broadband between the territories, tribal lands, and the 50 states. The Committee encourages the Commission to implement policies that increase broadband access and adoption in these areas.

Vacant Channels.—The Committee is concerned about the FCC’s “vacant channel” proceeding, in which the FCC contemplates setting aside additional broadcast television spectrum after the broadcast incentive auction for unlicensed use. The broadcast spectrum the Commission is considering for unlicensed could otherwise meet demand for LPTV and translator licenses in the post-auction broadcast band. While the Committee recognizes the value of unlicensed spectrum to our national information economy, LPTV and translators also serve an important role in serving rural and underserved television viewing audiences. Given the uncertainty LPTV and translator licensees face at the end of the incentive auction, the FCC should not pursue additional unlicensed spectrum in the broadcast band at the expense of LPTV and translator licensees until the incentive auction is complete, so that it can accurately assess the need for spectrum to serve communities with LPTV stations and translators.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF THE INSPECTOR GENERAL

Appropriation, fiscal year 2016	\$34,568,000
Budget request, fiscal year 2017	35,958,000
Recommended in the bill	35,958,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,390,000
Budget request, fiscal year 2017	— —

Funding for the Office of the Inspector General (OIG) at the Federal Deposit Insurance Corporation (FDIC) is provided pursuant to

31 U.S.C. 1105(a)(25), which requires a separate appropriation for each Office of Inspector General established under section 11(2) of the Inspector General Act of 1978.

COMMITTEE RECOMMENDATION

The Committee recommends \$35,958,000 from the Deposit Insurance Fund and the Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund to finance the OIG.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$76,119,000
Budget request, fiscal year 2017	80,540,000
Recommended in the bill	80,540,000
Bill compared with:	
Appropriation, fiscal year 2016	+4,421,000
Budget request, fiscal year 2017	---

The Federal Election Commission (FEC) administers the disclosure of campaign finance information, enforces limitations on contributions and expenditures, and performs other tasks related to Federal elections.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$80,540,000 for the Salaries and Expenses of the FEC.

In fiscal year 2016, the Committee provided the FEC with \$5,000,000 for costs associated with a facilities relocation, and provides an additional \$8,000,000 in fiscal year 2017. The Committee is supportive of providing the FEC with adequate resources for its facilities and expects future funding requests to be reduced.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$26,200,000
Budget request, fiscal year 2017	27,062,000
Recommended in the bill	26,631,000
Bill compared with:	
Appropriation, fiscal year 2016	+431,000
Budget request, fiscal year 2017	-431,000

Established by title VII of the Civil Service Reform Act of 1978, the Federal Labor Relations Authority (FLRA) serves as a neutral arbiter in the labor activities of non-postal Federal employees, Departments and agencies, and Federal unions on matters outlined in the Act, including collective bargaining and the settlement of disputes. Establishment of the FLRA gives full recognition to the role of the Federal Government as an employer. Under the Foreign Service Act of 1980, the FLRA also addresses similar issues affecting Foreign Service personnel by providing staff support for the Foreign Service Impasse Disputes Panel and the Foreign Service Labor Relations Board.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$26,631,000 for the FLRA for fiscal year 2017.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$306,900,000
Budget request, fiscal year 2017	342,000,000
Recommended in the bill	317,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+10,100,000
Budget request, fiscal year 2017	-25,000,000

The mission of the Federal Trade Commission (FTC) is to enforce a variety of Federal antitrust and consumer protection laws. Appropriations for both the Antitrust Division of the Department of Justice and the Commission are partially financed by Hart-Scott-Rodino Act pre-merger filing fees. The Commission's appropriation is also partially offset by Do-Not-Call registry fees.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$317,000,000 for the Salaries and Expenses of the FTC. The Congressional Budget Office estimates \$125,000,000 of collections from Hart-Scott-Rodino premerger filing fees and \$15,000,000 of collections from Do-Not-Call list fees will partially offset the appropriation requirement for this account.

Deceptive Online Marketing.—The Committee remains concerned that certain market conditions create incentives for fraudulent and deceptive online activity associated with third-party online hotel resellers or affiliates that do not have direct contractual relationship with hotel companies. The Committee believes the FTC should further investigate deceptive online advertising that misleads consumers into mistakenly providing their credit card information to fraudulent online websites purporting to be a hotel's website or online booking portal. Financial harm to the consumer is significant and growing as more consumers utilize internet booking from mobile devices. The Committee directs the Commission to study the mobile and online hotel booking market focusing on deceptive activity associated with third party online hotel resellers or affiliates that do not have a contract with a hotel company. The Committee directs the Commission to report back to the Committees on Appropriations of the House and Senate within 90 days of enactment on recommended enforcement actions against deceptive marketers engaging in the online hotel booking market and appropriate remedies to apply in this area to protect consumers from falling victim to these scams.

Credit Education.—The Committee believes that consumers should be able to obtain personalized, legitimate credit education products and tools in order to improve their financial health. However, the Committee is concerned that the broad scope of the Credit Repair Organizations Act (CROA) has created a barrier for legitimate companies from being able to provide these valuable services in a consumer-friendly manner. The Committee directs the FTC to report to the Committees on Appropriations of the House and Senate, the Committee on Energy and Commerce of the House, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Financial Services of the House, and the Committee on Banking, Housing, and Urban Affairs of the Senate,

not later than 120 days after the date of enactment of this Act, on the benefits of consumer access to credit education and improvement services, and the extent to which CROA impedes the research, development, and provision of new credit education products, services, and technology in the marketplace by consumer reporting agencies as defined by the Fair Credit Reporting Act and other entities. The FTC shall publish the report on its website.

Contact Lenses.—The Committee is aware of the FTC’s ongoing review of its contact lens rule and urges the agency to make modifications to the rule that prioritize patient safety and strengthen enforcement mechanisms.

Agency Overlap.—The creation of the Bureau of Consumer Financial Protection (CFPB) transferred some areas of consumer protection jurisdiction that were once the sole purview of the FTC to the CFPB. The Committee is aware of the Memorandum of Understanding signed by both the CFPB and the FTC and understands that the agencies consult on areas of common jurisdiction, such as debt collection. However, the Committee intends to continue to monitor this issue as duplicative efforts in regulatory rulemaking and enforcement activities waste agency resources, and could place unnecessary burdens on businesses, the economy, and the American taxpayer. The Committee expects the FTC to continue to ensure duplicative efforts on rulemakings are avoided before agency resources are wasted.

GENERAL SERVICES ADMINISTRATION

The Committee continues several reporting requirements for the General Services Administration (GSA) for fiscal year 2017.

Takings and Exchanges.—Using existing statutory authorities, GSA has been working to dispose of properties that no longer meet the needs of Federal agencies in exchange for assets of like value. Some of these exchanges are very complex in nature and involve multi-year, multi-party, and multi-billion dollar contracts. In addition, GSA also has the statutory authority to take properties. The Committee believes in some instances employing such authorities can result in savings to the taxpayer when appropriately executed and wants to be kept informed of these activities. In order to provide increased transparency for the use and planned use of these authorities, the Administrator is directed to report to the Committees on Appropriations of the House and Senate not later than 30 days after the end of each quarter on the use of these authorities. The report shall include a description of all takings and exchange actions that occurred or were considered during the most recently completed quarter of the fiscal year, including the costs, benefits, and risks for each action. The report shall also include the planned or considered use of takings and exchange authorities during the remainder of the fiscal year, including the costs, benefits, and risks of each action.

Spending Report.—Within 50 days after the end of each quarter, GSA shall submit spending reports to the Committees on Appropriations of the House and Senate. The reports shall include actual obligations incurred and estimated obligations for the remainder of the fiscal year for each appropriation in the Federal Buildings Fund and regular discretionary appropriations. The reports shall include obligations by object class, program, project and activity.

State of the Portfolio.—Not later than 45 days after the date of enactment of this Act, the Administrator shall submit to the Committees on Appropriations of the House and Senate a report on the state of the Public Buildings Service’s real estate portfolio for fiscal year 2016. The content included in the report shall be comparable to the tabular information provided in past State of the Portfolio reports, including, but not limited to, the number of leases; the number of buildings; amount of square feet, revenue, expenses by type, and vacant space; top customers by square feet and annual rent; completed new construction, completed major repairs and alterations, and disposals, in total and by region where appropriate.

Land Ports of Entry State of the Portfolio.—Within 90 days of the date of enactment of this Act, GSA is directed to provide the Committees on Appropriations of the House and Senate a report on the state of the land ports of entry portfolio. The content of this report shall include, but shall not be limited to, a prioritized list of new construction and major repairs and alterations projects.

Activities Report.—The Committee directs GSA to submit a report no later than 120 days after the enactment of this Act regarding how it ensures an appropriate level of minority, women, and veteran owned firms’ participation in its facilities and procurement activities.

Courthouse Construction.—The Committee provided significant funding for new courthouse construction in fiscal year 2016. The Committee is encouraged by the collaborative working relationship of the Administrative Office of the U.S. Courts, the U.S. Marshals Service, and GSA to ensure construction projects are completed on schedule and on budget.

Alamo Mission.—The State of Texas is working to develop a Master Plan for the Alamo Mission that will preserve and interpret this historic shrine for future generations. With Federally-owned buildings located adjacent to the Alamo Mission, the Committee encourages the GSA to be an active participant in the development of a Master Plan, including offering federal property for lease or sale to the State of Texas for fair market value.

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFERS OF FUNDS)

Limitations on Availability of Revenue:	
Limitation on availability, fiscal year 2016	\$10,196,124,000
Limitation on availability, budget request, fiscal year 2017	10,178,338,000
Recommended in the bill	9,244,808,000
Bill compared with:	
Availability limitation, fiscal year 2016	– 951,316,000
Availability limitation, fiscal year 2017 request	– 933,530,000

The Federal Buildings Fund (FBF) accounts for the activities of the Public Buildings Service (PBS), which provides space and services for Federal agencies in a relationship similar to that of landlord and tenant. The FBF, established in 1975, replaces direct appropriations with income derived from rent assessments, which approximate commercial rates for comparable space and services. The Committee makes funds available through a process of placing lim-

itations on obligations from the FBF as a way of allocating funds for various FBF activities.

COMMITTEE RECOMMENDATION

The Committee recommends a limitation on the availability of funds of \$9,244,808,000 for the FBF.

To carry out the purposes of the FBF, the revenues and collections deposited into the FBF shall be available for necessary expenses in the aggregate amount of \$9,244,808,000 of which: \$504,918,000 is for construction and acquisition, \$758,790,000 is for repairs and alterations, \$5,645,000,000 is for rental of space, and \$2,336,100,000 is for building operations.

Historically, prior to obligating funding for prospectus-level construction, alterations, or leases, the Administration has waited for the project to be authorized through a resolution approved by the Committee on Transportation and Infrastructure in the House and the Committee on Environment and Public Works in the Senate as required by title 40 of the United States Code and in accordance with the proviso included in the FBF appropriations limiting the obligation of funds to prospectus-level projects approved by the authorizing committees. The Committee supports this process and believes that prospectus-level projects warrant a thorough review from both the Appropriations Committee and the authorizing committees. The Committee expects the Administration to continue to follow this process.

CONSTRUCTION AND ACQUISITION

Limitations on Availability of Revenue:	
Limitation on availability, fiscal year 2016	\$1,607,738,000
Limitation on availability, budget request, fiscal year 2017	1,330,522,000
Recommended in the bill	504,918,000
Bill compared with:	
Availability limitation, fiscal year 2016	- 1,102,820,000
Availability limitation, fiscal year 2017 request	- 825,604,000

The construction and acquisition fund finances the project cost of design, construction, and management and inspection costs of new Federal facilities.

COMMITTEE RECOMMENDATION

The Committee recommends a limitation of \$504,918,000 for construction and acquisition:

- \$200,000,000 for the FBI Headquarters Consolidation;
- \$248,213,000 for the Calexico West, California, United States Land Port of Entry;
- \$7,000,000 for the Southeast Federal Center Remediation, District of Columbia, Washington;
- \$5,749,000 for the United States Department of Agriculture Animal and Plant Health Inspection Service, Pembina, North Dakota;
- \$31,200,000 for a Federal Office Building, Boyers, Pennsylvania;
- \$12,756,000 for the Internal Revenue Service Annex Building, Austin, Texas.

REPAIRS AND ALTERATIONS

Limitations on Availability of Revenue:	
Limitation on availability, fiscal year 2016	\$735,331,000
Limitation on availability, budget request, fiscal year 2017	841,617,000
Recommended in the bill	758,790,000
Bill compared with:	
Availability limitation, fiscal year 2016	+23,459,000
Availability limitation, fiscal year 2017 request	-82,827,000

The repairs and alterations activity funds the project cost of design, construction, management and inspection for the repair, alteration, and modernization of existing real estate assets in addition to various special programs.

COMMITTEE RECOMMENDATION

The Committee recommends a limitation of \$758,790,000 to remain available until expended for repairs and alterations.

Major Repairs and Alterations.—The Committee recommends \$300,000,000 for repairs and alterations projects that exceed the prospectus threshold. The funds are provided to address GSA’s highest priority facility needs. The Committee directs GSA to submit a detailed plan, by project, regarding the use of Major Repairs and Alterations funds, not later than 45 days after enactment of this Act. GSA is directed to provide notification to the Committees on Appropriations of the House and Senate within 15 days prior to any changes in the use of these funds.

Basic Repairs and Alterations.—The Committee recommends \$312,090,000 for non-recurring repairs and alterations projects between \$10,000 and the current prospectus threshold of \$2,850,000.

Fire and Life Safety.—The Committee recommends \$20,000,000 to improve building safety, abate hazardous material, and repair structural deficiencies. These projects include, but are not limited to, fire alarm, sprinkler, electrical, ventilation, heating, and elevator systems.

Judiciary Court Security Program.—The Committee recommends \$26,700,000 for the construction, acquisition, repair, alteration, and security projects for the Judiciary as prioritized by the Judicial Conference of the United States.

Consolidation Activities.—The Committee recommends \$100,000,000 for the cost of consolidating space. Given the reduction in the Federal workforce and Federal agency budgets, the Committee believes that it is prudent to reduce the GSA building inventory, particularly with regard to the thousands of surplus and underutilized buildings. The Committee appreciates the Administration’s commitment to “freeze the footprint” of the Federal Government (OMB management procedures memorandum 2013–02) by prohibiting increases in the total square footage of domestic offices and warehouses. Projects selected for consolidation should result in reduced annual rent paid by the agency, not exceed \$10,000,000 in costs, and have an approved prospectus. GSA is required to submit a spend plan and explanation for each project including estimated savings to the Committees on Appropriations of the House and Senate before obligating funds.

Federal Bureau of Investigation (FBI) Headquarters.—The Committee recommends \$200,000,000 for the FBI Headquarters consolidation.

In fiscal year 2016, the Committee provided GSA with \$75 million in recognition of the need for a new consolidated FBI Headquarters. However, GSA's insistence on using its exchange authorities to fund the design and construction of a new headquarters through the sale of the J. Edgar Hoover Building is another example of weak property disposal. GSA's request for \$1.4 billion for the FBI in fiscal year 2017 is evidence of its inexperience and inability to execute an exchange of this scale.

This Committee has consistently questioned whether an exchange was financially and practically advisable and whether GSA's decision to forgo the normal disposal process would obtain the best deal for the taxpayer. To date, GSA has not provided the Committee with the total project cost, estimated costs of site acquisition, or its current valuation of the J. Edgar Hoover Building.

Furthermore, GSA has failed to explain the massive miscalculation of construction and acquisition costs compared to its original projection that the value of the Hoover building would more than pay for a new FBI Headquarters. The absence of a House Transportation and Infrastructure Committee approved prospectus for the FBI Headquarters consolidation casts further doubt about the exchange. The Committee is frustrated by the lack of detail regarding the project cost and expects GSA to be more forthcoming with information.

RENTAL OF SPACE

Limitations on Availability of Revenue:	
Limitation on availability, fiscal year 2016	\$5,579,055,000
Limitation on availability, budget request, fiscal year 2017	5,655,581,000
Recommended in the bill	5,645,000,000
Bill compared with:	
Availability limitation, fiscal year 2016	+65,945,000
Availability limitation, fiscal year 2017 request	- 10,581,000

The rental of space program funds lease payments made to privately-owned buildings, temporary space for Federal employees during major repair and alteration projects, and relocations from Federal buildings due to forced moves and relocations as a result of health and safety conditions.

COMMITTEE RECOMMENDATION

The Committee recommends a limitation of \$5,645,000,000 for rental of space. The Committee expects GSA to reduce the amount of leased space in its inventory at a faster pace.

BUILDING OPERATIONS

Limitations on Availability of Revenue:	
Limitation on availability, fiscal year 2016	\$2,274,000,000
Limitation on availability, budget request, fiscal year 2017	2,350,618,000
Recommended in the bill	2,336,100,000
Bill compared with:	
Availability limitation, fiscal year 2016	+62,100,000
Availability limitation, fiscal year 2017 request	- 14,518,000

The building operations account funds services that Federal agencies in GSA-owned buildings and occasionally in GSA-leased buildings, when not provided by the lessor, directly benefit from such as building security, cleaning, utilities, window washing, snow removal, pest control, and maintenance of heating, air conditioning,

ventilating, plumbing, sewage, electrical, elevator, escalator, and fire protection systems. In addition, this account funds all the personnel and administrative expenses for carrying out construction and acquisition, repair and alteration, and leasing activities.

COMMITTEE RECOMMENDATION

The Committee recommends a limitation of \$2,336,100,000 for Building Operations and Maintenance. Within this amount, \$1,184,790,000 is for building services and \$1,151,310,000 is for salaries and expenses. Up to five percent of the funds may be transferred between these activities upon the advance notification to the Committees on Appropriations of the House and Senate. Not later than 60 days after the date of enactment of this Act, the Administrator shall submit a spend plan, by region, regarding the use of these funds to the Committees on Appropriations of the House and Senate.

GENERAL ACTIVITIES

GOVERNMENT-WIDE POLICY

Appropriation, fiscal year 2016	\$58,000,000
Budget request, fiscal year 2017	64,497,000
Recommended in the bill	58,000,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	- 6,497,000

The Office of Government-Wide Policy provides Federal agencies with guidelines, best practices, and performance measures for complying with all the laws, regulations, and executive orders related to: acquisition and procurement, personal and real property management, travel and transportation management, electronic customer service delivery, and use of Federal advisory committees.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$58,000,000 for Government-wide Policy.

Green Buildings.—The Committee shares the GSA’s goal of reducing building expenses through the efficient use of energy and water and encourages energy efficiency to be considered when purchasing construction and building materials, such as sustainable wood products. The Committee is concerned, however, that GSA’s current green building policies and practices are tailored to reflect the standards of a specific third-party certification system rather than the public interest in greater energy and water efficiency. All agencies should be wary of becoming captured; no third-party certification program has a monopoly on how to attain efficiency, much less sustainability. For example, efficiency and sustainability can be achieved not just through the design of buildings or major renovations and the selection of materials, but also through proper building maintenance and usage, building codes, energy codes, energy efficiency rating systems, or a combination thereof.

The Committee recognizes sustainable roofing systems as a viable option for government buildings. The Committee notes that proper thermal insulation is a cost-effective and energy efficient technology.

Information Technology Supply Chain Report.—No later than 120 days after the enactment of this act, the GSA shall consult with the Department of Defense (DOD) about the effectiveness of DOD’s implementation of the supply chain security requirements set forth in Section 806 of the Fiscal Year 2011 National Defense Authorization Act, which required DOD to better manage its information technology supply chain. After consultation with DOD, GSA shall submit an unclassified report to the Committees on Appropriations of the House and Senate on the feasibility of adopting DOD-like supply chain security initiatives. This report should also include an unclassified assessment of the supply chain risks posed by potentially untrustworthy sub-contractors, as well as a general plan to mitigate such risks.

SDVOSB Participation.—The Committee encourages GSA to work with the Department of Veterans Affairs and other Federal agencies to ensure the participation of Service-Disabled Veteran-Owned Small Businesses (SDVOSBs), consistent with the provisions of P.L. 109–461 and Executive Order 13360, in conjunction with the Federal Strategic Sourcing Initiative (FSSI) for purchasing channel decisions, other agency contracting and procurement opportunities relevant to Janitorial and Sanitation products, and other areas. The Committee encourages GSA to take proactive steps to ensure SDVOSBs have fair and reasonable opportunities to participate in GSA procurement processes when they have valid Federal Supply Schedules (FSS).

OPERATING EXPENSES

Appropriation, fiscal year 2016	\$49,376,000
Budget request, fiscal year 2017	50,174,000
Recommended in the bill	47,966,000
Bill compared with:	
Appropriation, fiscal year 2016	– 1,410,000
Budget request, fiscal year 2017	– 2,208,000

This account provides appropriations for activities that are not feasible for a user fee arrangement. Included under this heading are personal property utilization and donation activities of the Federal Acquisition Service; real property utilization and disposal activities of the Public Buildings Service; select management and administration activities including support of government-wide emergency management activities; and top-level, agency-wide management communication activities.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$47,966,000 for operating expenses. Within the amount provided under this heading, \$24,569,000 is for Real and Personal Property Management and Disposal, and \$23,397,000 is for the Office of the Administrator.

Federal Real Property Profile.—The Committee remains extremely frustrated with the slow pace at which GSA and other Federal agencies are improving the accuracy of the Federal Real Property Profile. The U.S. Government Accountability Office (GAO) named managing Federal real property to its 2015 High Risk List. The Committee is concerned that despite language in the fiscal year 2015 and 2016 reports, GSA has not made progress on the

value and accuracy of its inventory, taken steps to include public lands as required by Executive Order 13327, made the FRPP available to the public, or geo-enabling the FRPP. The Committee is outraged that the Federal Government cannot provide an accurate accounting to the American public of all the property that it owns. The Committee expects GSA to work with agencies across government and utilize geographic information technology to improve the data contained in this report and enhance transparency to the American taxpayer. The Committee directs GSA to report to the Committees on Appropriations of the House and Senate on steps taken to improve the quality and transparency of the profile within 60 days after the enactment of this Act.

CIVILIAN BOARD OF CONTRACT APPEALS

Appropriation, fiscal year 2016	\$9,184,000
Budget request, fiscal year 2017	9,275,000
Recommended in the bill	9,275,000
Bill compared with:	
Appropriation, fiscal year 2016	+91,000
Budget request, fiscal year 2017	-- --

This account provides appropriations for the Civilian Board of Contract Appeals (CBCA). The CBCA is charged with facilitating the prompt, efficient, and inexpensive resolution of disputes through the use of alternate dispute resolution.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$9,275,000 for the Civilian Board of Contract Appeals.

OFFICE OF INSPECTOR GENERAL

Appropriation, fiscal year 2016	\$65,000,000
Budget request, fiscal year 2017	66,000,000
Recommended in the bill	65,000,000
Bill compared with:	
Appropriation, fiscal year 2016	-- --
Budget request, fiscal year 2017	- 1,000,000

This appropriation provides agency-wide audit and investigative functions to identify and correct GSA management and administrative deficiencies that create conditions for existing or potential instances of fraud, waste, and mismanagement. The audit function provides internal and contract audits. Internal audits review and evaluate all facets of GSA operations and programs, test internal control systems, and develop information to improve operating efficiencies and enhance customer services. Contract audits provide professional advice to GSA contracting officials on accounting and financial matters relative to the negotiation, award, administration, repricing, and settlement of contracts. The investigative function provides for the detection and investigation of improper and illegal activities involving GSA programs, personnel, and operations.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$65,000,000 for the Office of Inspector General.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

Appropriation, fiscal year 2016	\$3,277,000
Budget request, fiscal year 2017	3,865,000
Recommended in the bill	1,932,000
Bill compared with:	
Appropriation, fiscal year 2016	-1,345,000
Budget request, fiscal year 2017	-1,933,000

This appropriation provides pensions, office staff, and related expenses for former Presidents Jimmy Carter, George H.W. Bush, William Clinton, and George W. Bush, and future former President Barack Obama.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$1,932,000 for allowances and office staff for former Presidents.

EXPENSES, PRESIDENTIAL TRANSITION

(INCLUDING TRANSFER OF FUNDS)

Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	\$9,500,000
Recommended in the bill	9,500,000
Bill compared with:	
Appropriation, fiscal year 2016	+9,500,000
Budget request, fiscal year 2017	---

In accordance with the Presidential Transition Act of 1963, as amended, this appropriation provides for transition services to the outgoing and incoming Presidential offices. The Committee directs GSA to provide the Committee on Appropriations of the House and Senate with quarterly reports detailing how funds in this account are spent.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$9,500,000 for presidential transition.

FEDERAL CITIZEN SERVICES FUND

(INCLUDING TRANSFERS OF FUNDS)

Appropriation, fiscal year 2016	\$55,894,000
Budget request, fiscal year 2017	58,428,000
Recommended in the bill	55,894,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	-2,534,000

The Federal Citizen Services Fund (the Fund) appropriation provides for the salaries and expenses of GSA's Office of Citizen Services and Innovative Technologies (OCSIT). The Fund enables citizen access and engagement with government through an array of operational programs and direct citizen facing services. The Fund provides electronic or other methods of access to and understanding of Federal information, benefits, and services to citizens, businesses, local governments, and the media.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$55,894,000 for the Federal Citizen Services Fund. The Committee expects the funds provided for these activities, combined with efficiency gains and resource prioritization will result in increased delivery of information to the public and in the ease of transaction with the government.

All the income collected by the Office of Citizen Services and Innovative Technologies (OCSIT) in the form of reimbursements from Federal agencies, user fees for publications ordered by the public, payments from private entities for services rendered, and gifts from the public is available to the OCSIT without regard to fiscal year limitations, but is subject to an annual limitation of \$150,000,000. Any revenues accruing in excess of this amount shall remain in the fund and are not available for expenditure except as authorized in Appropriation Acts.

ADMINISTRATIVE PROVISIONS—GENERAL SERVICES ADMINISTRATION
(INCLUDING TRANSFER OF FUNDS)

Section 520. The Committee continues the provision providing authority for the use of funds for the hire of motor vehicles.

Section 521. The Committee continues the provision providing that funds made available for activities of the Federal Buildings Fund may be transferred between appropriations with advance approval of the Committees on Appropriations of the House and Senate.

Section 522. The Committee continues the provision requiring funds proposed for developing courthouse construction requests to meet appropriate standards and the priorities of the Judicial Conference.

Section 523. The Committee continues the provision providing that no funds may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided, to any agency which does not pay the assessed rent.

Section 524. The Committee continues the provision that permits GSA to pay small claims (up to \$250,000) made against the Federal Government.

Section 525. The Committee continues the provision requiring the Administrator to ensure that the delineated area of procurement for all lease agreements is identical to the delineated area included in the prospectus unless prior notice is given to the committees of jurisdiction.

Section 526. The Committee continues the provision requiring a spend plan for certain accounts and programs.

Section 527. The Committee includes a new provision eliminating GSA's authority from transferring lapsed funds into the Working Capital Fund.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Appropriation, fiscal year 2016	\$46,835,000
Budget request, fiscal year 2017	47,428,000
Recommended in the bill	47,131,000
Bill compared with:	
Appropriation, fiscal year 2016	+296,000
Budget request, fiscal year 2017	- 297,000

The Merit Systems Protection Board (MSPB) is an independent, quasi-judicial agency established to protect the civil service merit system. The MSPB adjudicates appeals primarily involving personnel actions, certain Federal employee complaints, and retirement benefits issues. The MSPB reports to the President whether merit systems are sufficiently free of prohibited employment practices.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$47,131,000 for the MSPB. The recommendation includes a transfer of \$2,345,000 from the Civil Service Retirement and Disability Fund.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

Appropriation, fiscal year 2016	\$379,393,000
Budget request, fiscal year 2017	380,634,000
Recommended in the bill	380,634,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,241,000
Budget request, fiscal year 2017	- - -

This appropriation provides NARA with funds for its basic operations for management of the Federal Government's archives and records, services to the public, operation of Presidential libraries, review for declassification of classified security information, and includes funding for the Electronic Records Archives which preserves, stores, and manages digital Federal records for archival purposes, ensuring long-term access.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$380,634,000 for the Operating Expenses of NARA.

Records Management.—The Committee encourages NARA to leverage private sector records management capabilities, where private vendors have invested their own capital to develop facilities that are compliant with NARA's stringent building standards. The Committee encourages NARA to identify NARA records management storage facilities that can be cost effectively managed by private records management companies, especially those housing temporary Federal records.

The Committee directs NARA to submit a report to the Committees on Appropriations of the House and Senate, no later than April 30, 2017, detailing the Archives' activity and spending related to the Presidential transition.

OFFICE OF INSPECTOR GENERAL

Appropriation, fiscal year 2016	\$4,180,000
Budget request, fiscal year 2017	4,801,000
Recommended in the bill	4,801,000
Bill compared with:	
Appropriation, fiscal year 2016	+621,000
Budget request, fiscal year 2017	---

The Office of Inspector General (OIG) provides audits and investigations and serves as an independent, internal advocate to promote economy, efficiency, and effectiveness within NARA.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$4,801,000 for the OIG for fiscal year 2016.

REPAIRS AND RESTORATION

Appropriation, fiscal year 2016	\$7,500,000
Budget request, fiscal year 2017	7,500,000
Recommended in the bill	7,500,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

This appropriation provides for the repair, alteration, and improvement of Archives facilities and Presidential libraries nationwide. It enables the National Archives to maintain its facilities in proper condition for visitors, researchers, and employees, and also maintain the structural integrity of the buildings.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$7,500,000 for repairs and restoration.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION
GRANTS PROGRAM

Appropriation, fiscal year 2016	\$5,000,000
Budget request, fiscal year 2017	5,000,000
Recommended in the bill	6,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,000,000
Budget request, fiscal year 2017	+1,000,000

The National Historical Publications and Records Commission (NHPRC) program provides for grants to preserve and publish records that document American history. Administered within the National Archives and Records Administration, the NHPRC helps State, local, and private institutions preserve non-Federal records, helps publish the papers of major figures in American history, and helps archivists and records managers improve their techniques, training, and ability to serve a range of information users.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$6,000,000 NHPRC.

NATIONAL CREDIT UNION ADMINISTRATION
 COMMUNITY DEVELOPMENT REVOLVING LOAN FUND

Appropriation, fiscal year 2016	\$2,000,000
Budget request, fiscal year 2017	2,000,000
Recommended in the bill	2,000,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

The Community Development Revolving Loan Fund Program (CDRLF) was established in 1979 to assist officially designated “low-income” credit unions in providing basic financial services to low-income communities. Low-interest loans and deposits are made available to assist these credit unions. Loans or deposits are normally repaid in five years, although shorter repayment periods may be considered. Technical assistance grants are also available to low-income credit unions. Earnings generated from the CDRLF are available to fund technical assistance grants in addition to funds provided for specifically in appropriations acts. Grants are available for improving operations as well as addressing safety and soundness issues.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$2,000,000 for the National Credit Union Administration’s CDRLF for technical assistance grants. The Committee expects the CDRLF to continue making loans from their available funds derived from repaid loans and interest earned on previous loans to designated credit unions.

OFFICE OF GOVERNMENT ETHICS
 SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$15,742,000
Budget request, fiscal year 2017	16,090,000
Recommended in the bill	16,090,000
Bill compared with:	
Appropriation, fiscal year 2016	+348,000
Budget request, fiscal year 2017	---

The Office of Government Ethics (OGE) established by the Ethics in Government Act of 1978, partners with other executive branch Departments and agencies to foster high ethical standards. The OGE issues and monitors rules regulations, and memoranda pertaining to the prevention and resolution of conflicts of interest, post-employment restrictions, standards of conduct, and financial disclosure for executive branch employees. The OGE is also responsible for creating and running an electronic financial disclosure system under the Stop Trading on Congressional Knowledge (STOCK) Act.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$16,090,000 for the OGE.

OFFICE OF PERSONNEL MANAGEMENT
SALARIES AND EXPENSES
(INCLUDING TRANSFER OF TRUST FUNDS)

Appropriation, fiscal year 2016	\$245,238,000
Budget request, fiscal year 2017	289,520,000
Recommended in the bill	286,478,000
Bill compared with:	
Appropriation, fiscal year 2016	+41,240,000
Budget request, fiscal year 2017	- 3,042,000

The Office of Personnel Management (OPM) is the Federal agency responsible for management of Federal human resources policy and oversight of the merit civil service system. OPM provides a government-wide policy framework for personnel matters, advises and assists agencies (often on a reimbursable basis), and ensures that agency operations are consistent with requirements of law, with emphasis on such issues as veterans preference. OPM oversees examining of applicants for employment; issues regulations and policies on hiring, classification and pay, training, investigations; and many other aspects of personnel management, and operates a reimbursable training program for the Federal Government's managers and executives. OPM is also responsible for administering the retirement, health benefits and life insurance programs affecting most Federal employees, retired Federal employees, and their survivors.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$144,867,000 for the General Fund. The Committee also recommends \$141,611,000 for administrative expenses, to be transferred from the appropriate trust funds.

OPM has struggled for decades to process Federal retirees' pension claims quickly and accurately. As a result, tens of thousands of new retirees wait months to receive their complete annuities—some wait more than a year—and in the meantime they may be constrained by reduced interim pensions. The Committee expects OPM to continue to make retirement processing a priority and move to a fully-automated electronic filing system. The Committee believes that the backlog and delays in retirement processing are unacceptable and directs OPM to continue to provide the Committees on Appropriations of the House and Senate with monthly reports on its progress in addressing the backlog in claims.

In the wake of the two massive data breaches, OPM must continue to take steps to secure the personally identifiable information and material relating to security clearances of all current, former, and prospective federal government employees. The Committee has provided full funding for the Administration's fiscal years 2016 and 2017 requests for cybersecurity and expects OPM to continue with IT upgrades to secure its networks against future attacks.

National Bureau of Investigations.—The Committee requires more information about the Administration's proposal to create the National Bureau of Investigations (NBIB), which will replace OPM's Federal Investigative Services Branch, and, therefore, directs OPM to submit to the Committees on Appropriations of the House and Senate quarterly progress reports highlighting the

NBIB implementation plan, timeline, and milestones; costs for each phase of implementation and anticipated outyear costs; governance, resource management, and accountability policies between OPM and Department of Defense; and a human capital plan as well as other significant issues related to standing-up the NBIB.

Critical Functions.—The recent security breaches, focus on system upgrades, and the new National Background Investigations Bureau should not detract OPM from fulfilling its critical functions such as recruiting, retaining and developing a Federal workforce to serve the American people. OPM serves the Federal workforce by directing human resources and employee management services, and administering retirement benefits, managing healthcare and insurance programs, overseeing merit-based and inclusive hiring in to the civil service, and providing a secure employment process. The Committee reminds OPM's senior management to not lose sight of its mission as it responds to critical IT challenges.

Recruitment.—The Committee is concerned with the length of time it often takes the Federal Government to hire qualified employees. Rigid rules along with long delays in the hiring and interview process discourage top candidates from applying for or accepting Federal positions. The Committee encourages the OPM to seek feedback on its recruitment process, explore and implement hiring policies to reduce barriers to Federal employment, such as those faced by the re-entry population, and to reduce the delays in the hiring and notification process, and improve overall the Federal recruitment process.

As part of OPM's mission to recruit and hire the most talented and diverse Federal workforce, the Committee encourages Federal agencies to increase recruitment efforts within the United States and the territories and at Hispanic Serving Institutions and Historically Black Colleges and Universities.

CyberCorps.—A concern throughout the Federal Government is hiring qualified cyber security staff. The CyberCorps Scholarship for Service Program is a unique program designed to increase and strengthen the cadre of cyber professionals by providing students with academic scholarships in return for their service in Federal, state, or local government. A greater effort is needed to promote Federal cyber positions among recent CyberCorps graduates and to streamline the hiring process to attract these individuals to Federal service. OPM is directed to submit a report to the Committees on Appropriations of the House and Senate, House Permanent Select Committee on Intelligence, and the Senate Select Committee on Intelligence within 90 days of enactment of this Act outlining the steps OPM will take to improve the hiring process of CyberCorps graduates.

Domestic Violence, Sexual Assault, and Stalking.—The Committee directs the Office of Personnel Management to create a report no later than 180 days of enactment of this Act detailing the impact of the February 2013 Guidance for Agency-specific Domestic Violence, Sexual Assault, and Stalking on Federal agency employee leave policies. The Committee directs the Office of Personnel Management to publish, at minimum, the following information: (1) a comprehensive summary of agency leave policies in a 12-month period for domestic violence, sexual assault, and stalking survivors; (2) a comprehensive summary of agency safety precaution policies

for domestic violence, sexual assault, and stalking survivors; and (3) a list of agencies that have not yet submitted final policies adhering to the 2013 Office of Personnel Management guidance or are not engaged in active implementation efforts.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

Appropriation, fiscal year 2016	\$26,844,000
Budget request, fiscal year 2017	31,734,000
Recommended in the bill	31,734,000
Bill compared with:	
Appropriation, fiscal year 2016	+4,890,000
Budget request, fiscal year 2017	--

This appropriation provides for the Office of Inspector General’s (OIG) agency-wide audit, investigative, evaluation, and inspection functions, which identify management and administrative deficiencies, fraud, waste and mismanagement. The OIG performs internal agency audits and insurance audits, and offers contract audit services. Internal audits review and evaluate all facets of agency operations, including financial statements. Evaluation and inspection services provide detailed technical evaluations of agency operations. Insurance audits review the operations of health and life insurance carriers, health care providers, and insurance subscribers. Contract auditors provide professional advice to agency contracting officials on accounting and financial matters regarding the negotiation, award, administration, repricing, and settlement of contracts. The investigative function provides for the detection and investigation of improper and illegal activities involving programs, personnel, and operations.

COMMITTEE RECOMMENDATION

The Committee recommends a general fund appropriation of \$5,072,000 for the OIG. In addition, the recommendation provides \$26,662,000 from appropriate trust funds.

National Bureau of Investigations.—Of particular interest to the Committee is the implementation of OPM’s National Background Investigations Bureau (NBIB). The Committee directs the Inspector General to submit a report to the Committees on Appropriations of the House and Senate not less than 12 months after enactment of this Act assessing the implementation of NBIB; staff transitions from the Federal Investigative Services and future staffing needs; current and future costs; governance and accountability structure among the NBIB, Department of Defense, OPM IG and Performance Accountability Council; and recommendations and weaknesses found.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$24,119,000
Budget request, fiscal year 2017	26,535,000
Recommended in the bill	25,735,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,616,000
Budget request, fiscal year 2017	- 800,000

The Office of Special Counsel (OSC): (1) investigates Federal employee allegations of prohibited personnel practices (including reprisal for whistleblowing) and, when appropriate, prosecutes before the Merit Systems Protection Board; (2) provides a channel for whistleblowing by Federal employees; and (3) enforces the Hatch Act. The Office may transmit whistleblower allegations to the agency head concerned and require an agency investigation and a report to the Congress and the President when appropriate. Additionally, the Office enforces the civilian employment and reemployment rights of military service members under the Uniformed Services Employment and Re-employment Rights Act.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$25,735,000 for the OSC.

POSTAL REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Appropriation, fiscal year 2016	\$15,200,000
Budget request, fiscal year 2017	17,726,000
Recommended in the bill	16,200,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,000,000
Budget request, fiscal year 2017	- 1,526,000

The Commission establishes and maintains the U.S. Postal Service's ratemaking systems, measures service and performance, ensures accountability, and has enforcement mechanisms, including the authority to issue subpoenas.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation, out of the Postal Fund, of \$16,200,000 for the Postal Regulatory Commission (Commission). The Committee believes the Commission can make better use of its office space and reduce annual rental costs through consolidation and reconfiguration. The Committee directs the Commission to work with the General Services Administration on optimizing the Commission's space to reduce the Commission's footprint and save additional resources.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$21,297,000
Budget request, fiscal year 2017	10,081,000
Recommended in the bill	8,297,000
Bill compared with:	
Appropriation, fiscal year 2016	- 13,000,000
Budget request, fiscal year 2017	- 1,784,000

The Privacy and Civil Liberties Oversight Board (the Board) is an independent agency within the Executive Branch whose purpose is to (1) analyze and review actions the Executive Branch takes to protect the nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and (2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the nation against terrorism. The Board consists of 4 part-time members and full-time chairman.

COMMITTEE RECOMMENDATION

The Committee recommends \$8,297,000 for the Board.

The Committee is appreciative of the Board's decision to secure the most cost-effective facilities lease and encourages the Board to continue to work with the General Services Administration in maintaining such measures, particularly at a time when resources are limited. The Committee directs the Board to provide quarterly briefings to the Committees on Appropriations of the House and Senate on the progress of the Board's facilities move.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$1,605,000,000
Budget request, fiscal year 2017	1,781,457,278
Recommended in the bill	1,555,000,000
Bill compared with:	
Appropriation, fiscal year 2016	- 50,000,000
Budget request, fiscal year 2017	- 226,457,278

The primary mission of the Securities and Exchange Commission (SEC) is to protect investors, maintain the integrity of the securities markets, and assure adequate information on the capital markets is made available to market participants and policy makers. This includes monitoring the rapid evolution of the capital markets, ensuring full disclosure of all appropriate financial information, regulating the Nation's securities markets, and preventing fraud and malpractice in the securities and financial markets.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$1,555,000,000 for the SEC. The Committee designates not less than \$14,700,000 for Office of Inspector General and \$72,049,000 for the Division of Economic and Risk Analysis.

Reserve Fund/Information Technology.—The Committee is supportive of the SEC's prioritization of robust and effective information technology (IT) systems within the Commission. The SEC has

indicated that the planned use of the Dodd-Frank mandatory Reserve Fund is to support the Commission's IT initiatives. However, this fund is not overseen by Congress and it is left to the discretion of the Commission as to its use. The Committee believes emergency reserve funds should be used for natural disaster emergencies and other crises, not discretionary priorities within a Federal agency. While the Committee does not support the use of the Reserve Fund, an increase to IT funding is provided through the Commission's overall appropriation. The Committee's recommended funding level for IT initiatives increases the overall funding level by \$50,000,000 specifically to support IT funding priorities. The Committee includes a limitation (section 624) prohibiting funds from the Reserve Fund from being used by the Commission.

The Committee expects the Commission to continue to improve network safeguards and security controls, both physical and cyber, from potential intrusions. The Committee expects the Commission to prioritize and fully implement the information security program as soon as possible.

Fiduciary Standard.—The Committee remains concerned with the Department of Labor (DOL) newly released rule regarding fiduciary standards for broker-dealers. This rule overlaps with SEC's jurisdiction and the implications for regulatory conflict and investor harm are far-reaching. The DOL is neither an expert in the area of overseeing investment advisors, nor the primary regulator for broker-dealers. The Committee knows of no peer-reviewed studies that have established causation between a fiduciary standard and returns on investment. Further, the impact on low to moderate income retail investors is of significant concern. The Committee will continue to closely monitor any SEC rulemaking in this area and expects the SEC to take into consideration the impact on retail investors and the availability of affordable investment advice.

Liquidity.—The Committee believes the SEC is the expert regulator with regard to the U.S. capital markets. Since the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), prudential regulators, through the Financial Stability Oversight Council (FSOC), have been able to influence and, in many cases, impair the U.S. markets' functionality. Although both the banking sector and capital markets affect the U.S. and global economy, prudential regulation and market regulation are inherently different and should be treated as such.

The Committee has strong concerns about the effect that the Dodd-Frank Act and other layers of financial regulation have had, and will continue to have, on overall market liquidity. The Committee believes these layers of regulation have resulted in an alarming lack of liquidity in U.S. markets, particularly fixed income markets. In FY 2016 the Committee directed the SEC's Division of Economic and Risk Analysis (DERA) to report to the Committee within one year of enactment of this Act, on the combined impacts that the Dodd-Frank Act—especially section 619—and other financial regulations, such as Basel III, have had on: (1) access to capital for consumers, investors, and businesses, and (2) market liquidity, to include U.S. Treasury markets and corporate debt. The Committee looks forward to reviewing this report.

The Committee has been supportive of DERA in order to encourage the Commission prioritize robust and thorough expert economic

analysis of SEC rulemakings. The Committee expects DERA, when it performs economic analysis for proposed SEC regulations, to consider the overall economic effects of all financial regulations—not just those proposed by the SEC—and their effect on the U.S. markets.

BDC Modernization.—Congress created Business Development Companies (BDCs) in 1980 to facilitate capital formation in small and medium size companies. BDCs have recently invested in small and medium-size companies that provide vital services to the American public, including companies involved in disease treatment and prevention, education, information technology security, agriculture, and construction. Many BDCs specialize in financing acquisitions made by private equity firms. While there is a wide variation among BDCs in the size of their investments, the companies they invest in, and the industries in which they concentrate, they all share a common investment objective of making it easier for small and medium-sized companies to obtain access to capital. Funding from BDCs has become more important for small businesses as the stifling regulatory environment resulting from the regulatory overreaction to the financial crisis has restricted bank and other traditional financing options for these companies. The Committee instructs the SEC to modernize the business development company regulatory regime consistent with H.R. 3868, the Small Business Credit Availability Act as reported by the Committee on Financial Services on November 3, 2015.

BDC Acquired Fund Fee and Expense Rule.—The SEC issued its acquired fund fees and expenses (AFFE) rule in 2003 to deal with the “Funds of Funds” business models. As the law does not consider BDCs to be Funds of Funds, the SEC did not mention BDCs in the rule. Today the BDC industry has grown dramatically and the AFFE rule unnecessarily harms the industry. Retail investors benefit from having professional firms and indexes analyze BDC securities. However, retail investors are not being given adequate market protections because the AFFE rule prohibits BDC securities from inclusion in indexes, which results in fewer research analysts that cover the BDC industry. The Committee recommends that the SEC re-open the AFFE rule for public comment to consider the impacts on the BDC industry and its investors.

Disclosures.—Effective disclosures are at the core of investor protection and must be timely, accurate, and understandable to both retail and institutional investors. Corporate disclosures should also be provided in an easily accessible format. The current disclosure regime system must be overhauled in order to eliminate obsolete and onerous disclosures, which the SEC has previously acknowledged. The Committee directs the SEC submit a report, within 90 days of enactment of this Act, to the Committees on Appropriations of the House and Senate outlining the Commission’s efforts to modernize the disclosure requirements.

Organizational Structure.—The Committee remains concerned that a lack of managerial accountability, focus, prioritization, and internal communication hampers the effectiveness of the SEC. The Committee has concurred with the recommendation put forth in the Boston Consulting Group (BCG) report that the SEC must reorganize in order to become more efficient. While progress has been made in reorganizing certain offices, the Committee believes there

is more to be done to make the Commission better able to respond to dynamic markets. The Committee again directs the SEC to provide an updated report on a reorganization plan outlining areas of improvement. Within the report the Committee directs the SEC to undertake a review of the overall organizational structure. This report is to be delivered to the Committees on Appropriations of the House and Senate within 90 days of enactment of this Act.

Financial Accounting Standards.—Any proposals issued by the SEC on whether to adopt International Financial Reporting Standards (IFRS) by U.S. public companies must account for the impact on U.S. tax and accounting policies, and the differences between U.S. Generally Accepted Accounting Principles (GAAP) and IFRS. The SEC must also consider the economic costs that IFRS could impose on cost of capital and investment in the U.S. The Committee expects that the SEC would subject any proposal to adopt IFRS to be subject to the notice-and-comment requirements of the Administrative Procedure Act so that the SEC can receive input from all interested parties.

Joint Rulemakings.—The Committee directs the SEC to work cooperatively with the Commodity Futures Trading Commission (CFTC) on all joint rulemakings as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$22,703,000
Budget request, fiscal year 2017	22,900,000
Recommended in the bill	22,703,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	- 197,000

The Selective Service System was established by the Selective Service Act of 1948. The mission of the System is to be prepared to supply manpower to the Armed Forces adequate to ensure the security of the United States during a time of national emergency. Since 1973, the Armed Forces have relied on volunteers to fill military manpower requirements, but selective service registration was reinstated in July 1980.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$22,703,000 for the Selective Service System.

SMALL BUSINESS ADMINISTRATION

The Small Business Administration (SBA) assists small businesses through programs including loans, grants, and contracting preferences. These programs maintain and strengthen an economy that depends on small businesses for 60 to 80 percent of job creation. SBA programs also serve disadvantaged populations so that these small business enterprises may overcome economic and social obstacles to success.

The recommendation provides a total of \$883,361,000 for the SBA for fiscal year 2017. Detailed guidance for the SBA appropriations accounts is presented below.

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$268,000,000
Budget request, fiscal year 2017	275,033,000
Recommended in the bill	268,000,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	-7,033,000

COMMITTEE RECOMMENDATION

The Committee recommends \$268,000,000 for the salaries and expenses of the SBA.

SBIC Virtual Data Rooms.—The Committee believes the SBA has longstanding problems with maintaining and updating technology. The SBA continues to use inadequate technological systems to share files, reports, contracts, and other information that is communicated between SBA staff as well as between SBICs and the SBA. Virtual Data Rooms (VDR) are regularly used in the private sector and would make data more secure and increase operational efficiencies for both SBA and SBICs. VDRs could also streamline the collection of data by SBA staff, removing redundant processes at the SBA and saving time and resources. The Committee recommends that the SBA should give SBICs the option to select their own VDR provider which would serve as a communication vehicle for SBICs and the SBA in a single, secure location for all regulatory documents, submissions, requests, and communications.

SBIC Program and State Data.—For decades an important set of consolidated SBIC Program data has routinely been shared with industry, Congress, and the public. This important information, which is both a meaningful economic indicator on the small business sector as well as an indicator of SBA's activities and performance, was made available on a monthly basis. In addition to the SBIC Program data, the SBA routinely released annual data on the impact of SBIC investments as well as specific companies in all fifty states. The SBA has only released the SBIC program data once since the end of the 2015 fiscal year and the SBA has not released the state data since the 2013 fiscal year. The Committee recommends that SBA should release this data to industry and Congress to allow for a thorough review of the impact of the SBIC Program on the economy and an analysis of the performance of the SBA.

SBIC Program Licensing.—The Committee continues to be concerned with the slow pace of licensing at the SBIC Program. SBA has a six month goal to approve licenses that are in the application process. The SBA fails to meet this basic goal and the average time to license is often well over a year. These delays are occurring in contradiction to the fact that the number of applications has decreased. The Committee again recommends that the SBA should create a meaningfully expedited and streamlined licensing process of repeat licensees, those SBICs that have the same management teams and proven track record in the SBIC Program. This fast track process for repeat licensees should be completed no longer than 45 days after an application is submitted to the SBA, which will allow SBA to properly redirect their resources to first time funds. The Committee also believes the SBA Investment Division should consider reorganizing the SBIC licensing process and per-

sonnel to more efficiently use the resources allocated. In particular, the SBA should: combine the licensing and development staff; reduce the number of licensing committees and steps for all applicants; and create a meaningful green light letter process that clearly outlines for applicants the needed benchmarks for license approval without changing any of the terms on the applicant during licensing.

Credit Elsewhere.—The Committee believes that SBA guaranteed loans should be targeted at borrowers who would otherwise not be able to receive a loan elsewhere. The Committee directs the Government Accountability Office (GAO) to conduct a study and report to the Committees on Appropriations of the House and Senate, and the Committee on Small Business of the House, and the Committee on Small Business and Entrepreneurship of the Senate no later than 120 days after enactment of this Act on credit elsewhere, to include an analysis of the criteria currently used to identify whether businesses are unable to obtain credit elsewhere is sufficient, and if not, what additional criteria could be used.

The Committee recognizes the value of the 8(a) program in helping small and disadvantaged businesses compete in the marketplace. The bill provides sufficient funding to execute the 8(a) program.

ENTREPRENEURIAL DEVELOPMENT PROGRAMS

Appropriation, fiscal year 2016	\$231,100,000
Budget request, fiscal year 2017	230,600,000
Recommended in the bill	243,100,000
Bill compared with:	
Appropriation, fiscal year 2016	+12,000,000
Budget request, fiscal year 2017	+12,500,000

The SBA’s Entrepreneurial Development Programs support non-credit business assistance to entrepreneurs. The appropriation includes funding for a network of resource partners located throughout the United States that provide training, counseling, and technical assistance to small business entrepreneurs.

COMMITTEE RECOMMENDATION

The Committee recommendations for Entrepreneurial Development Programs, by program, are displayed in the following table:

ENTREPRENEURIAL DEVELOPMENT PROGRAMS

[In thousands of dollars]

7(j) Technical Assistance	\$2,800
Entrepreneurship Education	10,000
HUBZone Program	4,000
Microloan Technical Assistance	31,000
National Women’s Business Council	1,500
Native American Outreach	2,000
PRIME Technical Assistance	5,000
SCORE	10,500
Small Business Development Centers (SBDCs)	125,000
State & Trade Export Promotion (STEP)	20,000
Veterans Outreach *	12,300
Women’s Business Centers (WBC)	19,000

Total, Entrepreneurial Development Programs \$243,100

*Veterans Outreach includes funding for: Boots to Business, Veterans Business Outreach Centers (VBOC), Veteran Women Igniting the Spirit of Entrepreneurship (V Wise), Entrepreneurship Bootcamp for Veterans with Disabilities (EBV), and Boots to Business reboot.

The SBA shall not reduce these non-credit programs from the amounts specified above and the SBA shall not merge any of the non-credit programs without advance written approval from the Committee. The Committee strongly supports the development programs listed in the table above and will carefully monitor SBA support of these programs.

Women’s Business Centers.—The Committee notes the absence of WBCs serving many of the U.S. territories and other U.S. insular areas, and recommends that the SBA consider including these areas in WBC services.

Veterans Programs.—The Committee strongly supports programs for veterans transitioning from active duty who are interested in starting small businesses. The Committee recognizes that many veterans are small businesses owners and believes these veteran-owned businesses should be supported by the SBA through trainings and other educational opportunities. The Committee continues to fully fund the request for veterans’ entrepreneurial programs for fiscal year 2017.

OFFICE OF INSPECTOR GENERAL

Appropriation, fiscal year 2016	\$19,900,000
Budget request, fiscal year 2017	19,900,000
Recommended in the bill	19,900,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

The Committee recommends \$19,900,000 for the Office of Inspector General of the SBA.

OFFICE OF ADVOCACY

Appropriation, fiscal year 2016	\$9,120,000
Budget request, fiscal year 2017	9,320,000
Recommended in the bill	9,320,000
Bill compared with:	
Appropriation, fiscal year 2016	+200,000
Budget request, fiscal year 2017	---

COMMITTEE RECOMMENDATION

The Committee recommends \$9,320,000 for the Office of Advocacy of the SBA. The Committee supports the Office’s mission to reduce regulatory burdens that Federal policies impose on small businesses and to maximize the benefits small businesses receive from the government.

BUSINESS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Appropriation, fiscal year 2016	\$156,064,000
Budget request, fiscal year 2017	157,064,000
Recommended in the bill	157,064,000
Bill compared with:	
Appropriation, fiscal year 2016	+1,000,000
Budget request, fiscal year 2017	---

The SBA Business Loans Program serves as an important source of capital for America’s small businesses. The recommendation sup-

ports the 7(a) business loan program at a level of \$28.5 billion, the 504 certified development company program at a level of \$7.5 billion, Small Business Investment Company (SBIC) debentures, and the Secondary Market Guarantee Program.

COMMITTEE RECOMMENDATION

The Committee recommends a total of \$157,064,000 for the Business Loans Program Account. Of the amount appropriated, \$152,726,000 is for administrative expenses related to business loan programs. The amount provided for administrative expenses may be transferred to and merged with the appropriation for SBA salaries and expenses to cover the common overhead expenses associated with business loans. Funding is included to fully support the Microloan program.

The Committee notes the mission of the Surety Bond Guarantee (SBG) program is to provide and manage surety bond guarantees for qualified small and emerging businesses, in direct partnership with surety companies and their agents, utilizing the most efficient and effective operational policies and procedures. The Committee is supportive of SBG's efforts to encourage surety companies to bond small businesses who otherwise would have difficulty obtaining bonding on their own.

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Appropriation, fiscal year 2016	\$186,858,000
Budget request, fiscal year 2017*	185,977,000
Recommended in the bill	185,977,000
Bill compared with:	
Appropriation, fiscal year 2016	- 881,000
Budget request, fiscal year 2017	---

*The Committee funds this program within its discretionary allocation. The Administration proposed funding most of these costs with a disaster cap adjustment.

COMMITTEE RECOMMENDATION

The Committee recommends a total of \$185,977,000 for Disaster Loan Program administrative expenses which may be transferred and merged with Salaries and Expenses. The Committee provides \$1,000,000 for the Office of Inspector General for audits and reviews of the disaster loans program.

The Committee wants to ensure that disaster victims have full access to SBA's programs. The Committee has been very supportive of the SBA Disaster Loan Program in past fiscal years, including appropriating \$804,000,000 for the Hurricane Sandy disaster in fiscal year 2013. However, SBA has not obligated all the funds appropriated for the Sandy Disaster and has continued to carry over large amounts of no-year funding for disaster subsidy. The Committee expects the SBA to take into consideration these balances in future requests.

The Committee directs the SBA to continue providing updates on available resources for the disaster loans program on a monthly basis.

Pre-mitigation activities within the Disaster Loan Program.—The Committee urges the SBA to coordinate with Federal Emergency Management Agency (FEMA) to evaluate the feasibility of expanding the SBA Disaster Loan Program to allow applicants in areas

of high flood or natural disaster risk to utilize loans for pre-disaster mitigation projects that adhere to FEMA's standards of mitigation activities that significantly reduce a structure's long-term flood risk. The SBA should coordinate with FEMA to weigh the financial exposure of the SBA against the potential reduction of claims payments from the National Flood Insurance Program.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

Section 530. The Committee continues a provision for the SBA authorizing transfers of up to five percent of any SBA appropriation to other appropriations, provided that transfers do not increase an appropriation by more than 10 percent. The provision also requires that transfers be treated as a reprogramming of funds.

Section 531. The Committee continues a provision waiving 7(a) loan guarantee fees for veterans and their spouses.

Section 532. The Committee includes a provision rescinding prior year unobligated balances related to business loan subsidy for programs that are now zero subsidy.

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

Appropriation, fiscal year 2016	\$55,075,000
Budget request, fiscal year 2017	63,658,000
Recommended in the bill	41,151,000
Bill compared with:	
Appropriation, fiscal year 2016	– 13,924,000
Budget request, fiscal year 2017	– 22,507,000

The United States Postal Service (USPS) is funded almost entirely by Postal ratepayers rather than taxpayers. Funds provided to the Postal Service in the Payment to the Postal Service Fund include appropriations for revenue forgone, including providing free mail for the blind, and for overseas absentee voting.

COMMITTEE RECOMMENDATION

The Committee recommends appropriations totaling \$41,151,000 for Payment to the Postal Service Fund. The recommendation funds free mail for the blind and overseas voting and reconciliation of prior year cost adjustment. The recommendation includes language requiring the Postal Service to maintain and comply with service standards for First Class Mail and periodicals effective on July 1, 2012.

Rural Post Offices.—The Committee believes that the United States postal facility network is an asset of significant value. The closure of post offices in rural communities creates an economic burden for people in the United States that depend on the Postal Service for communication and package services. In addition to typical postal services, post offices are part of the identity of rural communities and provide a significant social value. The closure process of post offices does not adequately take into account community input.

Notification to Congress.—Title 39 of the U.S. Code requires the Postal Service to provide the public with notice prior to closing or consolidating a post office. The Committee understands that it is

the Postal Service’s policy to inform Member of Congress’ district and Washington, D.C. offices when the public receives notice. The Committee directs the Postal Service to keep Members of Congress informed of Postal Service activities impacting their constituents and expects the Postal Service to ensure that Members of Congress are appropriately informed simultaneously or prior to all public notices.

Postmarks on Mail.—The Committee believes postmarks on mail should accurately reflect the day on which it was received by the Postal Service.

Preservation.—The Committee appreciates the Postal Service’s mission to preserve its artistic and historical heritage and is pleased that the Postal Service currently employs a federal preservation officer and historian to care for their collection of Postal Fine Arts, representing more than 1,400 murals and sculptures from the New Deal Program, that are on display in postal facilities around the country. The Committee recognizes the important cultural enrichment that these murals and sculptures provide. In addition, the Committee recognizes the importance of the arts in local communities including the display of art in public spaces including interested local postal facilities with the consent of, and at no expense to, the U.S. Postal Service.

Accessibility for Disabled Individuals.—The Committee notes that under the Architectural Barriers Act, the Postal Service is required to meet accessibility requirements for disabled individuals.

The Committee is pleased with the passage of the Multinational Species Conservation Fund Semi-postal Stamp Reauthorization Act, but is concerned that sales of the stamp will not improve without support from the Postal Service. The Committee directs the Postmaster General to submit a report, within 90 days of enactment of this Act, on the actions planned and taken by the Postal Service to increase sales of the stamp. P.L. 113–165 reauthorized the printing of the Multinational Species Conservation Fund semi-postal stamp for an additional 4 years. Although the Postal Service reissued the stamp as directed by Congress, disappointingly little effort was made to make the public aware of the stamp’s return and sales during the holiday season. The Committee directs the Postmaster General to report quarterly to the Committee on Appropriations of the House and Senate on how many stamps have been sold and how many remain in stock.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Appropriation, fiscal year 2016	\$248,600,000
Budget request, fiscal year 2017	258,800,000
Recommended in the bill	258,000,000
Bill compared with:	
Appropriation, fiscal year 2016	+9,400,000
Budget request, fiscal year 2017	– 800,000

The Office of Inspector General (OIG) conducts audits, reviews and investigations, and keeps Congress informed on the efficiency and economy of United States Postal Service (USPS) programs and operations.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$258,000,000 for the OIG.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

Appropriation, fiscal year 2016	\$51,300,000
Budget request, fiscal year 2017	53,861,000
Recommended in the bill	51,300,000
Bill compared with:	
Appropriation, fiscal year 2016	---
Budget request, fiscal year 2017	-2,561,000

The U.S. Tax Court adjudicates controversies involving deficiencies in income, estate, and gift taxes. The Court also has jurisdiction to determine deficiencies in certain excise taxes, to issue declaratory judgments in the areas of qualifications of retirement plans and exemptions of charitable organizations, and to decide certain cases involving disclosure of tax information by the Commissioner of the Internal Revenue Service.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$51,300,000 for the U.S. Tax Court.

TITLE VI—GENERAL PROVISIONS—THIS ACT

(INCLUDING RESCISSION)

Section 601. The Committee continues the provision prohibiting pay and other expenses for non-Federal parties in regulatory or adjudicatory proceedings funded in this Act.

Section 602. The Committee continues the provision prohibiting obligations beyond the current fiscal year and prohibits transfers of funds unless expressly so provided herein.

Section 603. The Committee continues the provision limiting procurement contracts for consulting service expenditures to contracts that are matters of public record and available for public inspection.

Section 604. The Committee continues the provision prohibiting transfer of funds in this Act without express authority.

Section 605. The Committee continues the provision prohibiting the use of funds to engage in activities that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

Section 606. The Committee continues the provision concerning compliance with the Buy American Act.

Section 607. The Committee continues the provision prohibiting the use of funds by any person or entity convicted of violating the Buy American Act.

Section 608. The Committee continues the provision specifying reprogramming procedures. The provision requires that agencies or entities funded by the Act notify the Committee and obtain prior approval from the Committee for any reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by the Con-

gress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; (5) augments existing programs, projects, or activities in excess of \$5,000,000 or 10 percent, whichever is less; (6) reduces existing programs, projects, or activities by \$5,000,000 or 10 percent, whichever is less; or (7) reorganizes offices, programs, or activities. The provision directs agencies funded by this Act to consult with the Committee prior to any significant reorganization. The provision also directs the agencies funded by this Act to submit operating plans for the Committee's review within 60 days of the bill's enactment.

Section 609. The Committee continues the provision providing that fifty percent of unobligated balances may remain available through September 30, 2018, for certain purposes.

Section 610. The Committee continues the provision prohibiting funding for the Executive Office of the President to request either a Federal Bureau of Investigation background investigation or Internal Revenue Service determination with respect to section 501(a) of the Internal Revenue Code of 1986, except with the express consent of the individual involved in an investigation or in extraordinary circumstances involving national security.

Section 611. The Committee continues the provision regarding cost accounting standards for contracts under the Federal Employee Health Benefits Program.

Section 612. The Committee continues the provision regarding non-foreign area cost-of-living allowances.

Section 613. The Committee continues the provision prohibiting the expenditure of funds for abortion under the Federal Employees Health Benefits Program.

Section 614. The Committee continues the provision making exceptions to the preceding provision where the life of the mother is in danger or the pregnancy is a result of an act of rape or incest.

Section 615. The Committee continues the provision carried annually since 2004 waiving restrictions on the purchase of non-domestic articles, materials, and supplies in the case of acquisition of information technology by the Federal Government.

Section 616. The Committee continues the provision prohibiting officers or employees of any regulatory agency or commission funded by this Act from accepting travel payments or reimbursements from a person or entity regulated by such agency or commission.

Section 617. The Committee continues the provision permitting the Securities and Exchange Commission and Commodities Futures Trading Commission to fund a joint advisory committee to advise on emerging regulatory issues, notwithstanding section 708 of this Act.

Section 618. The Committee continues the provision requiring certain agencies in this Act to consult with the General Services Administration before seeking new office space or making alterations to existing office space.

Section 619. The Committee continues language providing for several appropriated mandatory accounts. These are accounts where authorizing language requires the payment of funds. The Congressional Budget Office estimates the cost for the following programs addressed in this provision: \$450,000 for Compensation of the President including \$50,000 for expenses, \$161,000,000 for

the Judicial Retirement Funds (Judicial Officers' Retirement Fund, Judicial Survivors' Annuities Fund, and the United States Court of Federal Claims Judges' Retirement Fund), \$12,699,000,000 for the Government Payment for Annuitants, Employee Health Benefits, \$47,000,000 for the Government Payment for Annuitants, Employee Life Insurance, and \$8,469,000,000 for the Payment to the Civil Service Retirement and Disability Fund.

Section 620. The Committee continues the provision prohibiting funds for the Federal Trade Commission to complete the draft report entitled "Interagency Working Group on Food Marketed to Children: Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts" unless the Interagency Working Group on Food Marketed to Children complies with Executive Order 13563, including the requirement in it to provide quantified present and future benefits and costs.

Section 621. The Committee modifies the provision prohibiting funding for certain czars including the Director of the White House Office of Health Reform, the Assistant to the President for Energy and Climate Change, the Senior Advisor to the Secretary of the Treasury assigned to the Presidential Task Force on the Auto Industry and Senior Counselor for Manufacturing Policy, and the White House Director of Urban Affairs, or any substantially similar positions.

Section 622. The Committee continues the provision prohibiting funds in contravention of the Federal Records Act.

Section 623. The Committee includes language requiring certain regulatory agencies to provide a report on increasing public participation in rulemaking, improving coordination among Federal agencies, and identifying ineffective or excessively burdensome regulations.

Section 624. The Committee includes language permanently rescinding funds in fiscal year 2017 from the Securities and Exchange Commission Reserve Fund established by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Committee believes the Commission should request the level of funding it believes is necessary in any given fiscal year and not have access to reserve funding that is outside of the Congressional review process.

Section 625. The Committee includes language prohibiting funds for the Securities and Exchange Commission to require the disclosure of political contributions to tax exempt organizations, or dues paid to trade associations.

Section 626. The Committee includes language prohibiting the Financial Stability Oversight Council from designating nonbanks as systemically important financial institutions until it identifies the risks to financial stability presented by the nonbank and allows the nonbank to present a plan to modify its business, structure, or operation to mitigate the identified risk prior to final designation.

Section 627. The Committee includes language prohibiting agencies from requiring Internet Service Providers (ISPs) to disclose electronic communications information in a manner that violates the Fourth Amendment.

Section 628. The Committee includes a new provision clarifying language related to joint sales agreements included in P.L. 114-113.

Section 629. The Committee includes language prohibiting any modification of Universal Service Fund rules related to Mobility Fund Phase II.

Section 630. The Committee includes language prohibiting the Federal Communications Commission (FCC) from implementing, administering, or enforcing any rule unless the FCC publishes the text of the rule 21 days before a vote on the rule.

Section 631. The Committee includes language prohibiting the Federal Communications Commission from regulating rates for either broadband or wireless internet providers.

Section 632. The Committee includes language prohibiting the Federal Communications Commission from implementing FCC Order 15–24 regarding open internet until specific court challenges have been resolved.

Section 633. The Committee includes a new provision requiring the Office of Management and Budget to submit a report on cyber-security spending.

Section 634. The Committee includes language to dissolve the Christopher Columbus Fellowship Foundation (CCFF) as a Federal agency within one year of enactment of this Act. The CCFF, if it so chooses, may reconstitute itself as a private, non-profit organization and apply for tax exempt status.

Section 635. The Committee includes a new provision prohibiting any funds made available in this Act from being used to establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

Section 636. The Committee includes a new provision requiring a study and public comment before any proposed rules under section 629 of the Communications Act of 1934 (47 U.S.C. 549) go into effect.

Section 637. The Committee includes a new provision revising the definition of a mortgage originator as the term applies to manufactured housing.

Section 638. The Committee includes a new provision revising the definition of a high-cost mortgage as the term applies to manufactured housing.

Section 639. The Committee includes a new provision prohibiting funding for the Consumer Financial Protection Bureau to issue or enforce any rule with respect to payday loans, vehicle title loans, or similar loans during fiscal year 2017 or after until the Bureau has submitted a report to Congress.

Section 640. The Committee includes a new provision prohibiting funds from being used to implement, promulgate, finalize or enforce Executive Order 13673 until a study is conducted by the Comptroller General and reviewed by the Secretary of Labor.

Section 641. The Committee includes a new provision prohibiting funds to pay for an abortion or the administrative expenses in connection with a multi-State qualified health plan offered under a contract under section 1334 of the Patient Protection and Affordable Care Act which provides any benefits or coverage for abortions, except for endangerment of the life of the mother, rape or incest.

TITLE VII—GENERAL PROVISIONS—GOVERNMENT WIDE
DEPARTMENTS, AGENCIES, AND CORPORATIONS
(INCLUDING TRANSFER OF FUNDS)

Section 701. The Committee continues the provision requiring agencies to administer a policy designed to ensure that all of its workplaces are free from the illegal use of controlled substances.

Section 702. The Committee continues the provision establishing price limitations on vehicles to be purchased by the Federal Government with an exemption for the purchase of electric, plug-in hybrid electric, and hydrogen fuel cell vehicles.

Section 703. The Committee continues the provision allowing funds made available to agencies for travel to also be used for quarters allowances and cost-of-living allowances.

Section 704. The Committee continues the provision prohibiting the employment of noncitizens with certain exceptions.

Section 705. The Committee continues the provision giving agencies the authority to pay General Services Administration bills for space renovation and other services.

Section 706. The Committee continues, with modification, the provision allowing agencies to finance the costs of recycling and waste prevention programs with proceeds from the sale of materials recovered through such programs.

Section 707. The Committee continues the provision providing that funds made available to corporations and agencies subject to 31 U.S.C. 91 may pay rent and other service costs in the District of Columbia.

Section 708. The Committee continues the provision prohibiting interagency financing of groups absent prior statutory approval.

Section 709. The Committee continues the provision prohibiting the use of funds for enforcing regulations disapproved in accordance with the applicable law of the U.S.

Section 710. The Committee continues the provision limiting the amount of funds that can be used for redecoration of offices under certain circumstances.

Section 711. The Committee continues the provision to allow for interagency funding of national security and emergency telecommunications initiatives.

Section 712. The Committee continues the provision requiring agencies to certify that a Schedule C appointment was not created solely or primarily to detail the employee to the White House.

Section 713. The Committee continues the provision prohibiting the payment of any employee who prohibits, threatens or prevents another employee from communicating with Congress.

Section 714. The Committee continues the provision prohibiting Federal training not directly related to the performance of official duties.

Section 715. The Committee continues the provision prohibiting, other than for normal and recognized executive-legislative relationships, propaganda, publicity and lobbying by executive agency personnel in support or defeat of legislative initiatives.

Section 716. The Committee continues the provision prohibiting any Federal agency from disclosing an employee's home address to

any labor organization, absent employee authorization or court order.

Section 717. The Committee continues the provision prohibiting funds to be used to provide non-public information such as mailing, telephone, or electronic mailing lists to any person or organization outside the government without the approval of the Committees on Appropriations.

Section 718. The Committee continues the provision prohibiting the use of funds for propaganda and publicity purposes not authorized by Congress.

Section 719. The Committee continues the provision directing agency employees to use official time in an honest effort to perform official duties.

Section 720. The Committee continues the provision authorizing the use of funds to finance an appropriate share of the Federal Accounting Standards Advisory Board.

Section 721. The Committee continues the provision authorizing the transfer of funds to the General Services Administration to finance an appropriate share of various government-wide boards and councils and for Federal Government Priority Goals under certain conditions.

Section 722. The Committee continues the provision that permits breastfeeding in a Federal building or on Federal property if the woman and child are authorized to be there.

Section 723. The Committee continues the provision that permits interagency funding of the National Science and Technology Council and provides for a report on the budget and resources of the National Science and Technology Council.

Section 724. The Committee continues the provision requiring documents involving the distribution of Federal funds to indicate the agency providing the funds and the amount provided.

Section 725. The Committee continues the provision prohibiting the use of funds to monitor personal access or use of Internet sites or to collect, review, or obtain any personally identifiable information relating to access to or use of an Internet site.

Section 726. The Committee continues a provision requiring health plans participating in the Federal Employees Health Benefits Program to provide contraceptive coverage and provides exemptions to certain religious plans.

Section 727. The Committee continues language supporting strict adherence to anti-doping activities.

Section 728. The Committee continues a provision allowing funds for official travel to be used by departments and agencies, if consistent with OMB Circular A-126, to participate in the fractional aircraft ownership pilot program.

Section 729. The Committee continues a provision prohibiting funds for implementation of Office of Personnel Management regulations limiting detailees to the Legislative Branch, and implementing limitations on the Coast Guard Congressional Fellowship Program.

Section 730. The Committee continues the provision that restricts the use of funds for Federal law enforcement training facilities.

Section 731. The Committee continues the provision that prohibits Executive Branch agencies from creating prepackaged news

stories that are broadcast or distributed in the United States unless the story includes a clear notification within the text or audio of such news story that the prepackaged news story was prepared or funded by that executive branch agency. This provision confirms the opinion of the Government Accountability Office dated February 17, 2005 (B-304272).

Section 732. The Committee continues the provision prohibiting use of funds in contravention of section 552a of title 5, United States Code (the Privacy Act) and regulations implementing that section.

Section 733. The Committee continues the provision prohibiting funds from being used for any Federal Government contract with any foreign incorporated entity which is treated as an inverted domestic corporation.

Section 734. The Committee continues the provision requiring agencies to pay a fee to the Office of Personnel Management for processing retirement of employees who separate under Voluntary Early Retirement Authority or who receive Voluntary Separation Incentive payments.

Section 735. The Committee includes language prohibiting funds to require any entity submitting an offer for a Federal contract or participating in an acquisition to disclose political contributions.

Section 736. The Committee continues the provision prohibiting funds for the painting of a portrait of an employee of the Federal Government, including the President, the Vice President, a Member of Congress, the head of an executive branch agency, or the head of an office of the legislative branch.

Section 737. The Committee continues the provision limiting the pay increases of certain prevailing rate employees.

Section 738. The Committee continues a provision eliminating automatic statutory pay increases for the Vice President, political appointees paid under the executive schedule, ambassadors who are not career members of the Foreign Service, politically appointed (non-career) Senior Executive Service employees, and any other senior political appointee paid at or above level IV of the executive schedule.

Section 739. The Committee continues a provision, with modification, requiring agencies to submit reports to Inspectors General concerning expenditures for agency conferences.

Section 740. The Committee continues a provision prohibiting funds to be used to increase, eliminate, or reduce funding for a program or project unless such change is made pursuant to re-programming or transfer provisions.

Section 741. The Committee continues the provision ensuring contractors are not prevented from reporting waste, fraud, or abuse by signing confidentiality agreements that would prohibit such disclosure.

Section 742. The Committee continues the provision prohibiting the expenditure of funds for the implementation of certain non-disclosure agreements unless certain provisions are included in the agreements.

Section 743. The Committee continues the provision prohibiting funds to any corporation with certain unpaid Federal tax liabilities unless an agency has considered suspension or debarment of the

corporation and made a determination that further action is not necessary to protect the interests of the Government.

Section 744. The Committee continues the provision prohibiting funds to any corporation that was convicted of a felony criminal violation within the preceding 24 months unless an agency has considered suspension or debarment of the corporation and made a determination that further action is not necessary to protect the interests of the Government.

Section 745. The Committee modifies a provision on the conditions for implementing Executive Order 13690.

Section 746. The Committee continues the provision concerning the non-application of these general provisions to title IV and to title VIII.

TITLE VIII—GENERAL PROVISIONS—DISTRICT OF COLUMBIA

(INCLUDING TRANSFERS OF FUNDS)

Section 801. The Committee continues language that appropriates funds to refund overpayments of taxes collected and to pay settlements and judgments against the District of Columbia government.

Section 802. The Committee continues language prohibiting the use of Federal funds for publicity or propaganda purposes.

Section 803. The Committee continues language establishing reprogramming procedures for Federal and local funds.

Section 804. The Committee continues language prohibiting the use of Federal funds to provide salaries or other costs associated with the offices of United States Senator or Representative.

Section 805. The Committee continues language restricting the use of official vehicles to official duties.

Section 806. The Committee continues language prohibiting the use of Federal funds for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

Section 807. The Committee includes language prohibiting the use of Federal funds for needle exchange programs.

Section 808. The Committee continues language providing for a “conscience clause” on legislation that pertains to contraceptive coverage by health insurance plans.

Section 809. The Committee continues language prohibiting the use of Federal funds to legalize or reduce penalties associated with the possession, use, or distribution on any schedule I substance under the Controlled Substances Act or any tetrahydrocannabinols derivative.

Language is also included prohibiting local and Federal funds to legalize or reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substance Act or any tetrahydrocannabinols derivative for recreational use.

Section 810. The Committee continues the provision that prohibits the use of funds for abortion except in the cases of rape or incest or if necessary to save the life of the mother.

Section 811. The Committee continues language requiring the Chief Financial Officer (CFO) to submit a revised operating budget

for all agencies in the D.C. government, no later than 30 calendar days after the enactment of this Act that realigns budgeted data with anticipated actual expenditures.

Section 812. The Committee continues language requiring the CFO to submit a revised operating budget for D.C. Public Schools, no later than 30 calendar days after the enactment of this Act, that realigns school budgets to actual school enrollment.

Section 813. The Committee continues language allowing the transfer of local funds and capital and enterprise funds.

Section 814. The Committee continues language prohibiting the obligation of Federal funds beyond the current fiscal year and transfers of funds unless expressly provided herein.

Section 815. The Committee continues language providing that not to exceed 50 percent of unobligated balances from Federal appropriations for salaries and expenses may remain available for certain purposes. This provision will apply to the District of Columbia Courts, the Court Services and Offender Supervision Agency and the District of Columbia Public Defender Service.

Section 816. The Committee continues language appropriating local funds during fiscal year 2018 if there is an absence of a continuing resolution or regular appropriation for the District of Columbia. Funds are provided under the same authorities and conditions and in the same manner and extent as provided for in fiscal year 2017.

Section 817. The Committee includes a new provision to repeal the Local Budget Autonomy Amendment Act of 2012.

Section 818. The Committee continues language limiting references to “this Act” as referring to only this title and title IV.

TITLE IX—SCHOLARSHIPS FOR OPPORTUNITY AND RESULTS ACT

The bill reauthorizes the Scholarships for Opportunity and Results Act through fiscal year 2021.

TITLE X—SEC SMALL BUSINESS ADVOCATE ACT

The bill establishes the Office of the Advocate for Small Business Capital Formation and Small Business Capital Formation Advisory Committee.

TITLE XI—FINANCIAL INSTITUTION BANKRUPTCY ACT

The bill amends the Bankruptcy Code for financial institutions.

TITLE XII—ADDITIONAL GENERAL PROVISION

SPENDING REDUCTION ACCOUNT

Section 1201. The Committee includes a provision establishing a “Spending Reduction Account” in the bill.

HOUSE OF REPRESENTATIVES REPORT REQUIREMENTS

The following items are included in accordance with various requirements of the Rules of the House of Representatives:

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 1

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mrs. Lowey

Description of Motion: To strike various provisions of the bill and report related to the Internal Revenue Service, the Department of the Treasury, the Executive Office of the President, the Consumer Financial Protection Bureau, Federal employee health benefits, the Securities and Exchange Commission, the Federal Communications Commission, and the District of Columbia.

Results: Defeated 18 yeas to 29 nays

Members Voting Yea

Mr. Bishop
Mr. Cuellar
Ms. DeLauro
Mr. Honda
Mr. Israel
Ms. Kaptur
Mr. Kilmer
Mrs. Lowey
Ms. McCollum
Ms. Pingree
Mr. Price
Mr. Quigley
Ms. Roybal-Allard
Mr. Ruppertsberger
Mr. Ryan
Mr. Serrano
Mr. Visclosky
Ms. Wasserman Schultz

Members Voting Nay

Mr. Aderholt
Mr. Amodei
Mr. Calvert
Mr. Carter
Mr. Cole
Mr. Crenshaw
Mr. Culberson
Mr. Dent
Mr. Diaz-Balart
Mr. Fleischmann
Mr. Fortenberry
Mr. Frelinghuysen
Ms. Granger
Mr. Graves
Dr. Harris
Mr. Jenkins
Mr. Jolly
Mr. Joyce
Mr. Palazzo
Mr. Rigell
Mrs. Roby
Mr. Rogers
Mr. Rooney
Mr. Simpson
Mr. Stewart
Mr. Valadao
Mr. Womack
Mr. Yoder
Mr. Young

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 2

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mr. Fleischmann

Description of Motion: To revise the definition of a high-cost mortgage and mortgage originator as those terms apply to manufactured housing.

Results: Adopted 31 yeas to 17 nays

Members Voting Yea

Mr. Aderholt
 Mr. Amodei
 Mr. Bishop
 Mr. Calvert
 Mr. Carter
 Mr. Cole
 Mr. Crenshaw
 Mr. Cuellar
 Mr. Culberson
 Mr. Dent
 Mr. Diaz-Balart
 Mr. Fleischmann
 Mr. Fortenberry
 Mr. Frelinghuysen
 Ms. Granger
 Mr. Graves
 Dr. Harris
 Mr. Jenkins
 Mr. Jolly
 Mr. Joyce
 Mr. Palazzo
 Mr. Rigell
 Mrs. Roby
 Mr. Rogers
 Mr. Rooney
 Mr. Simpson
 Mr. Stewart
 Mr. Valadao
 Mr. Womack
 Mr. Yoder
 Mr. Young

Members Voting Nay

Ms. DeLauro
 Mr. Fattah
 Mr. Honda
 Mr. Israel
 Ms. Kaptur
 Mr. Kilmer
 Mrs. Lowey
 Ms. McCollum
 Ms. Pingree
 Mr. Price
 Mr. Quigley
 Ms. Roybal-Allard
 Mr. Ruppertsberger
 Mr. Ryan
 Mr. Serrano
 Mr. Visclosky
 Ms. Wasserman Schultz

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 3

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mr. Culberson

Description of Motion: To prohibit funds for the Internal Revenue Service (IRS) to determine that a church is not exempt from taxation for participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidates for public office unless the IRS Commissioner consents to such determination, the Commissioner notifies the tax committees of Congress, and the determination is effective 90 days after such notification.

Results: Adopted 31 yeas to 17 nays

Members Voting Yea

Mr. Aderholt
 Mr. Amodei
 Mr. Bishop
 Mr. Calvert
 Mr. Carter
 Mr. Cole
 Mr. Crenshaw
 Mr. Cuellar
 Mr. Culberson
 Mr. Dent
 Mr. Diaz-Balart
 Mr. Fleischmann
 Mr. Fortenberry
 Mr. Frelinghuysen
 Ms. Granger
 Mr. Graves
 Dr. Harris
 Mr. Jenkins
 Mr. Jolly
 Mr. Joyce
 Mr. Palazzo
 Mr. Rigell
 Mrs. Roby
 Mr. Rogers
 Mr. Rooney
 Mr. Simpson
 Mr. Stewart
 Mr. Valadao
 Mr. Womack
 Mr. Yoder
 Mr. Young

Members Voting Nay

Ms. DeLauro
 Mr. Fattah
 Mr. Honda
 Mr. Israel
 Ms. Kaptur
 Mr. Kilmer
 Mrs. Lowey
 Ms. McCollum
 Ms. Pingree
 Mr. Price
 Mr. Quigley
 Ms. Roybal-Allard
 Mr. Ruppersberger
 Mr. Ryan
 Mr. Serrano
 Mr. Visclosky
 Ms. Wasserman Schultz

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 4

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mr. Quigley

Description of Motion: To limit the bill's prohibition on the use of funds for abortions so that it would not apply to local District of Columbia funds.

Results: Defeated 20 yeas to 28 nays

Members Voting Yea

Mr. Bishop
 Mr. Cuellar
 Ms. DeLauro
 Mr. Dent
 Mr. Fattah
 Mr. Honda
 Mr. Israel
 Ms. Kaptur
 Mr. Kilmer
 Mrs. Lowey
 Ms. McCollum
 Ms. Pingree
 Mr. Price
 Mr. Quigley
 Ms. Roybal-Allard
 Mr. Ruppertsberger
 Mr. Ryan
 Mr. Serrano
 Mr. Visclosky
 Ms. Wasserman Schultz

Members Voting Nay

Mr. Aderholt
 Mr. Amodei
 Mr. Calvert
 Mr. Carter
 Mr. Cole
 Mr. Crenshaw
 Mr. Culberson
 Mr. Diaz-Balart
 Mr. Fleischmann
 Mr. Fortenberry
 Mr. Frelinghuysen
 Ms. Granger
 Mr. Graves
 Dr. Harris
 Mr. Jenkins
 Mr. Jolly
 Mr. Joyce
 Mr. Palazzo
 Mr. Rigell
 Mrs. Roby
 Mr. Rogers
 Mr. Rooney
 Mr. Simpson
 Mr. Stewart
 Mr. Valadao
 Mr. Womack
 Mr. Yoder
 Mr. Young

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 5

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mrs. Lowey

Description of Motion: To increase funding for the Securities and Exchange Commission by \$226,457,000, offset by an increase in offsetting collections of \$226,457,000.

Results: Defeated 19 yeas to 29 nays

Members Voting Yea

Mr. Bishop
Mr. Cuellar
Ms. DeLauro
Mr. Fattah
Mr. Honda
Mr. Israel
Ms. Kaptur
Mr. Kilmer
Mrs. Lowey
Ms. McCollum
Ms. Pingree
Mr. Price
Mr. Quigley
Ms. Roybal-Allard
Mr. Ruppertsberger
Mr. Ryan
Mr. Serrano
Mr. Visclosky
Ms. Wasserman Schultz

Members Voting Nay

Mr. Aderholt
Mr. Amodei
Mr. Calvert
Mr. Carter
Mr. Cole
Mr. Crenshaw
Mr. Culberson
Mr. Dent
Mr. Diaz-Balart
Mr. Fleischmann
Mr. Fortenberry
Mr. Frelinghuysen
Ms. Granger
Mr. Graves
Dr. Harris
Mr. Jenkins
Mr. Jolly
Mr. Joyce
Mr. Palazzo
Mr. Rigell
Mrs. Roby
Mr. Rogers
Mr. Rooney
Mr. Simpson
Mr. Stewart
Mr. Valadao
Mr. Womack
Mr. Yoder
Mr. Young

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 6

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mr. Palazzo

Description of Motion: To prohibit funds for the Consumer Financial Protection Bureau to issue or enforce any rule with respect to payday loans, vehicle title loans, or similar loans during fiscal year 2017 or after until the Bureau has submitted a report to Congress.

Results: Adopted 30 yeas to 18 nays

Members Voting Yea

Mr. Aderholt
 Mr. Amodei
 Mr. Calvert
 Mr. Carter
 Mr. Cole
 Mr. Crenshaw
 Mr. Cuellar
 Mr. Culberson
 Mr. Dent
 Mr. Diaz-Balart
 Mr. Fleischmann
 Mr. Fortenberry
 Mr. Frelinghuysen
 Ms. Granger
 Mr. Graves
 Dr. Harris
 Mr. Jenkins
 Mr. Jolly
 Mr. Joyce
 Mr. Palazzo
 Mr. Rigell
 Mrs. Roby
 Mr. Rogers
 Mr. Rooney
 Mr. Simpson
 Mr. Stewart
 Mr. Valadao
 Mr. Womack
 Mr. Yoder
 Mr. Young

Members Voting Nay

Mr. Bishop
 Ms. DeLauro
 Mr. Fattah
 Mr. Honda
 Mr. Israel
 Ms. Kaptur
 Mr. Kilmer
 Mrs. Lowey
 Ms. McCollum
 Ms. Pingree
 Mr. Price
 Mr. Quigley
 Ms. Roybal-Allard
 Mr. Ruppertsberger
 Mr. Ryan
 Mr. Serrano
 Mr. Visclosky
 Ms. Wasserman Schultz

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 7

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mr. Rigell

Description of Motion: To prohibit funds from being used to implement, promulgate, finalize or enforce Executive Order 13673 until a study is conducted by the Comptroller General and reviewed by the Secretary of Labor.

Results: Adopted 29 yeas to 19 nays

Members Voting Yea

Mr. Aderholt
 Mr. Amodei
 Mr. Calvert
 Mr. Carter
 Mr. Cole
 Mr. Crenshaw
 Mr. Culberson
 Mr. Dent
 Mr. Diaz-Balart
 Mr. Fleischmann
 Mr. Fortenberry
 Mr. Frelinghuysen
 Ms. Granger
 Mr. Graves
 Dr. Harris
 Mr. Jenkins
 Mr. Jolly
 Mr. Joyce
 Mr. Palazzo
 Mr. Rigell
 Mrs. Roby
 Mr. Rogers
 Mr. Rooney
 Mr. Simpson
 Mr. Stewart
 Mr. Valadao
 Mr. Womack
 Mr. Yoder
 Mr. Young

Members Voting Nay

Mr. Bishop
 Mr. Cuellar
 Ms. DeLauro
 Mr. Fattah
 Mr. Honda
 Mr. Israel
 Ms. Kaptur
 Mr. Kilmer
 Mrs. Lowey
 Ms. McCollum
 Ms. Pingree
 Mr. Price
 Mr. Quigley
 Ms. Roybal-Allard
 Mr. Ruppertsberger
 Mr. Ryan
 Mr. Serrano
 Mr. Visclosky
 Ms. Wasserman Schultz

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 8

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mr. Israel

Description of Motion: To make eligible for employment by the Federal Government an alien who is authorized to be employed in the United States pursuant to the Deferred Action for Childhood Arrivals program.

Results: Defeated 20 yeas to 27 nays

Members Voting Yea

Mr. Bishop
Mr. Cuellar
Ms. DeLauro
Mr. Diaz-Balart
Mr. Fattah
Mr. Honda
Mr. Israel
Ms. Kaptur
Mr. Kilmer
Mrs. Lowey
Ms. McCollum
Ms. Pingree
Mr. Price
Mr. Quigley
Ms. Roybal-Allard
Mr. Ruppersberger
Mr. Ryan
Mr. Serrano
Mr. Visclosky
Ms. Wasserman Schultz

Members Voting Nay

Mr. Aderholt
Mr. Amodei
Mr. Calvert
Mr. Carter
Mr. Cole
Mr. Crenshaw
Mr. Culberson
Mr. Dent
Mr. Fleischmann
Mr. Fortenberry
Mr. Frelinghuysen
Ms. Granger
Mr. Graves
Dr. Harris
Mr. Jenkins
Mr. Jolly
Mr. Joyce
Mr. Palazzo
Mr. Rigell
Mrs. Roby
Mr. Rogers
Mr. Rooney
Mr. Simpson
Mr. Stewart
Mr. Womack
Mr. Yoder
Mr. Young

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 9

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Dr. Harris

Description of Motion: To prohibit funds to pay for an abortion or the administrative expenses in connection with a multi-State qualified health plan offered under a contract under section 1334 of the Patient Protection and Affordable Care Act which provides any benefits or coverage for abortions, except for endangerment of the life of the mother, rape or incest.

Results: Adopted 30 yeas to 17 nays

Members Voting Yea

Mr. Aderholt
 Mr. Amodei
 Mr. Calvert
 Mr. Carter
 Mr. Cole
 Mr. Crenshaw
 Mr. Cuellar
 Mr. Culberson
 Mr. Dent
 Mr. Diaz-Balart
 Mr. Fleischmann
 Mr. Fortenberry
 Mr. Frelinghuysen
 Ms. Granger
 Mr. Graves
 Dr. Harris
 Mr. Jenkins
 Mr. Jolly
 Mr. Joyce
 Mr. Palazzo
 Mr. Rigell
 Mrs. Roby
 Mr. Rogers
 Mr. Rooney
 Mr. Simpson
 Mr. Stewart
 Mr. Valadao
 Mr. Womack
 Mr. Yoder
 Mr. Young

Members Voting Nay

Mr. Bishop
 Mr. Fattah
 Mr. Honda
 Mr. Israel
 Ms. Kaptur
 Mr. Kilmer
 Mrs. Lowey
 Ms. McCollum
 Ms. Pingree
 Mr. Price
 Mr. Quigley
 Ms. Roybal-Allard
 Mr. Ruppertsberger
 Mr. Ryan
 Mr. Serrano
 Mr. Visclosky
 Ms. Wasserman Schultz

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 10

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mrs. Lowey

Description of Motion: To provide additional funds for the prevention, preparation, and response to the Zika outbreak.

Results: Defeated 18 yeas to 29 nays

Members Voting Yea

Mr. Bishop
Mr. Cuellar
Mr. Fattah
Mr. Honda
Mr. Israel
Ms. Kaptur
Mr. Kilmer
Mrs. Lowey
Ms. McCollum
Ms. Pingree
Mr. Price
Mr. Quigley
Ms. Roybal-Allard
Mr. Ruppersberger
Mr. Ryan
Mr. Serrano
Mr. Visclosky
Ms. Wasserman Schultz

Members Voting Nay

Mr. Aderholt
Mr. Amodei
Mr. Calvert
Mr. Carter
Mr. Cole
Mr. Crenshaw
Mr. Culberson
Mr. Dent
Mr. Diaz-Balart
Mr. Fleischmann
Mr. Fortenberry
Mr. Frelinghuysen
Ms. Granger
Mr. Graves
Dr. Harris
Mr. Jenkins
Mr. Jolly
Mr. Joyce
Mr. Palazzo
Mr. Rigell
Mrs. Roby
Mr. Rogers
Mr. Rooney
Mr. Simpson
Mr. Stewart
Mr. Valadao
Mr. Womack
Mr. Yoder
Mr. Young

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

ROLL CALL NO. 11

Date: June 9, 2016

Measure: Financial Services and General Government Appropriations Bill, FY 2017

Motion by: Mr. Frelinghuysen

Description of Motion: To report the bill to the House, as amended.

Results: Adopted 30 yeas to 17 nays

Members Voting Yea

Mr. Aderholt
 Mr. Amodei
 Mr. Calvert
 Mr. Carter
 Mr. Cole
 Mr. Crenshaw
 Mr. Cuellar
 Mr. Culberson
 Mr. Dent
 Mr. Diaz-Balart
 Mr. Fleischmann
 Mr. Fortenberry
 Mr. Frelinghuysen
 Ms. Granger
 Mr. Graves
 Dr. Harris
 Mr. Jenkins
 Mr. Jolly
 Mr. Joyce
 Mr. Palazzo
 Mr. Rigell
 Mrs. Roby
 Mr. Rogers
 Mr. Rooney
 Mr. Simpson
 Mr. Stewart
 Mr. Valadao
 Mr. Womack
 Mr. Yoder
 Mr. Young

Members Voting Nay

Mr. Bishop
 Mr. Fattah
 Mr. Honda
 Mr. Israel
 Ms. Kaptur
 Mr. Kilmer
 Mrs. Lowey
 Ms. McCollum
 Ms. Pingree
 Mr. Price
 Mr. Quigley
 Ms. Roybal-Allard
 Mr. Ruppertsberger
 Mr. Ryan
 Mr. Serrano
 Mr. Visclosky
 Ms. Wasserman Schultz

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the following is a statement of general performance goals and objectives for which this measure authorizes funding:

The Committee on Appropriations considers program performance, including a program’s success in developing and attaining outcome-related goals and objectives, in developing funding recommendations.

RESCISSION OF FUNDS

Pursuant to clause 3(f)(2) of rule XIII of the Rules of the House of Representatives, the following table is submitted describing the rescissions recommended in the accompanying bill:

Treasury Forfeiture Fund	\$753,610,000
Securities and Exchange Commission	\$75,000,000
Small Business Administration	\$55,000,000

TRANSFER OF FUNDS

Pursuant to clause 3(f)(2) of rule XIII of the Rules of the House of Representatives, the following is submitted describing the transfer of funds provided in the accompanying bill:

UNDER TITLE I—DEPARTMENT OF THE TREASURY

Section 101 allows the transfer of five percent of any appropriation made available to the Internal Revenue Service (IRS) to any other IRS appropriation, subject to prior congressional approval.

Section 115 authorizes the transfers of funds to IRS to improve customer service, fraud prevention, and cybersecurity.

Section 117 authorizes transfers, up to two percent, between Departmental Offices, Office of Inspector General, Special Inspector General for Troubled Asset Relief Program, Financial Crimes Enforcement Network, Bureau of the Fiscal Service, Alcohol and Tobacco Tax and Trade Bureau, and Community Development Financial Institutions Fund Program Fund Account appropriations under certain circumstances.

Section 118 authorizes transfers, up to two percent, between the IRS and the Treasury Inspector General for Tax Administration under certain circumstances.

Section 120 authorizes the transfer of funds from the “Bureau of the Fiscal Service” to the “Debt Collection Fund” as necessary to cover the cost of debt collection.

UNDER TITLE II—EXECUTIVE OFFICE OF THE PRESIDENT

Language is included under Presidential Transition Administrative Support, which allows for the transfer of funds within the Executive Office of the President.

Language is included under Federal Drug Control Programs, “High Intensity Drug Trafficking Areas Program”, which allows for the transfer of funds to Federal departments or agencies and State and local entities.

Language is included under “Other Federal Drug Control Programs”, allowing the transfers of funds to other Federal departments and agencies to carry out activities.

Language is included under “Information Technology Oversight and Reform”, allowing the transfer of funds to other agencies to carry out projects.

Language is included under the Official Residence of the Vice President, “Operating Expenses”, allowing the transfer of funds to other Federal departments or agencies.

Section 201 permits the Executive Office of the President to transfer up to 10 percent of any appropriation, subject to approval of the Committee.

UNDER TITLE III—THE JUDICIARY

Language is included under “Courts of Appeals, District Courts, and Other Judicial Services, Court Security”, allowing funds to be transferred to the United States Marshals Service for courthouse security.

Section 302 permits the Judiciary to transfer up to five percent of any appropriation with certain limitations.

UNDER TITLE V—INDEPENDENT AGENCIES

Under Title V, Independent Agencies, a number of transfers are allowed.

(1) Under the General Services Administration, amounts may be transferred within the Federal Buildings Fund, under certain circumstances, after approval of the Committee on Appropriations.

(2) Under the General Services Administration, “Federal Citizens Services Fund”, transfers are allowed from the Federal Citizens Services Fund to Federal agencies.

(3) Under the General Services Administration, “Federal Citizens Services Fund”, transfers are allowed from unobligated funding provided to the “Electronic Government Fund” to the Federal Citizens Services Fund.

(4) Under the General Services Administration, “Expenses, Presidential Transition”, amounts may be transferred to the “Acquisition Services Fund” or “Federal Buildings Fund”.

(5) Section 521 permits the General Services Administration to transfer funds in the Federal Buildings Fund after approval of the Committee on Appropriations.

(6) Under Merit Systems Protection Board, an amount is transferred from the Civil Service Retirement and Disability Fund.

(7) Under Office of Personnel Management, amounts from certain trust funds are transferred to the Salaries and Expenses and Office of Inspector General accounts for administrative expenses;

(8) Under the Postal Regulatory Commission, amounts are transferred from the Postal Service Fund;

(9) Under Small Business Administration, Business Loans Program Account, amounts may be transferred to and merged with Salaries and Expenses.

(10) Under Small Business Administration, Disaster Loans Program Account, amounts may be transferred to and merged with the Office of Inspector General, and Salaries and Expenses.

(11) Section 530 permits the Small Business Administration, to transfer funds between appropriations of the Small Business Administration.

(12) Under United States Postal Service, Office of Inspector General, amounts are transferred from the Postal Service Fund.

UNDER TITLE VII—GOVERNMENT WIDE

Section 721 authorizes departments and agencies to transfer funds to the General Services Administration to support certain financial, information technology, procurement, and other management initiatives.

UNDER TITLE VIII—GENERAL PROVISIONS, DISTRICT OF COLUMBIA

Section 803 authorizes the District of Columbia to transfer local funds and section 813 allows transfer funds between operations and capital accounts.

DISCLOSURE OF EARMARKS AND CONGRESSIONALLY DIRECTED SPENDING ITEMS

Neither the bill nor the report contains any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH RULE XIII, CL. 3(e) (RAMSEYER RULE)

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

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

(Public Law 111-203)

* * * * *

TITLE I—FINANCIAL STABILITY

* * * * *

Subtitle B—Office of Financial Research

* * * * *

SEC. 155. FUNDING.

(a) FINANCIAL RESEARCH FUND.—

(1) **FUND ESTABLISHED.**— There is established in the Treasury of the United States a separate fund to be known as the “Financial Research Fund”.

(2) **FUND RECEIPTS.**— All amounts provided to the Office under subsection (c), and all assessments that the Office re-

ceives under subsection (d) shall be deposited into the Financial Research Fund.

(3) INVESTMENTS AUTHORIZED.—

(A) AMOUNTS IN FUND MAY BE INVESTED.— The Director may request the Secretary to invest the portion of the Financial Research Fund that is not, in the judgment of the Director, required to meet the needs of the Office.

(B) ELIGIBLE INVESTMENTS.— Investments shall be made by the Secretary in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Financial Research Fund, as determined by the Director.

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

(b) USE OF FUNDS.—

(1) IN GENERAL.— Funds obtained by, transferred to, or credited to the Financial Research Fund shall be [immediately] available to the Office *as provided for in appropriation Acts* , and shall remain available until expended, to pay the expenses of the Office in carrying out the duties and responsibilities of the Office.

[(2) FEES, ASSESSMENTS, AND OTHER FUNDS NOT GOVERNMENT FUNDS.— Funds obtained by, transferred to, or credited to the Financial Research Fund shall not be construed to be Government funds or appropriated moneys.]

[(3)] (2) AMOUNTS NOT SUBJECT TO APPORTIONMENT.— Notwithstanding any other provision of law, amounts in the Financial Research Fund shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority, or for any other purpose.

(c) INTERIM FUNDING.—During the 2-year period following the date of enactment of this Act, the Board of Governors shall provide to the Office an amount sufficient to cover the expenses of the Office.

(d) [PERMANENT SELF-FUNDING] ASSESSMENT SCHEDULE.—Beginning 2 years after the date of enactment of this Act, the Secretary shall establish, by regulation, and with the approval of the Council, an assessment schedule, including the assessment base and rates, applicable to bank holding companies with total consolidated assets of 50,000,000,000 or greater and nonbank financial companies supervised by the Board of Governors, that takes into account differences among such companies, based on the considerations for establishing the prudential standards under section 115, to collect assessments equal to the total expenses of the Office.

* * * * *

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

* * * * *

Subtitle A—Bureau of Consumer Financial Protection

* * * * *

SEC. 1017. FUNDING; PENALTIES AND FINES.

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

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

(2) FUNDING CAP.—

(A) **IN GENERAL.**— Notwithstanding paragraph (1), and in accordance with this paragraph, the amount that shall be transferred to the Bureau in each fiscal year shall not exceed a fixed percentage of the total operating expenses of the Federal Reserve System, as reported in the Annual Report, 2009, of the Board of Governors, equal to—

- (i) 10 percent of such expenses in fiscal year 2011;
- (ii) 11 percent of such expenses in fiscal year 2012;
- and
- (iii) 12 percent of such expenses in fiscal year 2013, and in each year thereafter.

(B) **ADJUSTMENT OF AMOUNT.**— The dollar amount referred to in subparagraph (A)(iii) shall be adjusted annually, using the percent increase, if any, in the employment cost index for total compensation for State and local government workers published by the Federal Government, or the successor index thereto, for the 12-month period ending on September 30 of the year preceding the transfer.

[(C) **REVIEWABILITY.**— Notwithstanding any other provision in this title, the funds derived from the Federal Reserve System pursuant to this subsection shall not be subject to review by the Committees on Appropriations of the House of Representatives and the Senate.]

(3) **TRANSITION PERIOD.**— Beginning on the date of enactment of this Act and until the designated transfer date, the Board of Governors shall transfer to the Bureau the amount estimated by the Secretary needed to carry out the authorities granted to the Bureau under Federal consumer financial law, from the date of enactment of this Act until the designated transfer date.

(4) BUDGET AND FINANCIAL MANAGEMENT.—

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

pared by the Director in the ordinary course of the operations of the Bureau.

(B) FINANCIAL STATEMENTS.— The Bureau shall prepare annually a statement of—

- (i) assets and liabilities and surplus or deficit;
- (ii) income and expenses; and
- (iii) sources and application of funds.

(C) FINANCIAL MANAGEMENT SYSTEMS.— The Bureau shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements and applicable Federal accounting standards.

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

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

(F) FINANCIAL STATEMENTS.— The financial statements of the Bureau shall not be consolidated with the financial statements of either the Board of Governors or the Federal Reserve System.

(5) AUDIT OF THE BUREAU.—

(A) IN GENERAL.— The Comptroller General shall annually audit the financial transactions of the Bureau in accordance with the United States generally accepted government auditing standards, as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Bureau are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Bureau pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Bureau shall remain in possession and custody of the Bureau. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General, and the right of access of the Comptroller General to

such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

(B) REPORT.— The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Bureau, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Bureau at the time submitted to the Congress.

(C) ASSISTANCE AND COSTS.— For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Bureau shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.

(b) CONSUMER FINANCIAL PROTECTION FUND.—

(1) SEPARATE FUND IN FEDERAL RESERVE ESTABLISHED.— There is established in the Federal Reserve a separate fund, to be known as the “Bureau of Consumer Financial Protection Fund” (referred to in this section as the “Bureau Fund”). The Bureau Fund shall be maintained and established at a Federal reserve bank, in accordance with such requirements as the Board of Governors may impose.

(2) FUND RECEIPTS.— All amounts transferred to the Bureau under subsection (a) shall be deposited into the Bureau Fund.

(3) INVESTMENT AUTHORITY.—

(A) AMOUNTS IN BUREAU FUND MAY BE INVESTED.— The Bureau may request the Board of Governors to direct the investment of the portion of the Bureau Fund that is not, in the judgment of the Bureau, required to meet the current needs of the Bureau.

(B) ELIGIBLE INVESTMENTS.— Investments authorized by this paragraph shall be made in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Bureau Fund, as determined by the Bureau.

- (C) INTEREST AND PROCEEDS CREDITED.— The interest on, and the proceeds from the sale or redemption of, any obligations held in the Bureau Fund shall be credited to the Bureau Fund.
- (c) USE OF FUNDS.—
- (1) IN GENERAL.— Funds obtained by, transferred to, or credited to the Bureau Fund shall be immediately available to the Bureau and under the control of the Director, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities. The compensation of the Director and other employees of the Bureau and all other expenses thereof may be paid from, obtained by, transferred to, or credited to the Bureau Fund under this section.
- (2) FUNDS THAT ARE NOT GOVERNMENT FUNDS.— Funds obtained by or transferred to the Bureau Fund shall not be construed to be Government funds or appropriated monies.
- (3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.— Notwithstanding any other provision of law, amounts in the Bureau Fund and in the Civil Penalty Fund established under subsection (d) shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority.
- (d) PENALTIES AND FINES.—
- (1) ESTABLISHMENT OF VICTIMS RELIEF FUND.— There is established in the Federal Reserve a separate fund, to be known as the “Consumer Financial Civil Penalty Fund” (referred to in this section as the “Civil Penalty Fund”). The Civil Penalty Fund shall be maintained and established at a Federal reserve bank, in accordance with such requirements as the Board of Governors may impose. If the Bureau obtains a civil penalty against any person in any judicial or administrative action under Federal consumer financial laws, the Bureau shall deposit into the Civil Penalty Fund, the amount of the penalty collected.
- (2) PAYMENT TO VICTIMS.— Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws. To the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.
- (e) AUTHORIZATION OF APPROPRIATIONS; ANNUAL REPORT.—
- (1) DETERMINATION REGARDING NEED FOR APPROPRIATED FUNDS.—
- (A) IN GENERAL.— The Director is authorized to determine that sums available to the Bureau under this section will not be sufficient to carry out the authorities of the Bureau under Federal consumer financial law for the upcoming year.
- (B) REPORT REQUIRED.— When making a determination under subparagraph (A), the Director shall prepare a report regarding the funding of the Bureau, including the assets and liabilities of the Bureau, and the extent to which the funding needs of the Bureau are anticipated to exceed

the level of the amount set forth in subsection (a)(2). The Director shall submit the report to the President and to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

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

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

(4) ANNUAL REPORT.— The Director shall prepare and submit a report, on an annual basis, to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives regarding the financial operating plans and forecasts of the Director, the financial condition and results of operations of the Bureau, and the sources and application of funds of the Bureau, including any funds appropriated in accordance with this subsection.

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JUDICIAL IMPROVEMENTS ACT OF 1990

TITLE II—FEDERAL JUDGESHIPS

* * * * *

SEC. 203. DISTRICT JUDGES FOR THE DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

- (1) 1 additional district judge for the western district of Arkansas;
- (2) 2 additional district judges for the northern district of California;
- (3) 5 additional district judges for the central district of California;
- (4) 1 additional district judge for the southern district of California;
- (5) 2 additional district judges for the district of Connecticut;
- (6) 2 additional district judges for the middle district of Florida;
- (7) 1 additional district judge for the northern district of Florida;
- (8) 1 additional district judge for the southern district of Florida;
- (9) 1 additional district judge for the middle district of Georgia;
- (10) 1 additional district judge for the northern district of Illinois;

- (11) 1 additional district judge for the southern district of Iowa;
- (12) 1 additional district judge for the western district of Louisiana;
- (13) 1 additional district judge for the district of Maine;
- (14) 1 additional district judge for the district of Massachusetts;
- (15) 1 additional district judge for the southern district of Mississippi;
- (16) 1 additional district judge for the eastern district of Missouri;
- (17) 1 additional district judge for the district of New Hampshire;
- (18) 3 additional district judges for the district of New Jersey;
- (19) 1 additional district judge for the district of New Mexico;
- (20) 1 additional district judge for the southern district of New York;
- (21) 3 additional district judges for the eastern district of New York;
- (22) 1 additional district judge for the middle district of North Carolina;
- (23) 1 additional district judge for the southern district of Ohio;
- (24) 1 additional district judge for the northern district of Oklahoma;
- (25) 1 additional district judge for the western district of Oklahoma;
- (26) 1 additional district judge for the district of Oregon;
- (27) 3 additional district judges for the eastern district of Pennsylvania;
- (28) 1 additional district judge for the middle district of Pennsylvania;
- (29) 1 additional district judge for the district of South Carolina;
- (30) 1 additional district judge for the eastern district of Tennessee;
- (31) 1 additional district judge for the western district of Tennessee;
- (32) 1 additional district judge for the middle district of Tennessee;
- (33) 2 additional district judges for the northern district of Texas;
- (34) 1 additional district judge for the eastern district of Texas;
- (35) 5 additional district judges for the southern district of Texas;
- (36) 3 additional district judges for the western district of Texas;
- (37) 1 additional district judge for the district of Utah;
- (38) 1 additional district judge for the eastern district of Washington;
- (39) 1 additional district judge for the northern district of West Virginia;

(40) 1 additional district judge for the southern district of West Virginia; and

(41) 1 additional district judge for the district of Wyoming.

(b) EXISTING JUDGESHIPS.—(1) The existing district judgeships for the western district of Arkansas, the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the eastern district of North Carolina, the northern district of Ohio, and the western district of Washington authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98–353, 98 Stat. 347–348) shall, as of the effective date of this title, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(2)(A) The existing 2 district judgeships for the eastern and western districts of Arkansas (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) shall be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall hold the offices under section 133 of title 28, United States Code, as amended by this title.

(B) The existing district judgeship for the northern and southern districts of Iowa (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) shall be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(C) The existing district judgeship for the northern, eastern, and western districts of Oklahoma (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) and the occupant of which has his or her official duty station at Oklahoma City on the date of the enactment of this title, shall be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(c) TEMPORARY JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 1 additional district judge for the eastern district of California;

(2) 1 additional district judge for the district of Hawaii;

(3) 1 additional district judge for the central district of Illinois;

(4) 1 additional district judge for the southern district of Illinois;

(5) 1 additional district judge for the district of Kansas;

(6) 1 additional district judge for the western district of Michigan;

(7) 1 additional district judge for the eastern district of Missouri;

(8) 1 additional district judge for the district of Nebraska;

(9) 1 additional district judge for the northern district of New York;

- (10) 1 additional district judge for the northern district of Ohio;
- (11) 1 additional district judge for the eastern district of Pennsylvania; and
- (12) 1 additional district judge for the eastern district of Virginia.

Except with respect to the district of Kansas, the western district of Michigan, the eastern district of Pennsylvania, the district of Hawaii, and the northern district of Ohio, the first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary judgeship created by this subsection, shall not be filled. The first vacancy in the office of district judge in the district of Kansas occurring [25 years and 6 months] *26 years and 6 months* or more after the confirmation date of the judge named to fill the temporary judgeship created for such district under this subsection, shall not be filled. The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filled. The first vacancy in the office of district judge in the eastern district of Pennsylvania, occurring 5 years or more after the confirmation date of the judge named to fill the temporary judgeship created for such district under this subsection, shall not be filled. The first vacancy in the office of district judge in the northern district of Ohio occurring 19 years or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled. The first vacancy in the office of the district judge in the district of Hawaii occurring 21 years and 6 months or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled. For districts named in this subsection for which multiple judgeships are created by this Act, the last of those judgeships filled shall be the judgeships created under this section.

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TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006

DIVISION A—TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006

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TITLE IV—THE JUDICIARY

* * * * *

SEC. 406. The existing judgeship for the eastern district of Missouri authorized by section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650, 104 Stat. 5089) as amended by Public Law 105-53, as of the effective date of this Act, shall be extended. The first vacancy in the office of district judge in this district occurring [23 years and 6 months] *24 years and 6 months* or more after

the confirmation date of the judge named to fill the temporary judgeship created by section 203(c) shall not be filled.

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**21ST CENTURY DEPARTMENT OF JUSTICE
APPROPRIATIONS AUTHORIZATION ACT**

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**DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE
APPROPRIATIONS AUTHORIZATION ACT**

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TITLE III—MISCELLANEOUS

* * * * *

SEC. 312. ADDITIONAL FEDERAL JUDGESHIPS.

(a) **PERMANENT DISTRICT JUDGES FOR THE DISTRICT COURTS.—**

(1) **IN GENERAL.—** The President shall appoint, by and with the advice and consent of the Senate—

(A) 5 additional district judges for the southern district of California;

(B) 1 additional district judge for the western district of North Carolina; and

(C) 2 additional district judges for the western district of Texas.

(2) [Omitted—Amendatory]

(b) **DISTRICT JUDGESHIPS FOR THE CENTRAL AND SOUTHERN DISTRICTS OF ILLINOIS, THE NORTHERN DISTRICT OF NEW YORK, AND THE EASTERN DISTRICT OF VIRGINIA.—**

(1) **CONVERSION OF TEMPORARY JUDGESHIPS TO PERMANENT JUDGESHIPS.—** The existing district judgeships for the central district and the southern district of Illinois, the northern district of New York, and the eastern district of Virginia authorized by section 203(c) (3), (4), (9), and (12) of the Judicial Improvements Act of 1990 (Public Law 101–650, 28 U.S.C. 133 note) shall be authorized under section 133 of title 28, United States Code, and the incumbents in such offices shall hold the offices under section 133 of title 28, United States Code (as amended by this section).

(2) [Omitted—Amendatory]

(3) **EFFECTIVE DATE.—** With respect to the central or southern district of Illinois, the northern district of New York, or the eastern district of Virginia, this subsection shall take effect on the earlier of—

(A) the date on which the first vacancy in the office of district judge occurs in such district; or

(B) July 15, 2003.

(c) **TEMPORARY JUDGESHIPS.—**

(1) **IN GENERAL.—** The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the northern district of Alabama;

(B) 1 additional judge for the district of Arizona;

(C) 1 additional judge for the central district of California;

(D) 1 additional judge for the southern district of Florida;

(E) 1 additional district judge for the district of New Mexico;

(F) 1 additional district judge for the western district of North Carolina; and

(G) 1 additional district judge for the eastern district of Texas.

(2) VACANCIES NOT FILLED.— The first vacancy in the office of district judge in each of the offices of district judge authorized by this subsection, except in the case of the central district of California and the western district of North Carolina, occurring **[14 years]** *15 years* or more after the confirmation date of the judge named to fill the temporary district judgeship created in the applicable district by this subsection, shall not be filled. The first vacancy in the office of district judge in the central district of California occurring **[13 years and 6 months]** *14 years and 6 months* or more after the confirmation date of the judge named to fill the temporary district judgeship created in that district by this subsection, shall not be filled. The first vacancy in the office of district judge in the western district of North Carolina occurring **[12 years]** *13 years* or more after the confirmation date of the judge named to fill the temporary district judgeship created in that district by this subsection, shall not be filled.

(3) EFFECTIVE DATE.— This subsection shall take effect on July 15, 2003.

(d) EXTENSION OF TEMPORARY FEDERAL DISTRICT COURT JUDGESHIP FOR THE NORTHERN DISTRICT OF OHIO.—

(1) IN GENERAL.— [Omitted—Amendatory]

(2) EFFECTIVE DATE.— The amendments made by this subsection shall take effect on the date of enactment of this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

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TITLE 28, UNITED STATES CODE

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PART I—ORGANIZATION OF COURTS

* * * * *

CHAPTER 13—ASSIGNMENT OF JUDGES TO OTHER COURTS

Sec.

291. Circuit judges.

* * * * *

298. Judge for a case under subchapter V of chapter 11 of title 11.

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§ 298. Judge for a case under subchapter V of chapter 11 of title 11

(a)(1) Notwithstanding section 295, the Chief Justice of the United States shall designate not fewer than 10 bankruptcy judges to be available to hear a case under subchapter V of chapter 11 of title 11. Bankruptcy judges may request to be considered by the Chief Justice of the United States for such designation.

(2) Notwithstanding section 155, a case under subchapter V of chapter 11 of title 11 shall be heard under section 157 by a bankruptcy judge designated under paragraph (1), who shall be randomly assigned to hear such case by the chief judge of the court of appeals for the circuit embracing the district in which the case is pending. To the greatest extent practicable, the approvals required under section 155 should be obtained.

(3) If the bankruptcy judge assigned to hear a case under paragraph (2) is not assigned to the district in which the case is pending, the bankruptcy judge shall be temporarily assigned to the district.

(b) A case under subchapter V of chapter 11 of title 11, and all proceedings in the case, shall take place in the district in which the case is pending.

(c) In this section, the term “covered financial corporation” has the meaning given that term in section 101(9A) of title 11.

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PART IV—JURISDICTION AND VENUE

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CHAPTER 85—DISTRICT COURTS; JURISDICTION

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§ 1334. Bankruptcy cases and proceedings

(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

(b) Except as provided in subsection (e)(2), and notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

(c)(1) Except with respect to a case under chapter 15 of title 11, nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.

(2) Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction.

(d) Any decision to abstain or not to abstain made under subsection (c) (other than a decision not to abstain in a proceeding described in subsection (c)(2)) is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title. Subsection (c) and this subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.

(f) *This section does not grant jurisdiction to the district court after a transfer pursuant to an order under section 1185 of title 11 of any proceeding related to a special trustee appointed, or to a bridge company formed, in connection with a case under subchapter V of chapter 11 of title 11.*

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PART V—PROCEDURE

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CHAPTER 121—JURIES; TRIAL BY JURY

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§ 1871. Fees

(a) Grand and petit jurors in district courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed on the certificate of the clerk of court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk only upon the order of a district judge.

(b)(1) A juror shall be paid an attendance fee of ~~[\$40]~~ \$50 per day for actual attendance at the place of trial or hearing. A juror shall also be paid the attendance fee for the time necessarily occupied in going to and returning from such place at the beginning and end of such service or at any time during such service.

(2) A petit juror required to attend more than ten days in hearing one case may be paid, in the discretion of the trial judge, an additional fee, not exceeding \$10 more than the attendance fee, for each day in excess of ten days on which he is required to hear such case.

(3) A grand juror required to attend more than forty-five days of actual service may be paid, in the discretion of the district judge in charge of the particular grand jury, an additional fee, not exceeding \$10 more than the attendance fee, for each day in excess of forty-five days of actual service.

(4) A grand or petit juror required to attend more than ten days of actual service may be paid, in the discretion of the judge, the appropriate fees at the end of the first ten days and at the end of every ten days of service thereafter.

(5) Certification of additional attendance fees may be ordered by the judge to be made effective commencing on the first day of extended service, without reference to the date of such certification.

(c)(1) A travel allowance not to exceed the maximum rate per mile that the Director of the Administrative Office of the United States Courts has prescribed pursuant to section 604(a)(7) of this title for payment to supporting court personnel in travel status using privately owned automobiles shall be paid to each juror, regardless of the mode of transportation actually employed. The prescribed rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practical route in going to and returning from the place of service. Actual mileage in full at the prescribed rate is payable at the beginning and at the end of a juror's term of service.

(2) The Director shall promulgate rules regulating interim travel allowances to jurors. Distances traveled to and from court should coincide with the shortest practical route.

(3) Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring such charges. In the discretion of the court, reasonable parking fees may be paid to the juror incurring such fees upon presentation of a valid parking receipt. Parking fees shall not be included in any tabulation of mileage cost allowances.

(4) Any juror who travels to district court pursuant to summons in an area outside of the contiguous forty-eight States of the United States shall be paid the travel expenses provided under this section, or actual reasonable transportation expenses subject to the discretion of the district judge or clerk of court as circumstances indicate, exercising due regard for the mode of transportation, the availability of alternative modes, and the shortest practical route between residence and court.

(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines established by the Judicial Conference, the actual reasonable costs of travel by aircraft when travel by other means is not feasible and when certified by the chief judge of the district court in which the grand juror serves.

(d)(1) A subsistence allowance covering meals and lodging of jurors shall be established from time to time by the Director of the Administrative Office of the United States Courts pursuant to sec-

tion 604(a)(7) of this title, except that such allowance shall not exceed the allowance for supporting court personnel in travel status in the same geographical area. Claims for such allowance shall not require itemization.

(2) A subsistence allowance shall be paid to a juror when an overnight stay is required at the place of holding court, and for the time necessarily spent in traveling to and from the place of attendance if an overnight stay is required.

(3) A subsistence allowance for jurors serving in district courts outside of the contiguous forty-eight States of the United States shall be allowed at a rate not to exceed that per diem allowance which is paid to supporting court personnel in travel status in those areas where the Director of the Administrative Office of the United States Courts has prescribed an increased per diem fee pursuant to section 604(a)(7) of this title.

(e) During any period in which a jury is ordered to be kept together and not to separate, the actual cost of subsistence shall be paid upon the order of the court in lieu of the subsistence allowances payable under subsection (d) of this section. Such allowance for the jurors ordered to be kept separate or sequestered shall include the cost of meals, lodging, and other expenditures ordered in the discretion of the court for their convenience and comfort.

(f) A juror who must necessarily use public transportation in traveling to and from court, the full cost of which is not met by the transportation expenses allowable under subsection (c) of this section on account of the short distance traveled in miles, may be paid, in the discretion of the court, the actual reasonable expense of such public transportation, pursuant to the methods of payment provided by this section. Jurors who are required to remain at the court beyond the normal business closing hour for deliberation or for any other reason may be transported to their homes, or to temporary lodgings where such lodgings are ordered by the court, in a manner directed by the clerk and paid from funds authorized under this section.

(g) The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section.

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**TEMPORARY BANKRUPTCY JUDGESHIPS EXTENSION
ACT OF 2012**

* * * * *

**SEC. 2. EXTENSION OF TEMPORARY OFFICE OF BANKRUPTCY JUDGES
IN CERTAIN JUDICIAL DISTRICTS.**

(a) TEMPORARY OFFICE OF BANKRUPTCY JUDGES AUTHORIZED BY PUBLIC LAW 109-8.—

(1) EXTENSIONS.— The temporary office of bankruptcy judges authorized for the following districts by section 1223(b) of Public Law 109-8 (28 U.S.C. 152 note) are extended until the applicable vacancy specified in paragraph (2) in the office of a bankruptcy judge for the respective district occurs:

- (A) The central district of California.
- (B) The eastern district of California.

- (C) The district of Delaware.
- (D) The southern district of Florida.
- (E) The southern district of Georgia.
- (F) The district of Maryland.
- (G) The eastern district of Michigan.
- (H) The district of New Jersey.
- (I) The northern district of New York.
- (J) The eastern district of North Carolina.
- (K) The eastern district of Pennsylvania.
- (L) The middle district of Pennsylvania.
- (M) The district of Puerto Rico.
- (N) The district of South Carolina.
- (O) The western district of Tennessee.
- (P) The eastern district of Virginia.
- (Q) The district of Nevada.

(2) VACANCIES.—

(A) SINGLE VACANCIES.— Except as provided in [subparagraphs (B), (C), (D), and (E)] *subparagraphs (B), (C), (D), (E), (F), (G), and (H)*, the 1st vacancy in the office of a bankruptcy judge for each district specified in paragraph (1)—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(B) CENTRAL DISTRICT OF CALIFORNIA.— The 1st, 2d, and 3d vacancies in the office of a bankruptcy judge for the central district of California—

(i) occurring 5 years or more after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(C) DISTRICT OF DELAWARE.— The 1st, 2d, 3d, and 4th vacancies in the office of a bankruptcy judge for the district of Delaware—

(i) in the case of the 1st and 2d vacancies, occurring more than 6 years after the date of the enactment of this Act,

[(i)] *(ii) in the case of the 3d and 4th vacancies, occurring more than 5 years after the date of the enactment of this Act, and*

[(ii)] *(iii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,* shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.— The 1st and 2d vacancies in the office of a bankruptcy judge for the southern district of Florida—

(i) occurring more than [5 years] 6 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(E) DISTRICT OF MARYLAND.— The 1st, 2d, and 3d vacancies in the office of a bankruptcy judge for the district of Maryland—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(F) EASTERN DISTRICT OF MICHIGAN.— The 1st vacancy in the office of a bankruptcy judge for the eastern district of Michigan—

(i) occurring 6 years or more after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(G) DISTRICT OF PUERTO RICO.— The 1st vacancy in the office of a bankruptcy judge for the district of Puerto Rico—

(i) occurring 6 years or more after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(H) EASTERN DISTRICT OF VIRGINIA.— The 1st vacancy in the office of a bankruptcy judge for the eastern district of Virginia—

(i) occurring 6 years or more after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(3) APPLICABILITY OF OTHER PROVISIONS.— Except as provided in paragraphs (1) and (2), all other provisions of section 1223(b) of Public Law 109-8 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in paragraph (1).

(b) TEMPORARY OFFICE OF BANKRUPTCY JUDGES EXTENDED BY PUBLIC LAW 109-8.—

(1) EXTENSIONS.— The temporary office of bankruptcy judges authorized by section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) and extended by section 1223(c) of Public Law 109-8 (28 U.S.C. 152 note) for the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee are extended until the applicable vacancy specified in paragraph (2) in the office of a bankruptcy judge for the respective district occurs.

(2) VACANCIES.—

(A) DISTRICT OF DELAWARE.— The 5th vacancy in the office of a bankruptcy judge for the district of Delaware—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(B) DISTRICT OF PUERTO RICO.— The 2d vacancy in the office of a bankruptcy judge for the district of Puerto Rico—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(C) EASTERN DISTRICT OF TENNESSEE.— The 1st vacancy in the office of a bankruptcy judge for the eastern district of Tennessee—

(i) occurring more than 5 years after the date of the enactment of this Act, and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(3) APPLICABILITY OF OTHER PROVISIONS.— Except as provided in paragraphs (1) and (2), all other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) and section 1223(c) of Public Law 109-8 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in paragraph (1).

(c) TEMPORARY OFFICE OF THE BANKRUPTCY JUDGE AUTHORIZED BY PUBLIC LAW 102-361 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.—

(1) EXTENSION.— The temporary office of the bankruptcy judge authorized by section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) for the middle district of North Carolina is extended until the vacancy specified in paragraph (2) occurs.

(2) VACANCY.— The 1st vacancy in the office of a bankruptcy judge for the middle district of North Carolina—

(A) occurring more than 5 years after the date of the enactment of this Act, and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.

(3) APPLICABILITY OF OTHER PROVISIONS.— Except as provided in paragraphs (1) and (2), all other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of the bankruptcy judge referred to in paragraph (1).

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CONSUMER FINANCIAL PROTECTION ACT OF 2010

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

SEC. 1001. SHORT TITLE.

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

SEC. 1002. DEFINITIONS.

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

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

(2) **BUREAU.**— The term “Bureau” means the Bureau of Consumer Financial Protection.

(3) **BUSINESS OF INSURANCE.**— The term “business of insurance” means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.

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

(5) **CONSUMER FINANCIAL PRODUCT OR SERVICE.**— The term “consumer financial product or service” means any financial product or service that is described in one or more categories under—

(A) paragraph (15) and is offered or provided for use by consumers primarily for personal, family, or household purposes; or

(B) clause (i), (iii), (ix), or (x) of paragraph (15)(A), and is delivered, offered, or provided in connection with a consumer financial product or service referred to in subparagraph (A).

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

(A) any person that engages in offering or providing a consumer financial product or service; and

(B) any affiliate of a person described in subparagraph (A) if such affiliate acts as a service provider to such person.

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

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

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

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

(C) the receipt of funds or the equivalent thereof, as the Bureau may determine by rule or order, received or held by a covered person (or an agent for a covered person) for the purpose of facilitating a payment or transferring funds or value of funds between a consumer and a third party.

(9) **DESIGNATED TRANSFER DATE.**— The term “designated transfer date” means the date established under section 1062.

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

(10) BOARD.— *The term “Board” means the Board of Directors of the Bureau of Consumer Financial Protection.*

(11) ELECTRONIC CONDUIT SERVICES.— The term “electronic conduit services”—

(A) means the provision, by a person, of electronic data transmission, routing, intermediate or transient storage, or connections to a telecommunications system or network; and

(B) does not include a person that provides electronic conduit services if, when providing such services, the person—

(i) selects or modifies the content of the electronic data;

(ii) transmits, routes, stores, or provides connections for electronic data, including financial data, in a manner that such financial data is differentiated from other types of data of the same form that such person transmits, routes, or stores, or with respect to which, provides connections; or

(iii) is a payee, payor, correspondent, or similar party to a payment transaction with a consumer.

(12) ENUMERATED CONSUMER LAWS.— Except as otherwise specifically provided in section 1029, subtitle G or subtitle H, the term “enumerated consumer laws” means—

(A) the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.);

(B) the Consumer Leasing Act of 1976 (15 U.S.C. 1667 et seq.);

(C) the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), except with respect to section 920 of that Act;

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

(E) the Fair Credit Billing Act (15 U.S.C. 1666 et seq.);

(F) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), except with respect to sections 615(e) and 628 of that Act (15 U.S.C. 1681m(e), 1681w);

(G) the Home Owners Protection Act of 1998 (12 U.S.C. 4901 et seq.);

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

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

(J) sections 502 through 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802-6809) except for section 505 as it applies to section 501(b);

(K) the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.);

(L) the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note);

(M) the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.);

(N) the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.);

- (O) the Truth in Lending Act (15 U.S.C. 1601 et seq.);
- (P) the Truth in Savings Act (12 U.S.C. 4301 et seq.);
- (Q) section 626 of the Omnibus Appropriations Act, 2009 (Public Law 111-8); and
- (R) the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701).

(13) FAIR LENDING.— The term “fair lending” means fair, equitable, and nondiscriminatory access to credit for consumers.

(14) FEDERAL CONSUMER FINANCIAL LAW.— The term “Federal consumer financial law” means the provisions of this title, the enumerated consumer laws, the laws for which authorities are transferred under subtitles F and H, and any rule or order prescribed by the Bureau under this title, an enumerated consumer law, or pursuant to the authorities transferred under subtitles F and H. The term does not include the Federal Trade Commission Act.

(15) FINANCIAL PRODUCT OR SERVICE.—

(A) IN GENERAL.— The term “financial product or service” means—

(i) extending credit and servicing loans, including acquiring, purchasing, selling, brokering, or other extensions of credit (other than solely extending commercial credit to a person who originates consumer credit transactions);

(ii) extending or brokering leases of personal or real property that are the functional equivalent of purchase finance arrangements, if—

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

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

(III) in the case of a lease involving real property, at the inception of the initial lease, the transaction is intended to result in ownership of the leased property to be transferred to the lessee, subject to standards prescribed by the Bureau;

(iii) providing real estate settlement services, except such services excluded under subparagraph (C), or performing appraisals of real estate or personal property;

(iv) engaging in deposit-taking activities, transmitting or exchanging funds, or otherwise acting as a custodian of funds or any financial instrument for use by or on behalf of a consumer;

(v) selling, providing, or issuing stored value or payment instruments, except that, in the case of a sale of, or transaction to reload, stored value, only if the seller exercises substantial control over the terms or conditions of the stored value provided to the consumer where, for purposes of this clause—

(I) a seller shall not be found to exercise substantial control over the terms or conditions of the stored value if the seller is not a party to the contract with the consumer for the stored value product, and another person is principally responsible

for establishing the terms or conditions of the stored value; and

(II) advertising the nonfinancial goods or services of the seller on the stored value card or device is not in itself an exercise of substantial control over the terms or conditions;

(vi) providing check cashing, check collection, or check guaranty services;

(vii) providing payments or other financial data processing products or services to a consumer by any technological means, including processing or storing financial or banking data for any payment instrument, or through any payments systems or network used for processing payments data, including payments made through an online banking system or mobile telecommunications network, except that a person shall not be deemed to be a covered person with respect to financial data processing solely because the person—

(I) is a merchant, retailer, or seller of any nonfinancial good or service who engages in financial data processing by transmitting or storing payments data about a consumer exclusively for purpose of initiating payments instructions by the consumer to pay such person for the purchase of, or to complete a commercial transaction for, such nonfinancial good or service sold directly by such person to the consumer; or

(II) provides access to a host server to a person for purposes of enabling that person to establish and maintain a website;

(viii) providing financial advisory services (other than services relating to securities provided by a person regulated by the Commission or a person regulated by a State securities Commission, but only to the extent that such person acts in a regulated capacity) to consumers on individual financial matters or relating to proprietary financial products or services (other than by publishing any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, including publishing market data, news, or data analytics or investment information or recommendations that are not tailored to the individual needs of a particular consumer), including—

(I) providing credit counseling to any consumer; and

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

(ix) collecting, analyzing, maintaining, or providing consumer report information or other account information, including information relating to the credit history of consumers, used or expected to be used in connection with any decision regarding the offering or

provision of a consumer financial product or service, except to the extent that—

(I) a person—

(aa) collects, analyzes, or maintains information that relates solely to the transactions between a consumer and such person;

(bb) provides the information described in item (aa) to an affiliate of such person; or

(cc) provides information that is used or expected to be used solely in any decision regarding the offering or provision of a product or service that is not a consumer financial product or service, including a decision for employment, government licensing, or a residential lease or tenancy involving a consumer; and

(II) the information described in subclause (I)(aa) is not used by such person or affiliate in connection with any decision regarding the offering or provision of a consumer financial product or service to the consumer, other than credit described in section 1027(a)(2)(A);

(x) collecting debt related to any consumer financial product or service; and

(xi) such other financial product or service as may be defined by the Bureau, by regulation, for purposes of this title, if the Bureau finds that such financial product or service is—

(I) entered into or conducted as a subterfuge or with a purpose to evade any Federal consumer financial law; or

(II) permissible for a bank or for a financial holding company to offer or to provide under any provision of a Federal law or regulation applicable to a bank or a financial holding company, and has, or likely will have, a material impact on consumers.

(B) RULE OF CONSTRUCTION.—

(i) IN GENERAL.— For purposes of subparagraph (A)(xi)(II), and subject to clause (ii) of this subparagraph, the following activities provided to a covered person shall not, for purposes of this title, be considered incidental or complementary to a financial activity permissible for a financial holding company to engage in under any provision of a Federal law or regulation applicable to a financial holding company:

(I) Providing information products or services to a covered person for identity authentication.

(II) Providing information products or services for fraud or identify theft detection, prevention, or investigation.

(III) Providing document retrieval or delivery services.

(IV) Providing public records information retrieval.

(V) Providing information products or services for anti-money laundering activities.

(ii) LIMITATION.— Nothing in clause (i) may be construed as modifying or limiting the authority of the Bureau to exercise any—

(I) examination or enforcement powers authority under this title with respect to a covered person or service provider engaging in an activity described in subparagraph (A)(ix); or

(II) powers authorized by this title to prescribe rules, issue orders, or take other actions under any enumerated consumer law or law for which the authorities are transferred under subtitle F or H.

(C) EXCLUSIONS.— The term “financial product or service” does not include—

(i) the business of insurance; or

(ii) electronic conduit services.

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

(17) INSURED CREDIT UNION.— The term “insured credit union” has the same meaning as in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

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

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

(20) PERSON REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.— The term “person regulated by the Commodity Futures Trading Commission” means any person that is registered, or required by statute or regulation to be registered, with the Commodity Futures Trading Commission, but only to the extent that the activities of such person are subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act.

(21) PERSON REGULATED BY THE COMMISSION.— The term “person regulated by the Commission” means a person who is—

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

(B) an investment adviser that is registered under the Investment Advisers Act of 1940;

(C) an investment company that is required to be registered under the Investment Company Act of 1940, and any company that has elected to be regulated as a business development company under that Act;

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

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

(F) a clearing corporation that is required to be registered under the Securities Exchange Act of 1934;

(G) any self-regulatory organization that is required to be registered with the Commission;

(H) any nationally recognized statistical rating organization that is required to be registered with the Commission;

(I) any securities information processor that is required to be registered with the Commission;

(J) any municipal securities dealer that is required to be registered with the Commission;

(K) any other person that is required to be registered with the Commission under the Securities Exchange Act of 1934; and

(L) any employee, agent, or contractor acting on behalf of, registered with, or providing services to, any person described in any of subparagraphs (A) through (K), but only to the extent that any person described in any of subparagraphs (A) through (K), or the employee, agent, or contractor of such person, acts in a regulated capacity.

(22) PERSON REGULATED BY A STATE INSURANCE REGULATOR.— The term “person regulated by a State insurance regulator” means any person that is engaged in the business of insurance and subject to regulation by any State insurance regulator, but only to the extent that such person acts in such capacity.

(23) PERSON THAT PERFORMS INCOME TAX PREPARATION ACTIVITIES FOR CONSUMERS.— The term “person that performs income tax preparation activities for consumers” means—

(A) any tax return preparer (as defined in section 7701(a)(36) of the Internal Revenue Code of 1986), regardless of whether compensated, but only to the extent that the person acts in such capacity;

(B) any person regulated by the Secretary under section 330 of title 31, United States Code, but only to the extent that the person acts in such capacity; and

(C) any authorized IRS e-file Providers (as defined for purposes of section 7216 of the Internal Revenue Code of 1986), but only to the extent that the person acts in such capacity.

(24) PRUDENTIAL REGULATOR.— The term “prudential regulator” means—

(A) in the case of an insured depository institution or depository institution holding company (as defined in section 3 of the Federal Deposit Insurance Act), or subsidiary of such institution or company, the appropriate Federal banking agency, as that term is defined in section 3 of the Federal Deposit Insurance Act; and

(B) in the case of an insured credit union, the National Credit Union Administration.

(25) RELATED PERSON.— The term “related person”—

(A) shall apply only with respect to a covered person that is not a bank holding company (as that term is de-

fined in section 2 of the Bank Holding Company Act of 1956), credit union, or depository institution;

(B) shall be deemed to mean a covered person for all purposes of any provision of Federal consumer financial law; and

(C) means—

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

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

(iii) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in any—

(I) violation of any provision of law or regulation; or

(II) breach of a fiduciary duty.

(26) SERVICE PROVIDER.—

(A) IN GENERAL.— The term “service provider” means any person that provides a material service to a covered person in connection with the offering or provision by such covered person of a consumer financial product or service, including a person that—

(i) participates in designing, operating, or maintaining the consumer financial product or service; or

(ii) processes transactions relating to the consumer financial product or service (other than unknowingly or incidentally transmitting or processing financial data in a manner that such data is undifferentiated from other types of data of the same form as the person transmits or processes).

(B) EXCEPTIONS.— The term “service provider” does not include a person solely by virtue of such person offering or providing to a covered person—

(i) a support service of a type provided to businesses generally or a similar ministerial service; or

(ii) time or space for an advertisement for a consumer financial product or service through print, newspaper, or electronic media.

(C) RULE OF CONSTRUCTION.— A person that is a service provider shall be deemed to be a covered person to the extent that such person engages in the offering or provision of its own consumer financial product or service.

(27) STATE.— The term “State” means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands or any federally recognized Indian tribe, as defined by the Secretary of the Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1(a)).

(28) STORED VALUE.—

(A) IN GENERAL.— The term “stored value” means funds or monetary value represented in any electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically, and includes a prepaid debit card or product, or any other similar product, regardless of whether the amount of the funds or monetary value may be increased or reloaded.

(B) EXCLUSION.— Notwithstanding subparagraph (A), the term “stored value” does not include a special purpose card or certificate, which shall be defined for purposes of this paragraph as funds or monetary value represented in any electronic format, whether or not specially encrypted, that is—

(i) issued by a merchant, retailer, or other seller of nonfinancial goods or services;

(ii) redeemable only for transactions with the merchant, retailer, or seller of nonfinancial goods or services or with an affiliate of such person, which affiliate itself is a merchant, retailer, or seller of nonfinancial goods or services;

(iii) issued in a specified amount that, except in the case of a card or product used solely for telephone services, may not be increased or reloaded;

(iv) purchased on a prepaid basis in exchange for payment; and

(v) honored upon presentation to such merchant, retailer, or seller of nonfinancial goods or services or an affiliate of such person, which affiliate itself is a merchant, retailer, or seller of nonfinancial goods or services, only for any nonfinancial goods or services.

(29) TRANSMITTING OR EXCHANGING FUNDS.— The term “transmitting or exchanging funds” means receiving currency, monetary value, or payment instruments from a consumer for the purpose of exchanging or transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or through other businesses that facilitate third-party transfers within the United States or to or from the United States.

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

Subtitle A—Bureau of Consumer Financial Protection

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

(a) BUREAU ESTABLISHED.—There is established in the Federal Reserve System, an independent bureau to be known as the “Bureau of Consumer Financial Protection”, which shall regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws. The Bureau shall be considered an Executive agency, as defined in section 105 of title

5, United States Code. Except as otherwise provided expressly by law, all Federal laws dealing with public or Federal contracts, property, works, officers, employees, budgets, or funds, including the provisions of chapters 5 and 7 of title 5, shall apply to the exercise of the powers of the Bureau.

[(b) DIRECTOR AND DEPUTY DIRECTOR.—

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

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

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

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

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

[(A) be appointed by the Director; and

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

[(c) TERM.—

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

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

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

[(d) SERVICE RESTRICTION.—No Director or Deputy Director may hold any office, position, or employment in any Federal reserve bank, Federal home loan bank, covered person, or service provider during the period of service of such person as Director or Deputy Director.]

(b) *MANAGEMENT OF THE BUREAU.—*

(1) *IN GENERAL.— The management of the Bureau shall be vested in a Board of Directors consisting of 5 members, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—*

(A) are citizens of the United States; and

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

(2) *TERMS.—*

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

(B) STAGGERED TERMS.— The members of the Board shall serve staggered terms, which shall initially be for terms of 1, 2, 3, 4, and 5 years, respectively, and such members shall be appointed such that, after the appointments of the initial 5 members of the Board, members of different political parties are appointed alternately.

(C) *REMOVAL.*— *The President may remove any member of the Board for inefficiency, neglect of duty, or malfeasance in office.*

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

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

(F) *SUCCESSIVE TERMS.*— *A member of the Board may not be reappointed to a second consecutive term, except that an initial member of the Board appointed for less than a 5-year term may be reappointed to a full 5-year term and a future member appointed to fill an unexpired term may be reappointed for a full 5-year term.*

(3) *AFFILIATION.*— *Not more than 3 members of the Board shall be members of any 1 political party.*

(4) *CHAIRPERSON OF THE BOARD.*—

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

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

(i) *the supervision of personnel employed by the Bureau (other than personnel employed regularly and full time in the immediate offices of members of the Board other than the Chairperson);*

(ii) *the distribution of business among personnel appointed and supervised by the Chairperson and among administrative units of the Bureau; and*

(iii) *the use and expenditure of funds.*

(C) *LIMITATION.*— *In carrying out any of the functions of the Chairperson under this paragraph, the Chairperson shall be governed by general policies of the Bureau and by such regulatory decisions, findings, and determinations as the Bureau may by law be authorized to make.*

(D) *REQUESTS OR ESTIMATES RELATED TO APPROPRIATIONS.*— *Any request or estimate for regular, supplemental, or deficiency appropriations on behalf of the Bureau, including any request for a transfer of funds under section 1017(a), may not be submitted by the Chairperson without the prior approval of the Board.*

(E) *VACANCY.*— *The President may designate a member of the Board to serve as Acting Chairperson in the event of a vacancy in the office of the Chairperson.*

(5) *COMPENSATION.*—

(A) *CHAIRPERSON.*— *The Chairperson shall receive compensation at the rate prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code.*

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

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

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

SEC. 1012. EXECUTIVE AND ADMINISTRATIVE POWERS.

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

(1) the establishment of rules for conducting the general business of the Bureau, in a manner not inconsistent with this title;

(2) to bind the Bureau and enter into contracts;

(3) directing the establishment and maintenance of divisions or other offices within the Bureau, in order to carry out the responsibilities under the Federal consumer financial laws, and to satisfy the requirements of other applicable law;

(4) to coordinate and oversee the operation of all administrative, enforcement, and research activities of the Bureau;

(5) to adopt and use a seal;

(6) to determine the character of and the necessity for the obligations and expenditures of the Bureau;

(7) the appointment and supervision of personnel employed by the Bureau;

(8) the distribution of business among personnel [appointed and supervised by the Director] *appointed by the Board and supervised by the Chairperson* and among administrative units of the Bureau;

(9) the use and expenditure of funds;

(10) implementing the Federal consumer financial laws through rules, orders, guidance, interpretations, statements of policy, examinations, and enforcement actions; and

(11) performing such other functions as may be authorized or required by law.

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

(c) *AUTONOMY OF THE BUREAU.*—

(1) *COORDINATION WITH THE BOARD OF GOVERNORS.*— Notwithstanding any other provision of law applicable to the supervision or examination of persons with respect to Federal consumer financial laws, the Board of Governors may delegate to the Bureau the authorities to examine persons subject to the

jurisdiction of the Board of Governors for compliance with the Federal consumer financial laws.

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

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

(B) appoint, direct, or remove any officer or employee of the Bureau; or

(C) merge or consolidate the Bureau, or any of the functions or responsibilities of the Bureau, with any division or office of the Board of Governors or the Federal reserve banks.

(3) RULES AND ORDERS.— No rule or order of the Bureau shall be subject to approval or review by the Board of Governors. The Board of Governors may not delay or prevent the issuance of any rule or order of the Bureau.

(4) RECOMMENDATIONS AND TESTIMONY.— No officer or agency of the United States shall have any authority to require **[the Director] any member of the Board** or any other officer of the Bureau to submit legislative recommendations, or testimony or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress, if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of **[the Director] any member of the Board** or such officer, and do not necessarily reflect the views of the Board of Governors or the President.

(5) CLARIFICATION OF AUTONOMY OF THE BUREAU IN LEGAL PROCEEDINGS.— The Bureau shall not be liable under any provision of law for any action or inaction of the Board of Governors, and the Board of Governors shall not be liable under any provision of law for any action or inaction of the Bureau.

SEC. 1013. ADMINISTRATION.

(a) PERSONNEL.—

(1) APPOINTMENT.—

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

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

(C) WAIVER AUTHORITY.—

(i) IN GENERAL.— In making any appointment under subparagraph (A), the **[Director] Board** may waive

the requirements of chapter 33 of title 5, United States Code, and the regulations implementing such chapter, to the extent necessary to appoint employees on terms and conditions that are consistent with those set forth in section 11(1) of the Federal Reserve Act (12 U.S.C. 248(1)), while providing for—

(I) fair, credible, and transparent methods of establishing qualification requirements for, recruitment for, and appointments to positions;

(II) fair and open competition and equitable treatment in the consideration and selection of individuals to positions;

(III) fair, credible, and transparent methods of assigning, reassigning, detailing, transferring, and promoting employees.

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

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

(A) The rates of basic pay for all employees of the Bureau may be set and adjusted by the [Director] Board .

(B) The [Director] Board shall at all times provide compensation (including benefits) to each class of employees that, at a minimum, are comparable to the compensation and benefits then being provided by the Board of Governors for the corresponding class of employees.

(C) All such employees shall be compensated (including benefits) on terms and conditions that are consistent with the terms and conditions set forth in section 11(1) of the Federal Reserve Act (12 U.S.C. 248(1)).

(3) BUREAU PARTICIPATION IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN AND FEDERAL RESERVE SYSTEM THRIFT PLAN.—

(A) EMPLOYEE ELECTION.— Employees appointed to the Bureau may elect to participate in either—

(i) both the Federal Reserve System Retirement Plan and the Federal Reserve System Thrift Plan, under the same terms on which such participation is offered to employees of the Board of Governors who participate in such plans and under the terms and conditions specified under section 1064(i)(1)(C); or

(ii) the Civil Service Retirement System under chapter 83 of title 5, United States Code, or the Federal Employees Retirement System under chapter 84 of

title 5, United States Code, if previously covered under one of those Federal employee retirement systems.

(B) ELECTION PERIOD.— Bureau employees shall make an election under this paragraph not later than 1 year after the date of appointment by, or transfer under subtitle F to, the Bureau. Participation in, and benefit accruals under, any other retirement plan established or maintained by the Federal Government shall end not later than the date on which participation in, and benefit accruals under, the Federal Reserve System Retirement Plan and Federal Reserve System Thrift Plan begin.

(C) EMPLOYER CONTRIBUTION.— The Bureau shall pay an employer contribution to the Federal Reserve System Retirement Plan, in the amount established as an employer contribution under the Federal Employees Retirement System, as established under chapter 84 of title 5, United States Code, for each Bureau employee who elects to participate in the Federal Reserve System Retirement Plan. The Bureau shall pay an employer contribution to the Federal Reserve System Thrift Plan for each Bureau employee who elects to participate in such plan, as required under the terms of such plan.

(D) CONTROLLED GROUP STATUS.— The Bureau is the same employer as the Federal Reserve System (as comprised of the Board of Governors and each of the 12 Federal reserve banks prior to the date of enactment of this Act) for purposes of subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986, (26 U.S.C. 414).

(4) LABOR-MANAGEMENT RELATIONS.— Chapter 71 of title 5, United States Code, shall apply to the Bureau and the employees of the Bureau.

(5) AGENCY OMBUDSMAN.—

(A) ESTABLISHMENT REQUIRED.— Not later than 180 days after the designated transfer date, the Bureau shall appoint an ombudsman.

(B) DUTIES OF OMBUDSMAN.— The ombudsman appointed in accordance with subparagraph (A) shall—

(i) act as a liaison between the Bureau and any affected person with respect to any problem that such party may have in dealing with the Bureau, resulting from the regulatory activities of the Bureau; and

(ii) assure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

(b) SPECIFIC FUNCTIONAL UNITS.—

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

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

(B) access to fair and affordable credit for traditionally underserved communities;

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

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

(E) consumer behavior with respect to consumer financial products or services, including performance on mortgage loans; and

(F) experiences of traditionally underserved consumers, including un-banked and under-banked consumers.

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

(3) **COLLECTING AND TRACKING COMPLAINTS.**—

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

(B) **ROUTING CALLS TO STATES.**— To the extent practicable, State agencies may receive appropriate complaints from the systems established under subparagraph (A), if—

(i) the State agency system has the functional capacity to receive calls or electronic reports routed by the Bureau systems;

(ii) the State agency has satisfied any conditions of participation in the system that the Bureau may establish, including treatment of personally identifiable information and sharing of information on complaint resolution or related compliance procedures and resources; and

(iii) participation by the State agency includes measures necessary to provide for protection of personally identifiable information that conform to the standards for protection of the confidentiality of personally identifiable information and for data integrity and security that apply to the Federal agencies described in subparagraph (D).

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

(D) **DATA SHARING REQUIRED.**— To facilitate preparation of the reports required under subparagraph (C), super-

vision and enforcement activities, and monitoring of the market for consumer financial products and services, the Bureau shall share consumer complaint information with prudential regulators, the Federal Trade Commission, other Federal agencies, and State agencies, subject to the standards applicable to Federal agencies for protection of the confidentiality of personally identifiable information and for data security and integrity. The prudential regulators, the Federal Trade Commission, and other Federal agencies shall share data relating to consumer complaints regarding consumer financial products and services with the Bureau, subject to the standards applicable to Federal agencies for protection of confidentiality of personally identifiable information and for data security and integrity.

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

(1) ESTABLISHMENT.— The **[Director]** *Board* shall establish within the Bureau the Office of Fair Lending and Equal Opportunity.

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

(A) providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities that are enforced by the Bureau, including the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act;

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

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

(D) providing annual reports to Congress on the efforts of the Bureau to fulfill its fair lending mandate.

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

(A) shall be appointed by **[the Director]** *the Board* ; and

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

(d) OFFICE OF FINANCIAL EDUCATION.—

(1) ESTABLISHMENT.— The **[Director]** *Board* shall establish an Office of Financial Education, which shall be responsible for developing and implementing initiatives intended to educate and empower consumers to make better informed financial decisions.

(2) OTHER DUTIES.— The Office of Financial Education shall develop and implement a strategy to improve the financial literacy of consumers that includes measurable goals and objectives, in consultation with the Financial Literacy and Education Commission, consistent with the National Strategy for

Financial Literacy, through activities including providing opportunities for consumers to access—

- (A) financial counseling, including community-based financial counseling, where practicable;
 - (B) information to assist with the evaluation of credit products and the understanding of credit histories and scores;
 - (C) savings, borrowing, and other services found at mainstream financial institutions;
 - (D) activities intended to—
 - (i) prepare the consumer for educational expenses and the submission of financial aid applications, and other major purchases;
 - (ii) reduce debt; and
 - (iii) improve the financial situation of the consumer;
 - (E) assistance in developing long-term savings strategies; and
 - (F) wealth building and financial services during the preparation process to claim earned income tax credits and Federal benefits.
- (3) COORDINATION.— The Office of Financial Education shall coordinate with other units within the Bureau in carrying out its functions, including—
- (A) working with the Community Affairs Office to implement the strategy to improve financial literacy of consumers; and
 - (B) working with the research unit established by the **[Director]** *Board* to conduct research related to consumer financial education and counseling.
- (4) REPORT.— Not later than 24 months after the designated transfer date, and annually thereafter, the **[Director]** *Board* shall submit a report on its financial literacy activities and strategy to improve financial literacy of consumers to—
- (A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and
 - (B) the Committee on Financial Services of the House of Representatives.
- (5) MEMBERSHIP IN FINANCIAL LITERACY AND EDUCATION COMMISSION.— Section 513(c)(1) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(c)(1)) is amended—
- (A) in subparagraph (B), by striking “and” at the end;
 - (B) by redesignating subparagraph (C) as subparagraph (D); and
 - (C) by inserting after subparagraph (B) the following new subparagraph:
 “(C) the Director of the Bureau of Consumer Financial Protection; and”.
- (6) CONFORMING AMENDMENT.— Section 513(d) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(d)) is amended by adding at the end the following: “The Director of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman.”.
- (7) STUDY AND REPORT ON FINANCIAL LITERACY PROGRAM.—

(A) IN GENERAL.— The Comptroller General of the United States shall conduct a study to identify—

(i) the feasibility of certification of persons providing the programs or performing the activities described in paragraph (2), including recognizing outstanding programs, and developing guidelines and resources for community-based practitioners, including—

(I) a potential certification process and standards for certification;

(II) appropriate certifying entities;

(III) resources required for funding such a process; and

(IV) a cost-benefit analysis of such certification;

(ii) technological resources intended to collect, analyze, evaluate, or promote financial literacy and counseling programs;

(iii) effective methods, tools, and strategies intended to educate and empower consumers about personal finance management; and

(iv) recommendations intended to encourage the development of programs that effectively improve financial education outcomes and empower consumers to make better informed financial decisions based on findings.

(B) REPORT.— Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

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

(A) educate and empower service members and their families to make better informed decisions regarding consumer financial products and services;

(B) coordinate with the unit of the Bureau established under subsection (b)(3), in order to monitor complaints by service members and their families and responses to those complaints by the Bureau or other appropriate Federal or State agency; and

(C) coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families.

(2) COORDINATION.—

(A) REGIONAL SERVICES.— The **[Director]** *Board* is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Service Member Affairs, including by establishing and maintaining the functions of the Office in regional offices

of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

(B) AGREEMENTS.— The **[Director]** *Board* is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Service Member Affairs.

(3) DEFINITION.— As used in this subsection, the term “service member” means any member of the United States Armed Forces and any member of the National Guard or Reserves.

(f) TIMING.—The Office of Fair Lending and Equal Opportunity, the Office of Financial Education, and the Office of Service Member Affairs shall each be established not later than 1 year after the designated transfer date.

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

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

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

(3) DUTIES.— The Office shall—

(A) develop goals for programs that provide seniors financial literacy and counseling, including programs that—

(i) help seniors recognize warning signs of unfair, deceptive, or abusive practices, protect themselves from such practices;

(ii) provide one-on-one financial counseling on issues including long-term savings and later-life economic security; and

(iii) provide personal consumer credit advocacy to respond to consumer problems caused by unfair, deceptive, or abusive practices;

(B) monitor certifications or designations of financial advisors who advise seniors and alert the Commission and State regulators of certifications or designations that are identified as unfair, deceptive, or abusive;

(C) not later than 18 months after the date of the establishment of the Office, submit to Congress and the Commission any legislative and regulatory recommendations on the best practices for—

(i) disseminating information regarding the legitimacy of certifications of financial advisers who advise seniors;

(ii) methods in which a senior can identify the financial advisor most appropriate for the senior's needs; and

(iii) methods in which a senior can verify a financial advisor's credentials;

(D) conduct research to identify best practices and effective methods, tools, technology and strategies to educate and counsel seniors about personal finance management with a focus on—

(i) protecting themselves from unfair, deceptive, and abusive practices;

(ii) long-term savings; and

(iii) planning for retirement and long-term care;

(E) coordinate consumer protection efforts of seniors with other Federal agencies and State regulators, as appropriate, to promote consistent, effective, and efficient enforcement; and

(F) work with community organizations, non-profit organizations, and other entities that are involved with educating or assisting seniors (including the National Education and Resource Center on Women and Retirement Planning).

(h) APPLICATION OF FACAs.—Notwithstanding any provision of the Federal Advisory Committee Act (5 U.S.C. App.), such Act shall apply to each advisory committee of the Bureau and each subcommittee of such an advisory committee.

SEC. 1014. CONSUMER ADVISORY BOARD.

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

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

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

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

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

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

* * * * *

SEC. 1016. APPEARANCES BEFORE AND REPORTS TO CONGRESS.

(a) APPEARANCES BEFORE CONGRESS.—The [Director of the Bureau] *Chairperson* shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Energy and Commerce of the House of Representatives at semi-annual hearings regarding the reports required under subsection (b).

(b) REPORTS REQUIRED.—The Bureau shall, concurrent with each semi-annual hearing referred to in subsection (a), prepare and submit to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Energy and Commerce of the House of Representatives, a report, beginning with the session following the designated transfer date. The Bureau may also submit such report to the Committee on Commerce, Science, and Transportation of the Senate.

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

(1) a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services;

(2) a justification of the budget request of the previous year;

(3) a list of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period;

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

(5) a list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year;

(6) the actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions;

(7) an assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law;

(8) an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau; and

(9) an analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion.

* * * * *

SEC. 1017. FUNDING; PENALTIES AND FINES.

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

(1) IN GENERAL.— Each year (or quarter of such year), beginning on the designated transfer date, and each quarter there-

after, the Board of Governors shall transfer to the Bureau from the combined earnings of the Federal Reserve System, the amount determined by the **[Director]** *Board* to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law, taking into account such other sums made available to the Bureau from the preceding year (or quarter of such year).

(2) FUNDING CAP.—

(A) IN GENERAL.— Notwithstanding paragraph (1), and in accordance with this paragraph, the amount that shall be transferred to the Bureau in each fiscal year shall not exceed a fixed percentage of the total operating expenses of the Federal Reserve System, as reported in the Annual Report, 2009, of the Board of Governors, equal to—

- (i) 10 percent of such expenses in fiscal year 2011;
- (ii) 11 percent of such expenses in fiscal year 2012;
- and
- (iii) 12 percent of such expenses in fiscal year 2013, and in each year thereafter.

(B) ADJUSTMENT OF AMOUNT.— The dollar amount referred to in subparagraph (A)(iii) shall be adjusted annually, using the percent increase, if any, in the employment cost index for total compensation for State and local government workers published by the Federal Government, or the successor index thereto, for the 12-month period ending on September 30 of the year preceding the transfer.

(C) REVIEWABILITY.— Notwithstanding any other provision in this title, the funds derived from the Federal Reserve System pursuant to this subsection shall not be subject to review by the Committees on Appropriations of the House of Representatives and the Senate.

(3) TRANSITION PERIOD.— Beginning on the date of enactment of this Act and until the designated transfer date, the Board of Governors shall transfer to the Bureau the amount estimated by the Secretary needed to carry out the authorities granted to the Bureau under Federal consumer financial law, from the date of enactment of this Act until the designated transfer date.

(4) BUDGET AND FINANCIAL MANAGEMENT.—

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

(B) FINANCIAL STATEMENTS.— The Bureau shall prepare annually a statement of—

- (i) assets and liabilities and surplus or deficit;
- (ii) income and expenses; and
- (iii) sources and application of funds.

(C) FINANCIAL MANAGEMENT SYSTEMS.— The Bureau shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements and applicable Federal accounting standards.

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

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

(F) FINANCIAL STATEMENTS.— The financial statements of the Bureau shall not be consolidated with the financial statements of either the Board of Governors or the Federal Reserve System.

(5) AUDIT OF THE BUREAU.—

(A) IN GENERAL.— The Comptroller General shall annually audit the financial transactions of the Bureau in accordance with the United States generally accepted government auditing standards, as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Bureau are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Bureau pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Bureau shall remain in possession and custody of the Bureau. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General, and the right of access of the Comptroller General to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

(B) REPORT.— The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the

statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Bureau, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Bureau at the time submitted to the Congress.

(C) ASSISTANCE AND COSTS.— For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the [Director of the Bureau] *Chairperson* shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.

(b) CONSUMER FINANCIAL PROTECTION FUND.—

(1) SEPARATE FUND IN FEDERAL RESERVE ESTABLISHED.— There is established in the Federal Reserve a separate fund, to be known as the “Bureau of Consumer Financial Protection Fund” (referred to in this section as the “Bureau Fund”). The Bureau Fund shall be maintained and established at a Federal reserve bank, in accordance with such requirements as the Board of Governors may impose.

(2) FUND RECEIPTS.— All amounts transferred to the Bureau under subsection (a) shall be deposited into the Bureau Fund.

(3) INVESTMENT AUTHORITY.—

(A) AMOUNTS IN BUREAU FUND MAY BE INVESTED.— The Bureau may request the Board of Governors to direct the investment of the portion of the Bureau Fund that is not, in the judgment of the Bureau, required to meet the current needs of the Bureau.

(B) ELIGIBLE INVESTMENTS.— Investments authorized by this paragraph shall be made in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Bureau Fund, as determined by the Bureau.

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

(c) USE OF FUNDS.—

(1) IN GENERAL.— Funds obtained by, transferred to, or credited to the Bureau Fund shall be immediately available to the

Bureau and under the control of the **[Director,]** *Board*, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities. The compensation of the **[Director and]** *the members of the Board and* other employees of the Bureau and all other expenses thereof may be paid from, obtained by, transferred to, or credited to the Bureau Fund under this section.

(2) FUNDS THAT ARE NOT GOVERNMENT FUNDS.— Funds obtained by or transferred to the Bureau Fund shall not be construed to be Government funds or appropriated monies.

(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.— Notwithstanding any other provision of law, amounts in the Bureau Fund and in the Civil Penalty Fund established under subsection (d) shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority.

(d) PENALTIES AND FINES.—

(1) ESTABLISHMENT OF VICTIMS RELIEF FUND.— There is established in the Federal Reserve a separate fund, to be known as the “Consumer Financial Civil Penalty Fund” (referred to in this section as the “Civil Penalty Fund”). The Civil Penalty Fund shall be maintained and established at a Federal reserve bank, in accordance with such requirements as the Board of Governors may impose. If the Bureau obtains a civil penalty against any person in any judicial or administrative action under Federal consumer financial laws, the Bureau shall deposit into the Civil Penalty Fund, the amount of the penalty collected.

(2) PAYMENT TO VICTIMS.— Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws. To the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.

(e) AUTHORIZATION OF APPROPRIATIONS; ANNUAL REPORT.—

(1) DETERMINATION REGARDING NEED FOR APPROPRIATED FUNDS.—

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

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

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

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

(4) ANNUAL REPORT.— The [Director] *Board* shall prepare and submit a report, on an annual basis, to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives regarding the financial operating plans and forecasts of the [Director] *Board*, the financial condition and results of operations of the Bureau, and the sources and application of funds of the Bureau, including any funds appropriated in accordance with this subsection.

* * * * *

Subtitle B—General Powers of the Bureau

SEC. 1021. PURPOSE, OBJECTIVES, AND FUNCTIONS.

(a) PURPOSE.—The Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.

(b) OBJECTIVES.—The Bureau is authorized to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services—

(1) consumers are provided with timely and understandable information to make responsible decisions about financial transactions;

(2) consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(3) outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(4) Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and

(5) markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

(c) FUNCTIONS.—The primary functions of the Bureau are—

(1) conducting financial education programs;

(2) collecting, investigating, and responding to consumer complaints;

(3) collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets;

(4) subject to sections 1024 through 1026, supervising covered persons for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law;

(5) issuing rules, orders, and guidance implementing Federal consumer financial law; and

(6) performing such support activities as may be necessary or useful to facilitate the other functions of the Bureau.

SEC. 1022. RULEMAKING AUTHORITY.

(a) **IN GENERAL.**—The Bureau is authorized to exercise its authorities under Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law.

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

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

(2) **STANDARDS FOR RULEMAKING.**— In prescribing a rule under the Federal consumer financial laws—

(A) the Bureau shall consider—

(i) the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule; and

(ii) the impact of proposed rules on covered persons, as described in section 1026, and the impact on consumers in rural areas;

(B) the Bureau shall consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies; and

(C) if, during the consultation process described in subparagraph (B), a prudential regulator provides the Bureau with a written objection to the proposed rule of the Bureau or a portion thereof, the Bureau shall include in the adopting release a description of the objection and the basis for the Bureau decision, if any, regarding such objection, except that nothing in this clause shall be construed as altering or limiting the procedures under section 1023 that may apply to any rule prescribed by the Bureau.

(3) **EXEMPTIONS.**—

(A) **IN GENERAL.**— The Bureau, by rule, may conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services, from any provision of this title, or from any rule issued under this title, as the Bureau determines necessary or appropriate to carry out the purposes and objec-

tives of this title, taking into consideration the factors in subparagraph (B).

(B) FACTORS.— In issuing an exemption, as permitted under subparagraph (A), the Bureau shall, as appropriate, take into consideration—

- (i) the total assets of the class of covered persons;
- (ii) the volume of transactions involving consumer financial products or services in which the class of covered persons engages; and
- (iii) existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protections.

(4) EXCLUSIVE RULEMAKING AUTHORITY.—

(A) IN GENERAL.— Notwithstanding any other provisions of Federal law and except as provided in section 1061(b)(5), to the extent that a provision of Federal consumer financial law authorizes the Bureau and another Federal agency to issue regulations under that provision of law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules subject to those provisions of law.

(B) DEFERENCE.— Notwithstanding any power granted to any Federal agency or to the Council under this title, and subject to section 1061(b)(5)(E), the deference that a court affords to the Bureau with respect to a determination by the Bureau regarding the meaning or interpretation of any provision of a Federal consumer financial law shall be applied as if the Bureau were the only agency authorized to apply, enforce, interpret, or administer the provisions of such Federal consumer financial law.

(c) MONITORING.—

(1) IN GENERAL.— In order to support its rulemaking and other functions, the Bureau shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.

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

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

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

(C) the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers;

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

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

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

(3) SIGNIFICANT FINDINGS.—

(A) IN GENERAL.— The Bureau shall publish not fewer than 1 report of significant findings of its monitoring required by this subsection in each calendar year, beginning with the first calendar year that begins at least 1 year after the designated transfer date.

(B) CONFIDENTIAL INFORMATION.— The Bureau may make public such information obtained by the Bureau under this section as is in the public interest, through aggregated reports or other appropriate formats designed to protect confidential information in accordance with paragraphs (4), (6), (8), and (9).

(4) COLLECTION OF INFORMATION.—

(A) IN GENERAL.— In conducting any monitoring or assessment required by this section, the Bureau shall have the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers.

(B) METHODOLOGY.— In order to gather information described in subparagraph (A), the Bureau may—

(i) gather and compile information from a variety of sources, including examination reports concerning covered persons or service providers, consumer complaints, voluntary surveys and voluntary interviews of consumers, surveys and interviews with covered persons and service providers, and review of available databases; and

(ii) require covered persons and service providers participating in consumer financial services markets to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe by rule or order, annual or special reports, or answers in writing to specific questions, furnishing information described in paragraph (4), as necessary for the Bureau to fulfill the monitoring, assessment, and reporting responsibilities imposed by Congress.

(C) LIMITATION.— The Bureau may not use its authorities under this paragraph to obtain records from covered persons and service providers participating in consumer financial services markets for purposes of gathering or analyzing the personally identifiable financial information of consumers.

(5) LIMITED INFORMATION GATHERING.— In order to assess whether a nondepository is a covered person, as defined in section 1002, the Bureau may require such nondepository to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe by rule or order, annual or special reports, or answers in writing to specific questions.

(6) CONFIDENTIALITY RULES.—

(A) RULEMAKING.— The Bureau shall prescribe rules regarding the confidential treatment of information obtained from persons in connection with the exercise of its authorities under Federal consumer financial law.

(B) ACCESS BY THE BUREAU TO REPORTS OF OTHER REGULATORS.—

(i) EXAMINATION AND FINANCIAL CONDITION REPORTS.— Upon providing reasonable assurances of confidentiality, the Bureau shall have access to any report of examination or financial condition made by a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider, and to all revisions made to any such report.

(ii) PROVISION OF OTHER REPORTS TO THE BUREAU.— In addition to the reports described in clause (i), a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider may, in its discretion, furnish to the Bureau any other report or other confidential supervisory information concerning any insured depository institution, credit union, or other entity examined by such agency under authority of any provision of Federal law.

(C) ACCESS BY OTHER REGULATORS TO REPORTS OF THE BUREAU.—

(i) EXAMINATION REPORTS.— Upon providing reasonable assurances of confidentiality, a prudential regulator, a State regulator, or any other Federal agency having jurisdiction over a covered person or service provider shall have access to any report of examination made by the Bureau with respect to such person, and to all revisions made to any such report.

(ii) PROVISION OF OTHER REPORTS TO OTHER REGULATORS.— In addition to the reports described in clause (i), the Bureau may, in its discretion, furnish to a prudential regulator or other agency having jurisdiction over a covered person or service provider any other report or other confidential supervisory information concerning such person examined by the Bureau under the authority of any other provision of Federal law.

(7) REGISTRATION.—

(A) IN GENERAL.— The Bureau may prescribe rules regarding registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person.

(B) REGISTRATION INFORMATION.— Subject to rules prescribed by the Bureau, the Bureau may publicly disclose registration information to facilitate the ability of consumers to identify covered persons that are registered with the Bureau.

(C) CONSULTATION WITH STATE AGENCIES.— In developing and implementing registration requirements under this paragraph, the Bureau shall consult with State agencies regarding requirements or systems (including coordi-

nated or combined systems for registration), where appropriate.

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

(9) **CONSUMER PRIVACY.**—

(A) **IN GENERAL.**— The Bureau may not obtain from a covered person or service provider any personally identifiable financial information about a consumer from the financial records of the covered person or service provider, except—

(i) if the financial records are reasonably described in a request by the Bureau and the consumer provides written permission for the disclosure of such information by the covered person or service provider to the Bureau; or

(ii) as may be specifically permitted or required under other applicable provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.).

(B) **TREATMENT OF COVERED PERSON OR SERVICE PROVIDER.**— With respect to the application of any provision of the Right to Financial Privacy Act of 1978, to a disclosure by a covered person or service provider subject to this subsection, the covered person or service provider shall be treated as if it were a “financial institution”, as defined in section 1101 of that Act (12 U.S.C. 3401).

(d) **ASSESSMENT OF SIGNIFICANT RULES.**—

(1) **IN GENERAL.**— The Bureau shall conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The assessment shall address, among other relevant factors, the effectiveness of the rule or order in meeting the purposes and objectives of this title and the specific goals stated by the Bureau. The assessment shall reflect available evidence and any data that the Bureau reasonably may collect.

(2) **REPORTS.**— The Bureau shall publish a report of its assessment under this subsection not later than 5 years after the effective date of the subject rule or order.

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

SEC. 1023. REVIEW OF BUREAU REGULATIONS.

(a) **REVIEW OF BUREAU REGULATIONS.**— On the petition of a member agency of the Council, the Council may set aside a final regulation prescribed by the Bureau, or any provision thereof, if the Council decides, in accordance with subsection (c), that the regulation or provision would put the safety and soundness of the United

States banking system or the stability of the financial system of the United States at risk.

(b) PETITION.—

(1) PROCEDURE.— An agency represented by a member of the Council may petition the Council, in writing, and in accordance with rules prescribed pursuant to subsection (f), to stay the effectiveness of, or set aside, a regulation if the member agency filing the petition—

(A) has in good faith attempted to work with the Bureau to resolve concerns regarding the effect of the rule on the safety and soundness of the United States banking system or the stability of the financial system of the United States; and

(B) files the petition with the Council not later than 10 days after the date on which the regulation has been published in the Federal Register.

(2) PUBLICATION.— Any petition filed with the Council under this section shall be published in the Federal Register and transmitted contemporaneously with filing to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(c) STAYS AND SET ASIDES.—

(1) STAY.—

(A) IN GENERAL.— Upon the request of any member agency, the Chairperson of the Council may stay the effectiveness of a regulation for the purpose of allowing appropriate consideration of the petition by the Council.

(B) EXPIRATION.— A stay issued under this paragraph shall expire on the earlier of—

(i) 90 days after the date of filing of the petition under subsection (b); or

(ii) the date on which the Council makes a decision under paragraph (3).

(2) NO ADVERSE INFERENCE.— After the expiration of any stay imposed under this section, no inference shall be drawn regarding the validity or enforceability of a regulation which was the subject of the petition.

(3) VOTE.—

(A) IN GENERAL.— The decision to issue a stay of, or set aside, any regulation under this section shall be made only with the affirmative vote in accordance with subparagraph (B) of $\frac{2}{3}$ of the members of the Council then serving.

(B) AUTHORIZATION TO VOTE.— A member of the Council may vote to stay the effectiveness of, or set aside, a final regulation prescribed by the Bureau only if the agency or department represented by that member has—

(i) considered any relevant information provided by the agency submitting the petition and by the Bureau; and

(ii) made an official determination, at a public meeting where applicable, that the regulation which is the subject of the petition would put the safety and soundness of the United States banking system or the sta-

bility of the financial system of the United States at risk.

(4) DECISIONS TO SET ASIDE.—

(A) EFFECT OF DECISION.— A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall render such regulation, or provision thereof, unenforceable.

(B) TIMELY ACTION REQUIRED.— The Council may not issue a decision to set aside a regulation, or provision thereof, which is the subject of a petition under this section after the expiration of the later of—

(i) 45 days following the date of filing of the petition, unless a stay is issued under paragraph (1); or

(ii) the expiration of a stay issued by the Council under this section.

(C) SEPARATE AUTHORITY.— The issuance of a stay under this section does not affect the authority of the Council to set aside a regulation.

(5) DISMISSAL DUE TO INACTION.— A petition under this section shall be deemed dismissed if the Council has not issued a decision to set aside a regulation, or provision thereof, within the period for timely action under paragraph (4)(B).

(6) PUBLICATION OF DECISION.— Any decision under this subsection to issue a stay of, or set aside, a regulation or provision thereof shall be published by the Council in the Federal Register as soon as practicable after the decision is made, with an explanation of the reasons for the decision.

(7) RULEMAKING PROCEDURES INAPPLICABLE.— The notice and comment procedures under section 553 of title 5, United States Code, shall not apply to any decision under this section of the Council to issue a stay of, or set aside, a regulation.

(8) JUDICIAL REVIEW OF DECISIONS BY THE COUNCIL.— A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall be subject to review under chapter 7 of title 5, United States Code.

(d) APPLICATION OF OTHER LAW.—Nothing in this section shall be construed as altering, limiting, or restricting the application of any other provision of law, except as otherwise specifically provided in this section, including chapter 5 and chapter 7 of title 5, United States Code, to a regulation which is the subject of a petition filed under this section.

(e) SAVINGS CLAUSE.—Nothing in this section shall be construed as limiting or restricting the Bureau from engaging in a rulemaking in accordance with applicable law.

(f) IMPLEMENTING RULES.—The Council shall prescribe procedural rules to implement this section.

SEC. 1024. SUPERVISION OF NONDEPOSITORY COVERED PERSONS.

(a) SCOPE OF COVERAGE.—

(1) APPLICABILITY.— Notwithstanding any other provision of this title, and except as provided in paragraph (3), this section shall apply to any covered person who—

(A) offers or provides origination, brokerage, or servicing of loans secured by real estate for use by consumers primarily for personal, family, or household purposes, or loan

modification or foreclosure relief services in connection with such loans;

(B) is a larger participant of a market for other consumer financial products or services, as defined by rule in accordance with paragraph (2);

(C) the Bureau has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity for such covered person to respond, based on complaints collected through the system under section 1013(b)(3) or information from other sources, that such covered person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services;

(D) offers or provides to a consumer any private education loan, as defined in section 140 of the Truth in Lending Act (15 U.S.C. 1650), notwithstanding section 1027(a)(2)(A) and subject to section 1027(a)(2)(C); or

(E) offers or provides to a consumer a payday loan.

(2) RULEMAKING TO DEFINE COVERED PERSONS SUBJECT TO THIS SECTION.— The Bureau shall consult with the Federal Trade Commission prior to issuing a rule, in accordance with paragraph (1)(B), to define covered persons subject to this section. The Bureau shall issue its initial rule not later than 1 year after the designated transfer date.

(3) RULES OF CONSTRUCTION.—

(A) CERTAIN PERSONS EXCLUDED.— This section shall not apply to persons described in section 1025(a) or 1026(a).

(B) ACTIVITY LEVELS.— For purposes of computing activity levels under paragraph (1) or rules issued thereunder, activities of affiliated companies (other than insured depository institutions or insured credit unions) shall be aggregated.

(b) SUPERVISION.—

(1) IN GENERAL.— The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a)(1) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial law;

(B) obtaining information about the activities and compliance systems or procedures of such person; and

(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.

(2) RISK-BASED SUPERVISION PROGRAM.— The Bureau shall exercise its authority under paragraph (1) in a manner designed to ensure that such exercise, with respect to persons described in subsection (a)(1), is based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable—

(A) the asset size of the covered person;

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

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

(D) the extent to which such institutions are subject to oversight by State authorities for consumer protection; and

(E) any other factors that the Bureau determines to be relevant to a class of covered persons.

(3) COORDINATION.— To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators, the State bank regulatory authorities, and the State agencies that licence, supervise, or examine the offering of consumer financial products or services, including establishing their respective schedules for examining persons described in subsection (a)(1) and requirements regarding reports to be submitted by such persons. The sharing of information with such regulators, authorities, and agencies shall not be construed as waiving, destroying, or otherwise affecting any privilege or confidentiality such person may claim with respect to such information under Federal or State law as to any person or entity other than such Bureau, agency, supervisor, or authority.

(4) USE OF EXISTING REPORTS.— The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to persons described in subsection (a)(1) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

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

(6) REPORTS OF TAX LAW NONCOMPLIANCE.— The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(7) REGISTRATION, RECORDKEEPING AND OTHER REQUIREMENTS FOR CERTAIN PERSONS.—

(A) IN GENERAL.— The Bureau shall prescribe rules to facilitate supervision of persons described in subsection (a)(1) and assessment and detection of risks to consumers.

(B) RECORDKEEPING.— The Bureau may require a person described in subsection (a)(1), to generate, provide, or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.

(C) REQUIREMENTS CONCERNING OBLIGATIONS.— The Bureau may prescribe rules regarding a person described in subsection (a)(1), to ensure that such persons are legitimate entities and are able to perform their obligations to consumers. Such requirements may include background checks for principals, officers, directors, or key personnel and bonding or other appropriate financial requirements.

(D) CONSULTATION WITH STATE AGENCIES.— In developing and implementing requirements under this paragraph, the Bureau shall consult with State agencies re-

garding requirements or systems (including coordinated or combined systems for registration), where appropriate.

(c) ENFORCEMENT AUTHORITY.—

(1) THE BUREAU TO HAVE ENFORCEMENT AUTHORITY.— Except as provided in paragraph (3) and section 1061, with respect to any person described in subsection (a)(1), to the extent that Federal law authorizes the Bureau and another Federal agency to enforce Federal consumer financial law, the Bureau shall have exclusive authority to enforce that Federal consumer financial law.

(2) REFERRAL.— Any Federal agency authorized to enforce a Federal consumer financial law described in paragraph (1) may recommend in writing to the Bureau that the Bureau initiate an enforcement proceeding, as the Bureau is authorized by that Federal law or by this title.

(3) COORDINATION WITH THE FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.— The Bureau and the Federal Trade Commission shall negotiate an agreement for coordinating with respect to enforcement actions by each agency regarding the offering or provision of consumer financial products or services by any covered person that is described in subsection (a)(1), or service providers thereto. The agreement shall include procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce any Federal law regarding the offering or provision of consumer financial products or services.

(B) CIVIL ACTIONS.— Whenever a civil action has been filed by, or on behalf of, the Bureau or the Federal Trade Commission for any violation of any provision of Federal law described in subparagraph (A), or any regulation prescribed under such provision of law—

(i) the other agency may not, during the pendency of that action, institute a civil action under such provision of law against any defendant named in the complaint in such pending action for any violation alleged in the complaint; and

(ii) the Bureau or the Federal Trade Commission may intervene as a party in any such action brought by the other agency, and, upon intervening—

(I) be heard on all matters arising in such enforcement action; and

(II) file petitions for appeal in such actions.

(C) AGREEMENT TERMS.— The terms of any agreement negotiated under subparagraph (A) may modify or supersede the provisions of subparagraph (B).

(D) DEADLINE.— The agencies shall reach the agreement required under subparagraph (A) not later than 6 months after the designated transfer date.

(d) EXCLUSIVE RULEMAKING AND EXAMINATION AUTHORITY.— Notwithstanding any other provision of Federal law and except as provided in section 1061, to the extent that Federal law authorizes the Bureau and another Federal agency to issue regulations or guidance, conduct examinations, or require reports from a person described in subsection (a)(1) under such law for purposes of assuring

compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules, issue guidance, conduct examinations, require reports, or issue exemptions with regard to a person described in subsection (a)(1), subject to those provisions of law.

(e) SERVICE PROVIDERS.—A service provider to a person described in subsection (a)(1) shall be subject to the authority of the Bureau under this section, to the same extent as if such service provider were engaged in a service relationship with a bank, and the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator, as applicable.

(f) PRESERVATION OF FARM CREDIT ADMINISTRATION AUTHORITY.—No provision of this title may be construed as modifying, limiting, or otherwise affecting the authority of the Farm Credit Administration.

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

(a) SCOPE OF COVERAGE.—This section shall apply to any covered person that is—

(1) an insured depository institution with total assets of more than \$10,000,000,000 and any affiliate thereof; or

(2) an insured credit union with total assets of more than \$10,000,000,000 and any affiliate thereof.

(b) SUPERVISION.—

(1) IN GENERAL.— The Bureau shall have exclusive authority to require reports and conduct examinations on a periodic basis of persons described in subsection (a) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial laws;

(B) obtaining information about the activities subject to such laws and the associated compliance systems or procedures of such persons; and

(C) detecting and assessing associated risks to consumers and to markets for consumer financial products and services.

(2) COORDINATION.— To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including consultation regarding their respective schedules for examining such persons described in subsection (a) and requirements regarding reports to be submitted by such persons.

(3) USE OF EXISTING REPORTS.— The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(4) PRESERVATION OF AUTHORITY.— Nothing in this title may be construed as limiting the authority of the **[Director]** Board to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned

or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(5) REPORTS OF TAX LAW NONCOMPLIANCE.— The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) PRIMARY ENFORCEMENT AUTHORITY.—

(1) THE BUREAU TO HAVE PRIMARY ENFORCEMENT AUTHORITY.— To the extent that the Bureau and another Federal agency are authorized to enforce a Federal consumer financial law, the Bureau shall have primary authority to enforce that Federal consumer financial law with respect to any person described in subsection (a).

(2) REFERRAL.— Any Federal agency, other than the Federal Trade Commission, that is authorized to enforce a Federal consumer financial law may recommend, in writing, to the Bureau that the Bureau initiate an enforcement proceeding with respect to a person described in subsection (a), as the Bureau is authorized to do by that Federal consumer financial law.

(3) BACKUP ENFORCEMENT AUTHORITY OF OTHER FEDERAL AGENCY.— If the Bureau does not, before the end of the 120-day period beginning on the date on which the Bureau receives a recommendation under paragraph (2), initiate an enforcement proceeding, the other agency referred to in paragraph (2) may initiate an enforcement proceeding, including performing follow up supervisory and support functions incidental thereto, to assure compliance with such proceeding.

(d) SERVICE PROVIDERS.—A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act 12 U.S.C. 1867(c). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

(e) SIMULTANEOUS AND COORDINATED SUPERVISORY ACTION.—

(1) EXAMINATIONS.— A prudential regulator and the Bureau shall, with respect to each insured depository institution, insured credit union, or other covered person described in subsection (a) that is supervised by the prudential regulator and the Bureau, respectively—

(A) coordinate the scheduling of examinations of the insured depository institution, insured credit union, or other covered person described in subsection (a);

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

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

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

(2) COORDINATION WITH STATE BANK SUPERVISORS.— The Bureau shall pursue arrangements and agreements with State bank supervisors to coordinate examinations, consistent with paragraph (1).

(3) AVOIDANCE OF CONFLICT IN SUPERVISION.—

(A) REQUEST.— If the proposed supervisory determinations of the Bureau and a prudential regulator (in this section referred to collectively as the “agencies”) are conflicting, an insured depository institution, insured credit union, or other covered person described in subsection (a) may request the agencies to coordinate and present a joint statement of coordinated supervisory action.

(B) JOINT STATEMENT.— The agencies shall provide a joint statement under subparagraph (A), not later than 30 days after the date of receipt of the request of the insured depository institution, credit union, or covered person described in subsection (a).

(4) APPEALS TO GOVERNING PANEL.—

(A) IN GENERAL.— If the agencies do not resolve the conflict or issue a joint statement required by subparagraph (B), or if either of the agencies takes or attempts to take any supervisory action relating to the request for the joint statement without the consent of the other agency, an insured depository institution, insured credit union, or other covered person described in subsection (a) may institute an appeal to a governing panel, as provided in this subsection, not later than 30 days after the expiration of the period during which a joint statement is required to be filed under paragraph (3)(B).

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

(i) a representative from the Bureau and a representative of the prudential regulator, both of whom—

(I) have not participated in the material supervisory determinations under appeal; and

(II) do not directly or indirectly report to the person who participated materially in the supervisory determinations under appeal; and

(ii) one individual representative, to be determined on a rotating basis, from among the Board of Governors, the Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency, other than any agency involved in the subject dispute.

(C) CONDUCT OF APPEAL.— In an appeal under this paragraph—

(i) the insured depository institution, insured credit union, or other covered person described in subsection (a)—

(I) shall include in its appeal all the facts and legal arguments pertaining to the matter; and

(II) may, through counsel, employees, or representatives, appear before the governing panel in person or by telephone; and

(ii) the governing panel—

(I) may request the insured depository institution, insured credit union, or other covered person described in subsection (a), the Bureau, or the prudential regulator to produce additional information relevant to the appeal; and

(II) by a majority vote of its members, shall provide a final determination, in writing, not later than 30 days after the date of filing of an informationally complete appeal, or such longer period as the panel and the insured depository institution, insured credit union, or other covered person described in subsection (a) may jointly agree.

(D) PUBLIC AVAILABILITY OF DETERMINATIONS.— A governing panel shall publish all information contained in a determination by the governing panel, with appropriate redactions of information that would be subject to an exemption from disclosure under section 552 of title 5, United States Code.

(E) PROHIBITION AGAINST RETALIATION.— The Bureau and the prudential regulators shall prescribe rules to provide safeguards from retaliation against the insured depository institution, insured credit union, or other covered person described in subsection (a) instituting an appeal under this paragraph, as well as their officers and employees.

(F) LIMITATION.— The process provided in this paragraph shall not apply to a determination by a prudential regulator to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) or section 212 of the Federal Credit Union Act (112 U.S.C. 1790a), as applicable.

(G) EFFECT ON OTHER AUTHORITY.— Nothing in this section shall modify or limit the authority of the Bureau to interpret, or take enforcement action under, any Federal consumer financial law, or the authority of a prudential regulator to interpret or take enforcement action under any other provision of Federal law for safety and soundness purposes.

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

(a) SCOPE OF COVERAGE.—This section shall apply to any covered person that is—

(1) an insured depository institution with total assets of \$10,000,000,000 or less; or

(2) an insured credit union with total assets of \$10,000,000,000 or less.

(b) **REPORTS.**—The **[Director]** *Board* may require reports from a person described in subsection (a), as necessary to support the role of the Bureau in implementing Federal consumer financial law, to support its examination activities under subsection (c), and to assess and detect risks to consumers and consumer financial markets.

(1) **USE OF EXISTING REPORTS.**— The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

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

(3) **REPORTS OF TAX LAW NONCOMPLIANCE.**— The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) **EXAMINATIONS.**—

(1) **IN GENERAL.**— The Bureau may, at its discretion, include examiners on a sampling basis of the examinations performed by the prudential regulator to assess compliance with the requirements of Federal consumer financial law of persons described in subsection (a).

(2) **AGENCY COORDINATION.**— The prudential regulator shall—

(A) provide all reports, records, and documentation related to the examination process for any institution included in the sample referred to in paragraph (1) to the Bureau on a timely and continual basis;

(B) involve such Bureau examiner in the entire examination process for such person; and

(C) consider input of the Bureau concerning the scope of an examination, conduct of the examination, the contents of the examination report, the designation of matters requiring attention, and examination ratings.

(d) **ENFORCEMENT.**—

(1) **IN GENERAL.**— Except for requiring reports under subsection (b), the prudential regulator is authorized to enforce the requirements of Federal consumer financial laws and, with respect to a covered person described in subsection (a), shall have exclusive authority (relative to the Bureau) to enforce such laws.

(2) **COORDINATION WITH PRUDENTIAL REGULATOR.**—

(A) **REFERRAL.**— When the Bureau has reason to believe that a person described in subsection (a) has engaged in a material violation of a Federal consumer financial law, the Bureau shall notify the prudential regulator in writing and recommend appropriate action to respond.

(B) RESPONSE.— Upon receiving a recommendation under subparagraph (A), the prudential regulator shall provide a written response to the Bureau not later than 60 days thereafter.

(e) SERVICE PROVIDERS.—A service provider to a substantial number of persons described in subsection (a) shall be subject to the authority of the Bureau under section 1025 to the same extent as if the Bureau were an appropriate Federal bank agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). When conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

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

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

(1) SALE OR BROKERAGE OF NONFINANCIAL GOOD OR SERVICE.— The Bureau may not exercise any rulemaking, supervisory, enforcement or other authority under this title with respect to a person who is a merchant, retailer, or seller of any nonfinancial good or service and is engaged in the sale or brokerage of such nonfinancial good or service, except to the extent that such person is engaged in offering or providing any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(2) OFFERING OR PROVISION OF CERTAIN CONSUMER FINANCIAL PRODUCTS OR SERVICES IN CONNECTION WITH THE SALE OR BROKERAGE OF NONFINANCIAL GOOD OR SERVICE.—

(A) IN GENERAL.— Except as provided in subparagraph (B), and subject to subparagraph (C), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a merchant, retailer, or seller of nonfinancial goods or services, but only to the extent that such person—

(i) extends credit directly to a consumer, in a case in which the good or service being provided is not itself a consumer financial product or service (other than credit described in this subparagraph), exclusively for the purpose of enabling that consumer to purchase such nonfinancial good or service directly from the merchant, retailer, or seller;

(ii) directly, or through an agreement with another person, collects debt arising from credit extended as described in clause (i); or

(iii) sells or conveys debt described in clause (i) that is delinquent or otherwise in default.

(B) APPLICABILITY.— Subparagraph (A) does not apply to any credit transaction or collection of debt, other than as described in subparagraph (C)(i), arising from a transaction described in subparagraph (A)—

(i) in which the merchant, retailer, or seller of nonfinancial goods or services assigns, sells or otherwise conveys to another person such debt owed by the consumer (except for a sale of debt that is delinquent or

otherwise in default, as described in subparagraph (A)(iii);

(ii) in which the credit extended significantly exceeds the market value of the nonfinancial good or service provided, or the Bureau otherwise finds that the sale of the nonfinancial good or service is done as a subterfuge, so as to evade or circumvent the provisions of this title; or

(iii) in which the merchant, retailer, or seller of nonfinancial goods or services regularly extends credit and the credit is subject to a finance charge.

(C) LIMITATIONS.—

(i) IN GENERAL.— Notwithstanding subparagraph (B), subparagraph (A) shall apply with respect to a merchant, retailer, or seller of nonfinancial goods or services that is not engaged significantly in offering or providing consumer financial products or services.

(ii) EXCEPTION.— Subparagraph (A) and clause (i) of this subparagraph do not apply to any merchant, retailer, or seller of nonfinancial goods or services—

(I) if such merchant, retailer, or seller of nonfinancial goods or services is engaged in a transaction described in subparagraph (B)(i) or (B)(ii); or

(II) to the extent that such merchant, retailer, or seller is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H, but the Bureau may exercise such authority only with respect to that law.

(D) RULES.—

(i) AUTHORITY OF OTHER AGENCIES.— No provision of this title shall be construed as modifying, limiting, or superseding the supervisory or enforcement authority of the Federal Trade Commission or any other agency (other than the Bureau) with respect to credit extended, or the collection of debt arising from such extension, directly by a merchant or retailer to a consumer exclusively for the purpose of enabling that consumer to purchase nonfinancial goods or services directly from the merchant or retailer.

(ii) SMALL BUSINESSES.— A merchant, retailer, or seller of nonfinancial goods or services that would otherwise be subject to the authority of the Bureau solely by virtue of the application of subparagraph (B)(iii) shall be deemed not to be engaged significantly in offering or providing consumer financial products or services under subparagraph (C)(i), if such person—

(I) only extends credit for the sale of nonfinancial goods or services, as described in subparagraph (A)(i);

(II) retains such credit on its own accounts (except to sell or convey such debt that is delinquent or otherwise in default); and

(III) meets the relevant industry size threshold to be a small business concern, based on annual receipts, pursuant to section 3 of the Small Business Act (15 U.S.C. 632) and the implementing rules thereunder.

(iii) INITIAL YEAR.— A merchant, retailer, or seller of nonfinancial goods or services shall be deemed to meet the relevant industry size threshold described in clause (ii)(III) during the first year of operations of that business concern if, during that year, the receipts of that business concern reasonably are expected to meet that size threshold.

(iv) OTHER STANDARDS FOR SMALL BUSINESS.— With respect to a merchant, retailer, or seller of nonfinancial goods or services that is classified on a basis other than annual receipts for the purposes of section 3 of the Small Business Act (15 U.S.C. 632) and the implementing rules thereunder, such merchant, retailer, or seller shall be deemed to meet the relevant industry size threshold described in clause (ii)(III) if such merchant, retailer, or seller meets the relevant industry size threshold to be a small business concern based on the number of employees, or other such applicable measure, established under that Act.

(E) EXCEPTION FROM STATE ENFORCEMENT.— To the extent that the Bureau may not exercise authority under this subsection with respect to a merchant, retailer, or seller of nonfinancial goods or services, no action by a State attorney general or State regulator with respect to a claim made under this title may be brought under subsection 1042(a), with respect to an activity described in any of clauses (i) through (iii) of subparagraph (A) by such merchant, retailer, or seller of nonfinancial goods or services.

(b) EXCLUSION FOR REAL ESTATE BROKERAGE ACTIVITIES.—

(1) REAL ESTATE BROKERAGE ACTIVITIES EXCLUDED.— Without limiting subsection (a), and except as permitted in paragraph (2), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a person that is licensed or registered as a real estate broker or real estate agent, in accordance with State law, to the extent that such person—

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

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

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

(D) offers to engage in any activity, or act in any capacity, described in subparagraph (A), (B), or (C).

(2) DESCRIPTION OF ACTIVITIES.— The Bureau may exercise rulemaking, supervisory, enforcement, or other authority under

this title with respect to a person described in paragraph (1) when such person is—

(A) engaged in an activity of offering or providing any consumer financial product or service, except that the Bureau may exercise such authority only with respect to that activity; or

(B) otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H, but the Bureau may exercise such authority only with respect to that law.

(c) EXCLUSION FOR MANUFACTURED HOME RETAILERS AND MODULAR HOME RETAILERS.—

(1) IN GENERAL.— The **[Director]** *Board* may not exercise any rulemaking, supervisory, enforcement, or other authority over a person to the extent that—

(A) such person is not described in paragraph (2); and

(B) such person—

(i) acts as an agent or broker for a buyer or seller of a manufactured home or a modular home;

(ii) facilitates the purchase by a consumer of a manufactured home or modular home, by negotiating the purchase price or terms of the sales contract (other than providing financing with respect to such transaction); or

(iii) offers to engage in any activity described in clause (i) or (ii).

(2) DESCRIPTION OF ACTIVITIES.— A person is described in this paragraph to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(3) DEFINITIONS.— For purposes of this subsection, the following definitions shall apply:

(A) MANUFACTURED HOME.— The term “manufactured home” has the same meaning as in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).

(B) MODULAR HOME.— The term “modular home” means a house built in a factory in 2 or more modules that meet the State or local building codes where the house will be located, and where such modules are transported to the building site, installed on foundations, and completed.

(d) EXCLUSION FOR ACCOUNTANTS AND TAX PREPARERS.—

(1) IN GENERAL.— Except as permitted in paragraph (2), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority over—

(A) any person that is a certified public accountant, permitted to practice as a certified public accounting firm, or certified or licensed for such purpose by a State, or any individual who is employed by or holds an ownership interest with respect to a person described in this subparagraph, when such person is performing or offering to perform—

(i) customary and usual accounting activities, including the provision of accounting, tax, advisory, or other services that are subject to the regulatory authority of a State board of accountancy or a Federal authority; or

(ii) other services that are incidental to such customary and usual accounting activities, to the extent that such incidental services are not offered or provided—

(I) by the person separate and apart from such customary and usual accounting activities; or

(II) to consumers who are not receiving such customary and usual accounting activities; or

(B) any person, other than a person described in subparagraph (A) that performs income tax preparation activities for consumers.

(2) DESCRIPTION OF ACTIVITIES.—

(A) IN GENERAL.— Paragraph (1) shall not apply to any person described in paragraph (1)(A) or (1)(B) to the extent that such person is engaged in any activity which is not a customary and usual accounting activity described in paragraph (1)(A) or incidental thereto but which is the offering or provision of any consumer financial product or service, except to the extent that a person described in paragraph (1)(A) is engaged in an activity which is a customary and usual accounting activity described in paragraph (1)(A), or incidental thereto.

(B) NOT A CUSTOMARY AND USUAL ACCOUNTING ACTIVITY.— For purposes of this subsection, extending or brokering credit is not a customary and usual accounting activity, or incidental thereto.

(C) RULE OF CONSTRUCTION.— For purposes of subparagraphs (A) and (B), a person described in paragraph (1)(A) shall not be deemed to be extending credit, if such person is only extending credit directly to a consumer, exclusively for the purpose of enabling such consumer to purchase services described in clause (i) or (ii) of paragraph (1)(A) directly from such person, and such credit is—

(i) not subject to a finance charge; and

(ii) not payable by written agreement in more than 4 installments.

(D) OTHER LIMITATIONS.— Paragraph (1) does not apply to any person described in paragraph (1)(A) or (1)(B) that is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(e) EXCLUSION FOR PRACTICE OF LAW.—

(1) IN GENERAL.— Except as provided under paragraph (2), the Bureau may not exercise any supervisory or enforcement authority with respect to an activity engaged in by an attorney as part of the practice of law under the laws of a State in which the attorney is licensed to practice law.

(2) RULE OF CONSTRUCTION.— Paragraph (1) shall not be construed so as to limit the exercise by the Bureau of any supervisory, enforcement, or other authority regarding the offer-

ing or provision of a consumer financial product or service described in any subparagraph of section 1002(5)—

(A) that is not offered or provided as part of, or incidental to, the practice of law, occurring exclusively within the scope of the attorney-client relationship; or

(B) that is otherwise offered or provided by the attorney in question with respect to any consumer who is not receiving legal advice or services from the attorney in connection with such financial product or service.

(3) EXISTING AUTHORITY.— Paragraph (1) shall not be construed so as to limit the authority of the Bureau with respect to any attorney, to the extent that such attorney is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H.

(f) EXCLUSION FOR PERSONS REGULATED BY A STATE INSURANCE REGULATOR.—

(1) IN GENERAL.— No provision of this title shall be construed as altering, amending, or affecting the authority of any State insurance regulator to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by a State insurance regulator. Except as provided in paragraph (2), the Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by a State insurance regulator.

(2) DESCRIPTION OF ACTIVITIES.— Paragraph (1) does not apply to any person described in such paragraph to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(3) STATE INSURANCE AUTHORITY UNDER GRAMM-LEACH-BLILEY.— Notwithstanding paragraph (2), the Bureau shall not exercise any authorities that are granted a State insurance authority under section 505(a)(6) of the Gramm-Leach-Bliley Act with respect to a person regulated by a State insurance authority.

(g) EXCLUSION FOR EMPLOYEE BENEFIT AND COMPENSATION PLANS AND CERTAIN OTHER ARRANGEMENTS UNDER THE INTERNAL REVENUE CODE OF 1986.—

(1) PRESERVATION OF AUTHORITY OF OTHER AGENCIES.— No provision of this title shall be construed as altering, amending, or affecting the authority of the Secretary of the Treasury, the Secretary of Labor, or the Commissioner of Internal Revenue to adopt regulations, initiate enforcement proceedings, or take any actions with respect to any specified plan or arrangement.

(2) ACTIVITIES NOT CONSTITUTING THE OFFERING OR PROVISION OF ANY CONSUMER FINANCIAL PRODUCT OR SERVICE.— For purposes of this title, a person shall not be treated as having engaged in the offering or provision of any consumer financial product or service solely because such person is—

(A) a specified plan or arrangement;

(B) engaged in the activity of establishing or maintaining, for the benefit of employees of such person (or for members of an employee organization), any specified plan or arrangement; or

(C) engaged in the activity of establishing or maintaining a qualified tuition program under section 529(b)(1) of the Internal Revenue Code of 1986 offered by a State or other prepaid tuition program offered by a State.

(3) LIMITATION ON BUREAU AUTHORITY.—

(A) IN GENERAL.— Except as provided under subparagraphs (B) and (C), the Bureau may not exercise any rule-making or enforcement authority with respect to products or services that relate to any specified plan or arrangement.

(B) BUREAU ACTION PURSUANT TO AGENCY REQUEST.—

(i) AGENCY REQUEST.— The Secretary and the Secretary of Labor may jointly issue a written request to the Bureau regarding implementation of appropriate consumer protection standards under this title with respect to the provision of services relating to any specified plan or arrangement.

(ii) AGENCY RESPONSE.— In response to a request by the Bureau, the Secretary and the Secretary of Labor shall jointly issue a written response, not later than 90 days after receipt of such request, to grant or deny the request of the Bureau regarding implementation of appropriate consumer protection standards under this title with respect to the provision of services relating to any specified plan or arrangement.

(iii) SCOPE OF BUREAU ACTION.— Subject to a request or response pursuant to clause (i) or clause (ii) by the agencies made under this subparagraph, the Bureau may exercise rulemaking authority, and may act to enforce a rule prescribed pursuant to such request or response, in accordance with the provisions of this title. A request or response made by the Secretary and the Secretary of Labor under this subparagraph shall describe the basis for, and scope of, appropriate consumer protection standards to be implemented under this title with respect to the provision of services relating to any specified plan or arrangement.

(C) DESCRIPTION OF PRODUCTS OR SERVICES.— To the extent that a person engaged in providing products or services relating to any specified plan or arrangement is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H, subparagraph (A) shall not apply with respect to that law.

(4) SPECIFIED PLAN OR ARRANGEMENT.— For purposes of this subsection, the term “specified plan or arrangement” means any plan, account, or arrangement described in section 220, 223, 401(a), 403(a), 403(b), 408, 408A, 529, 529A, or 530 of the Internal Revenue Code of 1986, or any employee benefit or compensation plan or arrangement, including a plan that is subject to title I of the Employee Retirement Income Security Act of 1974, or any prepaid tuition program offered by a State.

(h) PERSONS REGULATED BY A STATE SECURITIES COMMISSION.—

(1) IN GENERAL.— No provision of this title shall be construed as altering, amending, or affecting the authority of any

securities commission (or any agency or office performing like functions) of any State to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by any securities commission (or any agency or office performing like functions) of any State. Except as permitted in paragraph (2) and subsection (f), the Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by any securities commission (or any agency or office performing like functions) of any State, but only to the extent that the person acts in such regulated capacity.

(2) DESCRIPTION OF ACTIVITIES.— Paragraph (1) shall not apply to any person to the extent such person is engaged in the offering or provision of any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(i) EXCLUSION FOR PERSONS REGULATED BY THE COMMISSION.—

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

(2) CONSULTATION AND COORDINATION.— Notwithstanding paragraph (1), the Commission shall consult and coordinate, where feasible, with the Bureau with respect to any rule (including any advance notice of proposed rulemaking) regarding an investment product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Bureau under this title or under any other law. In carrying out this paragraph, the agencies shall negotiate an agreement to establish procedures for such coordination, including procedures for providing advance notice to the Bureau when the Commission is initiating a rulemaking.

(j) EXCLUSION FOR PERSONS REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—

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

(2) CONSULTATION AND COORDINATION.— Notwithstanding paragraph (1), the Commodity Futures Trading Commission shall consult and coordinate with the Bureau with respect to any rule (including any advance notice of proposed rulemaking) regarding a product or service that is the same type of product as, or that competes directly with, a consumer financial prod-

uct or service that is subject to the jurisdiction of the Bureau under this title or under any other law.

(k) EXCLUSION FOR PERSONS REGULATED BY THE FARM CREDIT ADMINISTRATION.—

(1) IN GENERAL.— No provision of this title shall be construed as altering, amending, or affecting the authority of the Farm Credit Administration to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Farm Credit Administration. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Farm Credit Administration.

(2) DEFINITION.— For purposes of this subsection, the term “person regulated by the Farm Credit Administration” means any Farm Credit System institution that is chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

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

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

(2) LIMITATION.— The exclusion in paragraph (1) does not apply to other activities not described in paragraph (1) that are the offering or provision of any consumer financial product or service, or are otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(m) INSURANCE.—The Bureau may not define as a financial product or service, by regulation or otherwise, engaging in the business of insurance.

(n) LIMITED AUTHORITY OF THE BUREAU.—Notwithstanding subsections (a) through (h) and (l), a person subject to or described in one or more of such provisions—

(1) may be a service provider; and

(2) may be subject to requests from, or requirements imposed by, the Bureau regarding information in order to carry out the responsibilities and functions of the Bureau and in accordance with section 1022, 1052, or 1053.

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

(p) ATTORNEY GENERAL.—No provision of this title, including section 1024(c)(1), shall affect the authorities of the Attorney General under otherwise applicable provisions of law.

(q) SECRETARY OF THE TREASURY.—No provision of this title shall affect the authorities of the Secretary, including with respect to prescribing rules, initiating enforcement proceedings, or taking other actions with respect to a person that performs income tax preparation activities for consumers.

(r) DEPOSIT INSURANCE AND SHARE INSURANCE.—Nothing in this title shall affect the authority of the Corporation under the Federal Deposit Insurance Act or the National Credit Union Administration Board under the Federal Credit Union Act as to matters related to deposit insurance and share insurance, respectively.

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

SEC. 1028. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.

(a) STUDY AND REPORT.—The Bureau shall conduct a study of, and shall provide a report to Congress concerning, the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services.

(b) FURTHER AUTHORITY.—The Bureau, by regulation, may prohibit or impose conditions or limitations on the use of an agreement between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future dispute between the parties, if the Bureau finds that such a prohibition or imposition of conditions or limitations is in the public interest and for the protection of consumers. The findings in such rule shall be consistent with the study conducted under subsection (a).

(c) LIMITATION.—The authority described in subsection (b) may not be construed to prohibit or restrict a consumer from entering into a voluntary arbitration agreement with a covered person after a dispute has arisen.

(d) EFFECTIVE DATE.—Notwithstanding any other provision of law, any regulation prescribed by the Bureau under subsection (b) shall apply, consistent with the terms of the regulation, to any agreement between a consumer and a covered person entered into after the end of the 180-day period beginning on the effective date of the regulation, as established by the Bureau.

SEC. 1029. EXCLUSION FOR AUTO DEALERS.

(a) SALE, SERVICING, AND LEASING OF MOTOR VEHICLES EXCLUDED.—Except as permitted in subsection (b), the Bureau may not exercise any rulemaking, supervisory, enforcement or any other authority, including any authority to order assessments, over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) CERTAIN FUNCTIONS EXCEPTED.—Subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages or self-financing transactions involving real property;

(2) operates a line of business—

(A) that involves the extension of retail credit or retail leases involving motor vehicles; and

(B) in which—

(i) the extension of retail credit or retail leases are provided directly to consumers; and

(ii) the contract governing such extension of retail credit or retail leases is not routinely assigned to an unaffiliated third party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) PRESERVATION OF AUTHORITIES OF OTHER AGENCIES.—Except as provided in subsections (b) and (d), nothing in this title, including subtitle F, shall be construed as modifying, limiting, or superseding the operation of any provision of Federal law, or otherwise affecting the authority of the Board of Governors, the Federal Trade Commission, or any other Federal agency, with respect to a person described in subsection (a).

(d) FEDERAL TRADE COMMISSION AUTHORITY.—Notwithstanding section 18 of the Federal Trade Commission Act, the Federal Trade Commission is authorized to prescribe rules under sections 5 and 18(a)(1)(B) of the Federal Trade Commission Act. in accordance with section 553 of title 5, United States Code, with respect to a person described in subsection (a).

(e) COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

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

(1) MOTOR VEHICLE.— The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) MOTOR VEHICLE DEALER.— The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who—

(A) is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles; and

(B) takes title to, holds an ownership in, or takes physical custody of motor vehicles.

SEC. 1029A. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date, except that sections 1022, 1024, and 1025(e) shall become effective on the date of enactment of this Act.

Subtitle C—Specific Bureau Authorities

SEC. 1031. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR PRACTICES.

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

(b) **RULEMAKING.**—The Bureau may prescribe rules applicable to a covered person or service provider identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Rules under this section may include requirements for the purpose of preventing such acts or practices.

(c) **UNFAIRNESS.**—

(1) **IN GENERAL.**— The Bureau shall have no authority under this section to declare an act or practice in connection with a transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service, to be unlawful on the grounds that such act or practice is unfair, unless the Bureau has a reasonable basis to conclude that—

(A) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and

(B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition.

(2) **CONSIDERATION OF PUBLIC POLICIES.**— In determining whether an act or practice is unfair, the Bureau may consider established public policies as evidence to be considered with all other evidence. Such public policy considerations may not serve as a primary basis for such determination.

(d) **ABUSIVE.**—The Bureau shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice—

(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or

(2) takes unreasonable advantage of—

(A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;

(B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or

(C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

(e) **CONSULTATION.**—In prescribing rules under this section, the Bureau shall consult with the Federal banking agencies, or other Federal agencies, as appropriate, concerning the consistency of the proposed rule with prudential, market, or systemic objectives administered by such agencies.

(f) **CONSIDERATION OF SEASONAL INCOME.**—The rules of the Bureau under this section shall provide, with respect to an extension of credit secured by residential real estate or a dwelling, if documented income of the borrower, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, the creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.

SEC. 1032. DISCLOSURES.

(a) **IN GENERAL.**—The Bureau may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.

(b) **MODEL DISCLOSURES.**—

(1) **IN GENERAL.**— Any final rule prescribed by the Bureau under this section requiring disclosures may include a model form that may be used at the option of the covered person for provision of the required disclosures.

(2) **FORMAT.**— A model form issued pursuant to paragraph (1) shall contain a clear and conspicuous disclosure that, at a minimum—

(A) uses plain language comprehensible to consumers;

(B) contains a clear format and design, such as an easily readable type font; and

(C) succinctly explains the information that must be communicated to the consumer.

(3) **CONSUMER TESTING.**— Any model form issued pursuant to this subsection shall be validated through consumer testing.

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

(d) **SAFE HARBOR.**—Any covered person that uses a model form included with a rule issued under this section shall be deemed to be in compliance with the disclosure requirements of this section with respect to such model form.

(e) **TRIAL DISCLOSURE PROGRAMS.**—

(1) **IN GENERAL.**— The Bureau may permit a covered person to conduct a trial program that is limited in time and scope, subject to specified standards and procedures, for the purpose of providing trial disclosures to consumers that are designed to improve upon any model form issued pursuant to subsection (b)(1), or any other model form issued to implement an enumerated statute, as applicable.

(2) **SAFE HARBOR.**— The standards and procedures issued by the Bureau shall be designed to encourage covered persons to conduct trial disclosure programs. For the purposes of administering this subsection, the Bureau may establish a limited period during which a covered person conducting a trial disclosure program shall be deemed to be in compliance with, or may be exempted from, a requirement of a rule or an enumerated consumer law.

(3) **PUBLIC DISCLOSURE.**— The rules of the Bureau shall provide for public disclosure of trial disclosure programs, which public disclosure may be limited, to the extent necessary to encourage covered persons to conduct effective trials.

(f) **COMBINED MORTGAGE LOAN DISCLOSURE.**—Not later than 1 year after the designated transfer date, the Bureau shall propose for public comment rules and model disclosures that combine the disclosures required under the Truth in Lending Act and sections 4 and 5 of the Real Estate Settlement Procedures Act of 1974, into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Bureau determines that any proposal issued by the Board of Governors and the Secretary of Housing and Urban Development carries out the same purpose.

SEC. 1033. CONSUMER RIGHTS TO ACCESS INFORMATION.

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

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

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

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

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

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

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

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

(e) **CONSULTATION.**—The Bureau shall, when prescribing any rule under this section, consult with the Federal banking agencies and the Federal Trade Commission to ensure, to the extent appropriate, that the rules—

(1) impose substantively similar requirements on covered persons;

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

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

SEC. 1034. RESPONSE TO CONSUMER COMPLAINTS AND INQUIRIES.

(a) **TIMELY REGULATOR RESPONSE TO CONSUMERS.**—The Bureau shall establish, in consultation with the appropriate Federal regulatory agencies, reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against, or inquiries concerning, a covered person, including—

(1) steps that have been taken by the regulator in response to the complaint or inquiry of the consumer;

(2) any responses received by the regulator from the covered person; and

(3) any follow-up actions or planned follow-up actions by the regulator in response to the complaint or inquiry of the consumer.

(b) **TIMELY RESPONSE TO REGULATOR BY COVERED PERSON.**—A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 shall provide a timely response, in writing where appropriate, to the Bureau, the prudential regulators, and any other agency having jurisdiction over such covered person concerning a consumer complaint or inquiry, including—

(1) steps that have been taken by the covered person to respond to the complaint or inquiry of the consumer;

(2) responses received by the covered person from the consumer; and

(3) follow-up actions or planned follow-up actions by the covered person to respond to the complaint or inquiry of the consumer.

(c) **PROVISION OF INFORMATION TO CONSUMERS.**—

(1) **IN GENERAL.**— A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 shall, in a timely manner, comply with a consumer request for information in the control or possession of such covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including supporting written documentation, concerning the account of the consumer.

(2) **EXCEPTIONS.**— A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025, a prudential regulator, and any other agency having ju-

jurisdiction over a covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 may not be required by this section to make available to the consumer—

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

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

(C) any information required to be kept confidential by any other provision of law; or

(D) any nonpublic or confidential information, including confidential supervisory information.

(d) **AGREEMENTS WITH OTHER AGENCIES.**—The Bureau shall enter into a memorandum of understanding with any affected Federal regulatory agency regarding procedures by which any covered person, and the prudential regulators, and any other agency having jurisdiction over a covered person, including the Secretary of the Department of Housing and Urban Development and the Secretary of Education, shall comply with this section.

SEC. 1035. PRIVATE EDUCATION LOAN OMBUDSMAN.

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

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

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

(1) in accordance with regulations of the **[Director] Board**, receive, review, and attempt to resolve informally complaints from borrowers of loans described in subsection (a), including, as appropriate, attempts to resolve such complaints in collaboration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs;

(2) not later than 90 days after the designated transfer date, establish a memorandum of understanding with the student loan ombudsman established under section 141(f) of the Higher Education Act of 1965 (20 U.S.C. 1018(f)), to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans;

(3) compile and analyze data on borrower complaints regarding private education loans; and

(4) make appropriate recommendations to the **[Director] Board**, the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Com-

mittee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

(d) ANNUAL REPORTS.—

(1) IN GENERAL.— The Ombudsman shall prepare an annual report that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

(2) SUBMISSION.— The report required by paragraph (1) shall be submitted on the same date annually to the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

(e) DEFINITIONS.—For purposes of this section, the terms “private education loan” and “institution of higher education” have the same meanings as in section 140 of the Truth in Lending Act (15 U.S.C. 1650).

SEC. 1036. PROHIBITED ACTS.

(a) IN GENERAL.—It shall be unlawful for—

(1) any covered person or service provider—

(A) to offer or provide to a consumer any financial product or service not in conformity with Federal consumer financial law, or otherwise commit any act or omission in violation of a Federal consumer financial law; or

(B) to engage in any unfair, deceptive, or abusive act or practice;

(2) any covered person or service provider to fail or refuse, as required by Federal consumer financial law, or any rule or order issued by the Bureau thereunder—

(A) to permit access to or copying of records;

(B) to establish or maintain records; or

(C) to make reports or provide information to the Bureau; or

(3) any person to knowingly or recklessly provide substantial assistance to a covered person or service provider in violation of the provisions of section 1031, or any rule or order issued thereunder, and notwithstanding any provision of this title, the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.

(b) EXCEPTION.—No person shall be held to have violated subsection (a)(1) solely by virtue of providing or selling time or space to a covered person or service provider placing an advertisement.

SEC. 1037. EFFECTIVE DATE.

This subtitle shall take effect on the designated transfer date.

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Subtitle F—Transfer of Functions and Personnel; Transitional Provisions

SEC. 1061. TRANSFER OF CONSUMER FINANCIAL PROTECTION FUNCTIONS.

(a) **DEFINED TERMS.**—For purposes of this subtitle—

(1) the term “consumer financial protection functions” means—

(A) all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and guidelines; and

(B) the examination authority described in subsection (c)(1), with respect to a person described in subsection 1025(a); and

(2) the terms “transferor agency” and “transferor agencies” mean, respectively—

(A) the Board of Governors (and any Federal reserve bank, as the context requires), the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Department of Housing and Urban Development, and the heads of those agencies; and

(B) the agencies listed in subparagraph (A), collectively.

(b) **IN GENERAL.**—Except as provided in subsection (c), 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 Bureau.

(B) **BOARD OF GOVERNORS AUTHORITY.**— The Bureau 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 Bureau.

(B) **COMPTROLLER AUTHORITY.**— The Bureau 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 Bureau.

(B) **DIRECTOR AUTHORITY.**— The Bureau shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision, relating to consumer financial protection functions, on the day before the designated transfer date.

(4) **FEDERAL DEPOSIT INSURANCE CORPORATION.**—

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

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

(5) FEDERAL TRADE COMMISSION.—

(A) TRANSFER OF FUNCTIONS.— The authority of the Federal Trade Commission under an enumerated consumer law to prescribe rules, issue guidelines, or conduct a study or issue a report mandated under such law shall be transferred to the Bureau on the designated transfer date. Nothing in this title shall be construed to require a mandatory transfer of any employee of the Federal Trade Commission.

(B) BUREAU AUTHORITY.—

(i) IN GENERAL.— The Bureau shall have all powers and duties under the enumerated consumer laws to prescribe rules, issue guidelines, or to conduct studies or issue reports mandated by such laws, that were vested in the Federal Trade Commission on the day before the designated transfer date.

(ii) FEDERAL TRADE COMMISSION ACT.— Subject to subtitle B, the Bureau may enforce a rule prescribed under the Federal Trade Commission Act by the Federal Trade Commission with respect to an unfair or deceptive act or practice to the extent that such rule applies to a covered person or service provider with respect to the offering or provision of a consumer financial product or service as if it were a rule prescribed under section 1031 of this title.

(C) AUTHORITY OF THE FEDERAL TRADE COMMISSION.—

(i) IN GENERAL.— No provision of this title shall be construed as modifying, limiting, or otherwise affecting the authority of the Federal Trade Commission (including its authority with respect to affiliates described in section 1025(a)(1)) under the Federal Trade Commission Act or any other law, other than the authority under an enumerated consumer law to prescribe rules, issue official guidelines, or conduct a study or issue a report mandated under such law.

(ii) COMMISSION AUTHORITY RELATING TO RULES PRESCRIBED BY THE BUREAU.— Subject to subtitle B, the Federal Trade Commission shall have authority to enforce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) a rule prescribed by the Bureau under this title with respect to a covered person subject to the jurisdiction of the Federal Trade Commission under that Act, and a violation of such a rule by such a person shall be treated as a violation of a rule issued under section 18 of that Act (15 U.S.C. 57a) with respect to unfair or deceptive acts or practices.

(D) COORDINATION.— To avoid duplication of or conflict between rules prescribed by the Bureau under section 1031 of this title and the Federal Trade Commission under section 18(a)(1)(B) of the Federal Trade Commission Act that apply to a covered person or service provider with respect to the offering or provision of consumer financial products or services, the agencies shall negotiate an agreement with respect to rulemaking by each agency, including consultation with the other agency prior to proposing a rule and during the comment period.

(E) DEFERENCE.— No provision of this title shall be construed as altering, limiting, expanding, or otherwise affecting the deference that a court affords to the—

(i) Federal Trade Commission in making determinations regarding the meaning or interpretation of any provision of the Federal Trade Commission Act, or of any other Federal law for which the Commission has authority to prescribe rules; or

(ii) Bureau in making determinations regarding the meaning or interpretation of any provision of a Federal consumer financial law (other than any law described in clause (i)).

(6) NATIONAL CREDIT UNION ADMINISTRATION.—

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

(B) NATIONAL CREDIT UNION ADMINISTRATION AUTHORITY.— The Bureau shall have all powers and duties that were vested in the National Credit Union Administration, relating to consumer financial protection functions, on the day before the designated transfer date.

(7) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(A) TRANSFER OF FUNCTIONS.— All consumer protection functions of the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.), the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102 et seq.), and the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) are transferred to the Bureau.

(B) AUTHORITY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.— The Bureau shall have all powers and duties that were vested in the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.), the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.), and the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.), on the day before the designated transfer date.

(c) AUTHORITIES OF THE PRUDENTIAL REGULATORS.—

(1) EXAMINATION.— A transferor agency that is a prudential regulator shall have—

(A) authority to require reports from and conduct examinations for compliance with Federal consumer financial

laws with respect to a person described in section 1025(a), that is incidental to the backup and enforcement procedures provided to the regulator under section 1025(c); and

(B) exclusive authority (relative to the Bureau) to require reports from and conduct examinations for compliance with Federal consumer financial laws with respect to a person described in section 1026(a), except as provided to the Bureau under subsections (b) and (c) of section 1026.

(2) ENFORCEMENT.—

(A) LIMITATION.— The authority of a transferor agency that is a prudential regulator to enforce compliance with Federal consumer financial laws with respect to a person described in section 1025(a), shall be limited to the backup and enforcement procedures in described in section 1025(c).

(B) EXCLUSIVE AUTHORITY.— A transferor agency that is a prudential regulator shall have exclusive authority (relative to the Bureau) to enforce compliance with Federal consumer financial laws with respect to a person described in section 1026(a), except as provided to the Bureau under subsections (b) and (c) of section 1026.

(C) STATUTORY ENFORCEMENT.— For purposes of carrying out the authorities under, and subject to the limitations of, subtitle B, each prudential regulator may enforce compliance with the requirements imposed under this title, and any rule or order prescribed by the Bureau under this title, under—

(i) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the National Credit Union Administration Board with respect to any covered person or service provider that is an insured credit union, or service provider thereto, or any affiliate of an insured credit union, who is subject to the jurisdiction of **the Board** *the National Credit Union Administration Board* under that Act; and

(ii) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to a covered person or service provider that is a person described in section 3(q) of that Act and who is subject to the jurisdiction of that agency, as set forth in sections 3(q) and 8 of the Federal Deposit Insurance Act; or

(iii) the Bank Service Company Act (12 U.S.C. 1861 et seq.).

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

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SEC. 1066. INTERIM AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to perform the functions of the Bureau under this subtitle until the *first* Director

of the Bureau is confirmed by the Senate in accordance with section 1011.

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

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Subtitle G—Regulatory Improvements

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SEC. 1073. REMITTANCE TRANSFERS.

(a) [Omitted—Amends other Act]

(b) AUTOMATED CLEARINGHOUSE SYSTEM.—

(1) EXPANSION OF SYSTEM.— The Board of Governors shall work with the Federal reserve banks and the Department of the Treasury to expand the use of the automated clearinghouse system and other payment mechanisms for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States, based on—

- (A) the number, volume, and size of such transfers;
- (B) the significance of the volume of such transfers relative to the external financial flows of the receiving country, including—

- (i) the total amount transferred; and
- (ii) the total volume of payments made by United States Government agencies to beneficiaries and retirees living abroad;

(C) the feasibility of such an expansion; and

(D) the ability of the Federal Reserve System to establish payment gateways in different geographic regions and currency zones to receive remittance transfers and route them through the payments systems in the destination countries.

(2) REPORT TO CONGRESS.— Not later than one calendar year after the date of enactment of this Act, and on April 30 biennially thereafter during the 10-year period beginning on that date of enactment, the Board of Governors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this subsection. The report shall include an analysis of adoption rates of International ACH Transactions rules and formats, the efficacy of increasing adoption rates, and potential recommendations to increase adoption.

(c) EXPANSION OF FINANCIAL INSTITUTION PROVISION OF REMITTANCE TRANSFERS.—

(1) PROVISION OF GUIDELINES TO INSTITUTIONS.— Each of the Federal banking agencies and the National Credit Union Administration shall provide guidelines to financial institutions under the jurisdiction of the agency regarding the offering of low-cost remittance transfers and no-cost or low-cost basic con-

sumer accounts, as well as agency services to remittance transfer providers.

(2) ASSISTANCE TO FINANCIAL LITERACY COMMISSION.— As part of its duties as members of the Financial Literacy and Education Commission, the Bureau, the Federal banking agencies, and the National Credit Union Administration shall assist the Financial Literacy and Education Commission in executing the Strategy for Assuring Financial Empowerment (or the “SAFE Strategy”), as it relates to remittances.

* * * * *

SEC. 1076. REVERSE MORTGAGE STUDY AND REGULATIONS.

(a) STUDY.—Not later than 1 year after the designated transfer date, the Bureau shall conduct a study on reverse mortgage transactions.

(b) REGULATIONS.—

(1) IN GENERAL.— If the Bureau determines through the study required under subsection (a) that conditions or limitations on reverse mortgage transactions are necessary or appropriate for accomplishing the purposes and objectives of this title, including protecting borrowers with respect to the obtaining of reverse mortgage loans for the purpose of funding investments, annuities, and other investment products and the suitability of a borrower in obtaining a reverse mortgage for such purpose.

(2) IDENTIFIED PRACTICES AND INTEGRATED DISCLOSURES.— The regulations prescribed under paragraph (1) may, as the Bureau may so determine—

(A) identify any practice as unfair, deceptive, or abusive in connection with a reverse mortgage transaction; and

(B) provide for an integrated disclosure standard and model disclosures for reverse mortgage transactions, consistent with section 4302(d), that combines the relevant disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act, with the disclosures required to be provided to consumers for Home Equity Conversion Mortgages under section 255 of the National Housing Act.

(c) RULE OF CONSTRUCTION.—This section shall not be construed as limiting the authority of the Bureau to issue regulations, orders, or guidance that apply to reverse mortgages prior to the completion of the study required under subsection (a).

* * * * *

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

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

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

(1) recommendations for legislation to ensure the appropriate protection of consumers who use exchange facilitators for

transactions primarily for personal, family, or household purposes;

(2) recommendations for updating the regulations of Federal departments and agencies to ensure the appropriate protection of such consumers; and

(3) recommendations for regulations to ensure the appropriate protection of such consumers.

(c) PROGRAM.—Not later than 2 years after the date of the submission of the report under subsection (b), the Bureau shall, consistent with subtitle B, propose regulations or otherwise establish a program to protect consumers who use exchange facilitators.

(d) EXCHANGE FACILITATOR DEFINED.—In this section, the term “exchange facilitator” means a person that—

(1) facilitates, for a fee, an exchange of like kind property by entering into an agreement with a taxpayer by which the exchange facilitator acquires from the taxpayer the contractual rights to sell the taxpayer’s relinquished property and transfers a replacement property to the taxpayer as a qualified intermediary (within the meaning of Treasury Regulations section 1.1031(k)-1(g)(4)) or enters into an agreement with the taxpayer to take title to a property as an exchange accommodation titleholder (within the meaning of Revenue Procedure 2000-37) or enters into an agreement with a taxpayer to act as a qualified trustee or qualified escrow holder (within the meaning of Treasury Regulations section 1.1031(k)-1(g)(3));

(2) maintains an office for the purpose of soliciting business to perform the services described in paragraph (1); or

(3) advertises any of the services described in paragraph (1) or solicits clients in printed publications, direct mail, television or radio advertisements, telephone calls, facsimile transmissions, or other electronic communications directed to the general public for purposes of providing any such services.

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FINANCIAL STABILITY ACT OF 2010

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TITLE I—FINANCIAL STABILITY

* * * * *

Subtitle A—Financial Stability Oversight Council

SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.

(a) ESTABLISHMENT.—Effective on the date of enactment of this Act, there is established the Financial Stability Oversight Council.

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

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

- (A) the Secretary of the Treasury, who shall serve as Chairperson of the Council;
 - (B) the Chairman of the Board of Governors;
 - (C) the Comptroller of the Currency;
 - (D) the **【Director of the Bureau】** *Chairperson of the Board of Directors of the Bureau* ;
 - (E) the Chairman of the Commission;
 - (F) the Chairperson of the Corporation;
 - (G) the Chairperson of the Commodity Futures Trading Commission;
 - (H) the Director of the Federal Housing Finance Agency;
 - (I) the Chairman of the National Credit Union Administration Board; and
 - (J) an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise.
- (2) NONVOTING MEMBERS.— The nonvoting members, who shall serve in an advisory capacity as a nonvoting member of the Council, shall be—
- (A) the Director of the Office of Financial Research;
 - (B) the Director of the Federal Insurance Office;
 - (C) a State insurance commissioner, to be designated by a selection process determined by the State insurance commissioners;
 - (D) a State banking supervisor, to be designated by a selection process determined by the State banking supervisors; and
 - (E) a State securities commissioner (or an officer performing like functions), to be designated by a selection process determined by such State securities commissioners.
- (3) NONVOTING MEMBER PARTICIPATION.— The nonvoting members of the Council shall not be excluded from any of the proceedings, meetings, discussions, or deliberations of the Council, except that the Chairperson may, upon an affirmative vote of the member agencies, exclude the nonvoting members from any of the proceedings, meetings, discussions, or deliberations of the Council when necessary to safeguard and promote the free exchange of confidential supervisory information.
- (c) TERMS; VACANCY.—
- (1) TERMS.— The independent member of the Council shall serve for a term of 6 years, and each nonvoting member described in subparagraphs (C), (D), and (E) of subsection (b)(2) shall serve for a term of 2 years.
 - (2) VACANCY.— Any vacancy on the Council shall be filled in the manner in which the original appointment was made.
 - (3) ACTING OFFICIALS MAY SERVE.— In the event of a vacancy in the office of the head of a member agency or department, and pending the appointment of a successor, or during the absence or disability of the head of a member agency or department, the acting head of the member agency or department shall serve as a member of the Council in the place of that agency or department head.
- (d) TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES.—The Council may appoint such special advisory, technical, or profes-

sional committees as may be useful in carrying out the functions of the Council, including an advisory committee consisting of State regulators, and the members of such committees may be members of the Council, or other persons, or both.

(e) MEETINGS.—

(1) TIMING.— The Council shall meet at the call of the Chairperson or a majority of the members then serving, but not less frequently than quarterly.

(2) RULES FOR CONDUCTING BUSINESS.— The Council shall adopt such rules as may be necessary for the conduct of the business of the Council. Such rules shall be rules of agency organization, procedure, or practice for purposes of section 553 of title 5, United States Code.

(f) VOTING.—Unless otherwise specified, the Council shall make all decisions that it is authorized or required to make by a majority vote of the voting members then serving.

(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council, or to any special advisory, technical, or professional committee appointed by the Council, except that, if an advisory, technical, or professional committee has one or more members who are not employees of or affiliated with the United States Government, the Council shall publish a list of the names of the members of such committee.

(h) ASSISTANCE FROM FEDERAL AGENCIES.—Any department or agency of the United States may provide to the Council and any special advisory, technical, or professional committee appointed by the Council, such services, funds, facilities, staff, and other support services as the Council may determine advisable.

(i) COMPENSATION OF MEMBERS.—

(1) FEDERAL EMPLOYEE MEMBERS.— All members of the Council who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) COMPENSATION FOR NON-FEDERAL MEMBER.— Section 5314 of title 5, United States Code, is amended by adding at the end the following:“Independent Member of the Financial Stability Oversight Council (1).”.

(j) DETAIL OF GOVERNMENT EMPLOYEES.—Any employee of the Federal Government may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. An employee of the Federal Government detailed to the Council shall report to and be subject to oversight by the Council during the assignment to the Council, and shall be compensated by the department or agency from which the employee was detailed.

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MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT

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TITLE XIV—MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT

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Subtitle D—Office of Housing Counseling

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SEC. 1447. DEFAULT AND FORECLOSURE DATABASE.

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

(b) **CENSUS TRACT DATA.**—Information in the database may be collected, aggregated, and made available on a census tract basis.

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

- (1) the number and percentage of such mortgage loans that are delinquent by more than 30 days;
- (2) the number and percentage of such mortgage loans that are delinquent by more than 90 days;
- (3) the number and percentage of such properties that are real estate-owned;
- (4) number and percentage of such mortgage loans that are in the foreclosure process;
- (5) the number and percentage of such mortgage loans that have an outstanding principal obligation amount that is greater than the value of the property for which the loan was made; and

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

(d) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to encourage discriminatory or unsound allocation of credit or lending policies or practices.

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

- (1) be subject to the standards applicable to Federal agencies for the protection of the confidentiality of personally identifiable information and for data security and integrity;
- (2) implement the necessary measures to conform to the standards for data integrity and security described in paragraph (1); and
- (3) collect and make available information under this section, in accordance with paragraphs (5) and (6) of section 1022(c)

and the rules prescribed under such paragraphs, in order to protect privacy and confidentiality.

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SECTION 920 OF THE ELECTRONIC FUND TRANSFER ACT

SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.

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

(1) REGULATORY AUTHORITY OVER INTERCHANGE TRANSACTION FEES.— The Board may prescribe regulations, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction, to implement this subsection (including related definitions), and to prevent circumvention or evasion of this subsection.

(2) REASONABLE INTERCHANGE TRANSACTION FEES.— The amount of any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction shall be reasonable and proportional to the cost incurred by the issuer with respect to the transaction.

(3) RULEMAKING REQUIRED.—

(A) IN GENERAL.— The Board shall prescribe regulations in final form not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the cost incurred by the issuer with respect to the transaction.

(B) INFORMATION COLLECTION.— The Board may require any issuer (or agent of an issuer) or payment card network to provide the Board with such information as may be necessary to carry out the provisions of this subsection and the Board, in issuing rules under subparagraph (A) and on at least a bi-annual basis thereafter, shall disclose such aggregate or summary information concerning the costs incurred, and interchange transaction fees charged or received, by issuers or payment card networks in connection with the authorization, clearance or settlement of electronic debit transactions as the Board considers appropriate and in the public interest.

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

(A) consider the functional similarity between—

(i) electronic debit transactions; and

(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;

(B) distinguish between—

(i) the incremental cost incurred by an issuer for the role of the issuer in the authorization, clearance, or settlement of a particular electronic debit transaction,

which cost shall be considered under paragraph (2); and

(ii) other costs incurred by an issuer which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and

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

(5) ADJUSTMENTS TO INTERCHANGE TRANSACTION FEES FOR FRAUD PREVENTION COSTS.—

(A) ADJUSTMENTS.— The Board may allow for an adjustment to the fee amount received or charged by an issuer under paragraph (2), if—

(i) such adjustment is reasonably necessary to make allowance for costs incurred by the issuer in preventing fraud in relation to electronic debit transactions involving that issuer; and

(ii) the issuer complies with the fraud-related standards established by the Board under subparagraph (B), which standards shall—

(I) be designed to ensure that any fraud-related adjustment of the issuer is limited to the amount described in clause (i) and takes into account any fraud-related reimbursements (including amounts from charge-backs) received from consumers, merchants, or payment card networks in relation to electronic debit transactions involving the issuer; and

(II) require issuers to take effective steps to reduce the occurrence of, and costs from, fraud in relation to electronic debit transactions, including through the development and implementation of cost-effective fraud prevention technology.

(B) RULEMAKING REQUIRED.—

(i) IN GENERAL.— The Board shall prescribe regulations in final form not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for making adjustments under this paragraph.

(ii) FACTORS FOR CONSIDERATION.— In issuing the standards and prescribing regulations under this paragraph, the Board shall consider—

(I) the nature, type, and occurrence of fraud in electronic debit transactions;

(II) the extent to which the occurrence of fraud depends on whether authorization in an electronic debit transaction is based on signature, PIN, or other means;

(III) the available and economical means by which fraud on electronic debit transactions may be reduced;

(IV) the fraud prevention and data security costs expended by each party involved in electronic debit transactions (including consumers, persons who accept debit cards as a form of payment, financial institutions, retailers and payment card networks);

(V) the costs of fraudulent transactions absorbed by each party involved in such transactions (including consumers, persons who accept debit cards as a form of payment, financial institutions, retailers and payment card networks);

(VI) the extent to which interchange transaction fees have in the past reduced or increased incentives for parties involved in electronic debit transactions to reduce fraud on such transactions; and

(VII) such other factors as the Board considers appropriate.

(6) EXEMPTION FOR SMALL ISSUERS.—

(A) IN GENERAL.— This subsection shall not apply to any issuer that, together with its affiliates, has assets of less than \$10,000,000,000, and the Board shall exempt such issuers from regulations prescribed under paragraph (3)(A).

(B) DEFINITION.— For purposes of this paragraph, the term “issuer” shall be limited to the person holding the asset account that is debited through an electronic debit transaction.

(7) EXEMPTION FOR GOVERNMENT-ADMINISTERED PAYMENT PROGRAMS AND RELOADABLE PREPAID CARDS.—

(A) IN GENERAL.— This subsection shall not apply to an interchange transaction fee charged or received with respect to an electronic debit transaction in which a person uses—

(i) a debit card or general-use prepaid card that has been provided to a person pursuant to a Federal, State or local government-administered payment program, in which the person may only use the debit card or general-use prepaid card to transfer or debit funds, monetary value, or other assets that have been provided pursuant to such program; or

(ii) a plastic card, payment code, or device that is—

(I) linked to funds, monetary value, or assets which are purchased or loaded on a prepaid basis;

(II) not issued or approved for use to access or debit any account held by or for the benefit of the card holder (other than a subaccount or other method of recording or tracking funds purchased or loaded on the card on a prepaid basis);

(III) redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines;

(IV) used to transfer or debit funds, monetary value, or other assets; and

(V) reloadable and not marketed or labeled as a gift card or gift certificate.

(B) EXCEPTION.— Notwithstanding subparagraph (A), after the end of the 1-year period beginning on the effective date provided in paragraph (9), this subsection shall apply to an interchange transaction fee charged or received with respect to an electronic debit transaction described in subparagraph (A)(i) in which a person uses a general-use prepaid card, or an electronic debit transaction described in subparagraph (A)(ii), if any of the following fees may be charged to a person with respect to the card:

(i) A fee for an overdraft, including a shortage of funds or a transaction processed for an amount exceeding the account balance.

(ii) A fee imposed by the issuer for the first withdrawal per month from an automated teller machine that is part of the issuer's designated automated teller machine network.

(C) DEFINITION.— For purposes of subparagraph (B), the term “designated automated teller machine network” means either—

(i) all automated teller machines identified in the name of the issuer; or

(ii) any network of automated teller machines identified by the issuer that provides reasonable and convenient access to the issuer's customers.

(D) REPORTING.— Beginning 12 months after the date of enactment of the Consumer Financial Protection Act of 2010, the Board shall annually provide a report to the Congress regarding —

(i) the prevalence of the use of general-use prepaid cards in Federal, State or local government-administered payment programs; and

(ii) the interchange transaction fees and cardholder fees charged with respect to the use of such general-use prepaid cards.

(8) REGULATORY AUTHORITY OVER NETWORK FEES.—

(A) IN GENERAL.— The Board may prescribe regulations, pursuant to section 553 of title 5, United States Code, regarding any network fee.

(B) LIMITATION.— The authority under subparagraph (A) to prescribe regulations shall be limited to regulations to ensure that—

(i) a network fee is not used to directly or indirectly compensate an issuer with respect to an electronic debit transaction; and

(ii) a network fee is not used to circumvent or evade the restrictions of this subsection and regulations prescribed under such subsection.

(C) RULEMAKING REQUIRED.— The Board shall prescribe regulations in final form before the end of the 9-month period beginning on the date of the enactment of the Con-

- sumer Financial Protection Act of 2010, to carry out the authorities provided under subparagraph (A).
- (9) EFFECTIVE DATE.— This subsection shall take effect at the end of the 12-month period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010.
- (b) LIMITATION ON PAYMENT CARD NETWORK RESTRICTIONS.—
- (1) PROHIBITIONS AGAINST EXCLUSIVITY ARRANGEMENTS.—
- (A) NO EXCLUSIVE NETWORK.— The Board shall, before the end of the 1-year period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010, prescribe regulations providing that an issuer or payment card network shall not directly or through any agent, processor, or licensed member of a payment card network, by contract, requirement, condition, penalty, or otherwise, restrict the number of payment card networks on which an electronic debit transaction may be processed to—
- (i) 1 such network; or
 - (ii) 2 or more such networks which are owned, controlled, or otherwise operated by —
 - (I) affiliated persons; or
 - (II) networks affiliated with such issuer.
- (B) NO ROUTING RESTRICTIONS.— The Board shall, before the end of the 1-year period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010, prescribe regulations providing that an issuer or payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person who accepts debit cards for payments to direct the routing of electronic debit transactions for processing over any payment card network that may process such transactions.
- (2) LIMITATION ON RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT.—
- (A) IN GENERAL.— A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, checks, debit cards, or credit cards to the extent that—
- (i) in the case of a discount or in-kind incentive for payment by the use of debit cards, the discount or in-kind incentive does not differentiate on the basis of the issuer or the payment card network;
 - (ii) in the case of a discount or in-kind incentive for payment by the use of credit cards, the discount or in-kind incentive does not differentiate on the basis of the issuer or the payment card network; and
 - (iii) to the extent required by Federal law and applicable State law, such discount or in-kind incentive is offered to all prospective buyers and disclosed clearly and conspicuously.

(B) **LAWFUL DISCOUNTS.**— For purposes of this paragraph, the network may not penalize any person for the providing of a discount that is in compliance with Federal law and applicable State law.

(3) **LIMITATION ON RESTRICTIONS ON SETTING TRANSACTION MINIMUMS OR MAXIMUMS.**—

(A) **IN GENERAL.**— A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability—

(i) of any person to set a minimum dollar value for the acceptance by that person of credit cards, to the extent that —

(I) such minimum dollar value does not differentiate between issuers or between payment card networks; and

(II) such minimum dollar value does not exceed \$10.00; or

(ii) of any Federal agency or institution of higher education to set a maximum dollar value for the acceptance by that Federal agency or institution of higher education of credit cards, to the extent that such maximum dollar value does not differentiate between issuers or between payment card networks.

(B) **INCREASE IN MINIMUM DOLLAR AMOUNT.**— The Board may, by regulation prescribed pursuant to section 553 of title 5, United States Code, increase the amount of the dollar value listed in subparagraph (A)(i)(II).

(4) **RULE OF CONSTRUCTION.**— No provision of this subsection shall be construed to authorize any person—

(A) to discriminate between debit cards within a payment card network on the basis of the issuer that issued the debit card; or

(B) to discriminate between credit cards within a payment card network on the basis of the issuer that issued the credit card.

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

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

(2) **DEBIT CARD.**— The term “debit card”—

(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account (regardless of the purpose for which the account is established), whether authorization is based on signature, PIN, or other means;

(B) includes a general-use prepaid card, as that term is defined in section 915(a)(2)(A); and

(C) does not include paper checks.

(3) **CREDIT CARD.**— The term “credit card” has the same meaning as in section 103 of the Truth in Lending Act.

(4) **DISCOUNT.**— The term “discount”—

(A) means a reduction made from the price that customers are informed is the regular price; and

(B) does not include any means of increasing the price that customers are informed is the regular price.

(5) ELECTRONIC DEBIT TRANSACTION.— The term “electronic debit transaction” means a transaction in which a person uses a debit card.

(6) FEDERAL AGENCY.— The term “Federal agency” means—

(A) an agency (as defined in section 101 of title 31, United States Code); and

(B) a Government corporation (as defined in section 103 of title 5, United States Code).

(7) INSTITUTION OF HIGHER EDUCATION.— The term “institution of higher education” has the same meaning as in 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002).

(8) INTERCHANGE TRANSACTION FEE.— The term “interchange transaction fee” means any fee established, charged or received by a payment card network for the purpose of compensating an issuer for its involvement in an electronic debit transaction.

(9) ISSUER.— The term “issuer” means any person who issues a debit card, or credit card, or the agent of such person with respect to such card.

(10) NETWORK FEE.— The term “network fee” means any fee charged and received by a payment card network with respect to an electronic debit transaction, other than an interchange transaction fee.

(11) PAYMENT CARD NETWORK.— The term “payment card network” means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct debit card or credit card transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.

(d) ENFORCEMENT.—

(1) IN GENERAL.— Compliance with the requirements imposed under this section shall be enforced under section 918.

(2) EXCEPTION.— Sections 916 and 917 shall not apply with respect to this section or the requirements imposed pursuant to this section.

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EXPEDITED FUNDS AVAILABILITY ACT

* * * * *

TITLE VI—EXPEDITED FUNDS AVAILABILITY

SEC. 601. SHORT TITLE.

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

* * * * *

SEC. 603. EXPEDITED FUNDS AVAILABILITY SCHEDULES.**(a) NEXT BUSINESS DAY AVAILABILITY FOR CERTAIN DEPOSITS.—**

(1) CASH DEPOSITS; WIRE TRANSFERS.— Except as provided in subsection (e) and in section 604, in any case in which—

(A) any cash is deposited in an account at a receiving depository institution staffed by individuals employed by such institution, or

(B) funds are received by a depository institution by wire transfer for deposit in an account at such institution, such cash or funds shall be available for withdrawal not later than the business day after the business day on which such cash is deposited or such funds are received for deposit.

(2) GOVERNMENT CHECKS; CERTAIN OTHER CHECKS.— Funds deposited in an account at a depository institution by check shall be available for withdrawal not later than the business day after the business day on which such funds are deposited in the case of—

(A) a check which—

- (i) is drawn on the Treasury of the United States; and
- (ii) is endorsed only by the person to whom it was issued.

(B) a check which—

- (i) is drawn by a State;
- (ii) is deposited in a receiving depository institution which is located in such State and is staffed by individuals employed by such institution;
- (iii) is deposited with a special deposit slip which indicates it is a check drawn by a State; and
- (iv) is endorsed only by the person to whom it was issued;

(C) a check which—

- (i) is drawn by a unit of general local government;
- (ii) is deposited in a receiving depository institution which is located in the same State as such unit of general local government and is staffed by individuals employed by such institution;
- (iii) is deposited with a special deposit slip which indicates it is a check drawn by a unit of general local government; and
- (iv) is endorsed only by the person to whom it was issued;

(D) the first \$200 deposited by check or checks on any one business day;

(E) a check deposited in a branch of a depository institution and drawn on the same or another branch of the same depository institution if both such branches are located in the same State or the same check processing region;

(F) a cashier's check, certified check, teller's check, or depository check which—

- (i) is deposited in a receiving depository institution which is staffed by individuals employed by such institution;

(ii) is deposited with a special deposit slip which indicates it is a cashier's check, certified check, teller's check, or depository check, as the case may be; and

(iii) is endorsed only by the person to whom it was issued.

(b) PERMANENT SCHEDULE.—

(1) AVAILABILITY OF FUNDS DEPOSITED BY LOCAL CHECKS.— Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 1 business day shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which the funds involved are available for withdrawal.

(2) AVAILABILITY OF FUNDS DEPOSITED BY NONLOCAL CHECKS.— Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 4 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) TIME PERIOD ADJUSTMENTS FOR CASH WITHDRAWAL OF CERTAIN CHECKS.—

(A) IN GENERAL.— Except as provided in subparagraph (B), funds deposited in an account in a depository institution by check (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under paragraph (1) or (2).

(B) 5 P.M. CASH AVAILABILITY.— Not more than \$400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than \$400) of funds deposited by one or more checks to which this paragraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under paragraph (1) or (2). If funds deposited by checks described in both paragraph (1) and paragraph (2) become available for cash withdrawal under this paragraph on the same business day, the limitation contained in this subparagraph shall apply to the aggregate amount of such funds.

(C) \$200 AVAILABILITY.— Any amount available for withdrawal under this paragraph shall be in addition to the amount available under subsection (a)(2)(D).

(4) APPLICABILITY.— This subsection shall apply with respect to funds deposited by check in an account at a depository institution on or after September 1, 1990, except that the Board may, by regulation, make this subsection or any part of this subsection applicable earlier than September 1, 1990.

(c) TEMPORARY SCHEDULE.—

(1) AVAILABILITY OF LOCAL CHECKS.—

(A) IN GENERAL.— Subject to subparagraph (B) of this paragraph, subsections (a)(2), (d), and (e) of this section,

and section 604, not more than 2 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which such funds are available for withdrawal.

(B) TIME PERIOD ADJUSTMENT FOR CASH WITHDRAWAL OF CERTAIN CHECKS.—

(i) IN GENERAL.— Except as provided in clause (ii), funds deposited in an account in a depository institution by check drawn on a local depository institution that is not a participant in the same check clearing-house association as the receiving depository institution (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under subparagraph (A).

(ii) 5 P.M. CASH AVAILABILITY.— Not more than \$400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than \$400) of funds deposited by one or more checks to which this subparagraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under subparagraph (A).

(iii) \$200 AVAILABILITY.— Any amount available for withdrawal under this subparagraph shall be in addition to the amount available under subsection (a)(2)(D).

(2) AVAILABILITY OF NONLOCAL CHECKS.— Subject to subsections (a)(2), (d), and (e) of this section and section 604, not more than 6 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) APPLICABILITY.— This subsection shall apply with respect to funds deposited by check in an account at a depository institution after August 31, 1988, and before September 1, 1990, except as may be otherwise provided under subsection (b)(4).

(d) TIME PERIOD ADJUSTMENTS.—

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

(2) EXTENSION FOR CERTAIN DEPOSITS IN NONCONTIGUOUS STATES OR TERRITORIES.— Notwithstanding any other provision of law, any time period established under subsection (b), (c), or (e) shall be extended by 1 business day in the case of any deposit which is both—

(A) deposited in an account at a depository institution which is located in Alaska, Hawaii, Puerto Rico, or the Virgin Islands; and

(B) deposited by a check drawn on an originating depository institution which is not located in the same State, commonwealth, or territory as the receiving depository institution.

(e) DEPOSITS AT AN ATM.—

(1) NONPROPRIETARY ATM.—

(A) IN GENERAL.— Not more than 4 business days shall intervene between the business day a deposit described in subparagraph (B) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(B) DEPOSITS DESCRIBED IN THIS PARAGRAPH.— A deposit is described in this subparagraph if it is—

- (i) a cash deposit;
- (ii) a deposit made by a check described in subsection (a)(2);
- (iii) a deposit made by a check drawn on a local originating depository institution (other than a check described in subsection (a)(2)); or
- (iv) a deposit made by a check drawn on a nonlocal originating depository institution (other than a check described in subsection (a)(2)).

(2) PROPRIETARY ATM—TEMPORARY AND PERMANENT SCHEDULES.— The provisions of subsections (a), (b), and (c) shall apply with respect to any funds deposited at a proprietary automated teller machine for deposit in an account at a depository institution.

(3) STUDY AND REPORT ON ATM'S.— The Board shall, either directly or through the Consumer Advisory Council, establish and maintain a dialogue with depository institutions and their suppliers on the computer software and hardware available for use by automated teller machines, and shall, not later than September 1 of each of the first 3 calendar years beginning after the date of the enactment of this title, report to the Congress regarding such software and hardware and regarding the potential for improving the processing of automated teller machine deposits.

(f) CHECK RETURN; NOTICE OF NONPAYMENT.—No provision of this section shall be construed as requiring that, with respect to all checks deposited in a receiving depository institution—

- (1) such checks be physically returned to such depository institution; or
- (2) any notice of nonpayment of any such check be given to such depository institution within the times set forth in subsection (a), (b), (c), or (e) or in the regulations issued under any such subsection.

SEC. 604. SAFEGUARD EXCEPTIONS.

(a) NEW ACCOUNTS.—Notwithstanding section 603, in the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period (or such shorter period

as the Board, jointly with the **【Director of the Bureau】** *Board of Directors of the Bureau* of Consumer Financial Protection, may establish) beginning on the date such account is established—

(1) NEXT BUSINESS DAY AVAILABILITY OF CASH AND CERTAIN ITEMS.— Except as provided in paragraph (3), in the case of—

(A) any cash deposited in such account;

(B) any funds received by such depository institution by wire transfer for deposit in such account;

(C) any funds deposited in such account by cashier's check, certified check, teller's check, depository check, or traveler's check; and

(D) any funds deposited by a government check which is described in subparagraph (A), (B), or (C) of section 603(a)(2),

such cash or funds shall be available for withdrawal on the business day after the business day on which such cash or funds are deposited or, in the case of a wire transfer, on the business day after the business day on which such funds are received for deposit.

(2) AVAILABILITY OF OTHER ITEMS.— In the case of any funds deposited in such account by a check (other than a check described in subparagraph (C) or (D) of paragraph (1)), the availability for withdrawal of such funds shall not be subject to the provisions of section 603(b), 603(c), or paragraphs (1) of section 603(e).

(3) LIMITATION RELATING TO CERTAIN CHECKS IN EXCESS OF \$5,000.— In the case of funds deposited in such account during such period by checks described in subparagraph (C) or (D) of paragraph (1) the aggregate amount of which exceeds \$5,000—

(A) paragraph (1) shall apply only with respect to the first \$5,000 of such aggregate amount; and

(B) not more than 8 business days shall intervene between the business day on which any such funds are deposited and the business day on which such excess amount shall be available for withdrawal.

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

(1) the amount of deposits by one or more checks that exceeds the amount of \$5,000 in any one day;

(2) checks that have been returned unpaid and redeposited; and

(3) deposit accounts which have been overdrawn repeatedly.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.— In accordance with regulations which the Board, jointly with the **【Director of the Bureau】** *Board of Directors of the Bureau* of Consumer Financial Protection, shall prescribe, subsections (a)(2), (b), (c), and (e) of section 603 shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the

preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person. Such reasons shall be included in the notice required under subsection (f).

(2) BASIS FOR DETERMINATION.— No determination under this subsection may be based on any class of checks or persons.

(3) OVERDRAFT FEES.— If the receiving depository institution determines that a check deposited in an account is a check described in paragraph (1), the receiving depository institution shall not assess any fee for any subsequent overdraft with respect to such account, if—

(A) the depositor was not provided with the written notice required under subsection (f) (with respect to such determination) at the time the deposit was made;

(B) the overdraft would not have occurred but for the fact that the funds so deposited are not available; and

(C) the amount of the check is collected from the originating depository institution.

(4) COMPLIANCE.— Each agency referred to in section 610(a) shall monitor compliance with the requirements of this subsection in each regular examination of a depository institution and shall describe in each report to the Congress the extent to which this subsection is being complied with. For the purpose of this paragraph, each depository institution shall retain a record of each notice provided under subsection (f) as a result of the application of this subsection.

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

(1) any interruption of communication facilities;

(2) suspension of payments by another depository institution;

(3) any war; or

(4) any emergency condition beyond the control of the receiving depository institution,

if the receiving depository institution exercises such diligence as the circumstances require.

(e) PREVENTION OF FRAUD LOSSES.—

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

(A) depository institutions are experiencing an unacceptable level of losses due to check-related fraud, and

(B) suspension of this title, or such portion of this title, with regard to the classification of checks involved in such fraud is necessary to diminish the volume of such fraud.

(2) SUNSET PROVISION.— No regulation prescribed or order issued under paragraph (1) shall remain in effect for more

than 45 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session).

(3) REPORT TO CONGRESS.—

(A) NOTICE OF EACH SUSPENSION.— Within 10 days of prescribing any regulation or issuing any order under paragraph (1), the Board, jointly with the [Director of the Bureau] *Board of Directors of the Bureau* of Consumer Financial Protection, shall transmit a report of such action to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

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

(i) the specific reason for prescribing the regulation or issuing the order;

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

(iii) specific examples of the check-related fraud giving rise to such regulation or order.

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

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

(A) the depository institution shall provide notice in the manner provided in paragraph (2) of—

(i) the time period within which the funds shall be made available for withdrawal; and

(ii) the reason the exception was invoked; and

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

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

(A) In the case of a deposit made in person by the depositor at the receiving depository institution, the depository institution shall immediately provide such notice in writing to the depositor.

(B) In the case of any other deposit (other than a deposit described in subparagraph (C)), the receiving depository institution shall mail the notice to the depositor not later than the close of the next business day following the business day on which the deposit is received.

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

with the [Director of the Bureau] *Board of Directors of the Bureau* of Consumer Financial Protection.

(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.

(3) **SUBSEQUENT DETERMINATIONS.**— If the facts upon which the determination of the applicability of an exception contained in subsection (b) or (c) to any deposit only become known to the receiving depository institution after the time notice is required under paragraph (2) with respect to such deposit, the depository institution shall mail such notice to the depositor as soon as practicable, but not later than the first business day following the day such facts become known to the depository institution.

SEC. 605. DISCLOSURE OF FUNDS AVAILABILITY POLICIES.

(a) **NOTICE FOR NEW ACCOUNTS.**— Before an account is opened at a depository institution, the depository institution shall provide written notice to the potential customer of the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into the customer's account.

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

(c) **MAILING OF NOTICE.**—

(1) **FIRST MAILING AFTER ENACTMENT.**— In the first regularly scheduled mailing to customers occurring after the effective date of this section, but not more than 60 days after such effective date, each depository institution shall send a written notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into such customer's account, unless the depository institution has provided a disclosure which meets the requirements of this section before such effective date.

(2) **SUBSEQUENT CHANGES.**— A depository institution shall send a written notice to customers at least 30 days before implementing any change to the depository institution's policy with respect to when customers may withdraw funds deposited into consumer accounts, except that any change which expedites the availability of such funds shall be disclosed not later than 30 days after implementation.

(3) **UPON REQUEST.**— Upon the request of any person, a depository institution shall provide or send such person a written

notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into a customer's account.

(d) POSTING OF NOTICE.—

(1) SPECIFIC NOTICE AT MANNED TELLER STATIONS.— Each depository institution shall post, in a conspicuous place in each location where deposits are accepted by individuals employed by such depository institution, a specific notice which describes the time periods applicable to the availability of funds deposited in a consumer account.

(2) GENERAL NOTICE AT AUTOMATED TELLER MACHINES.— In the case of any automated teller machine at which any funds are received for deposit in an account at any depository institution, the Board, jointly with the **[Director of the Bureau]** *Board of Directors of the Bureau* of Consumer Financial Protection, shall prescribe, by regulations, that the owner or operator of such automated teller machine shall post or provide a general notice that funds deposited in such machine may not be immediately available for withdrawal.

(e) NOTICE OF INTEREST PAYMENT POLICY.—If a depository institution described in section 606(b) begins the accrual of interest or dividends at a later date than the date described in section 606(a) with respect to all funds, including cash, deposited in an interest-bearing account at such depository institution, any notice required to be provided under subsections (a) and (c) shall contain a written description of the time at which such depository institution begins to accrue interest or dividends on such funds.

(f) MODEL DISCLOSURE FORMS.—

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

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

(A) uses any appropriate model form or clause as published by the Board, or

(B) uses any such model form or clause and changes such form or clause by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format.

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

(4) NOTICE AND COMMENT.— Model disclosure forms and clauses shall be adopted by the Board, jointly with the **[Director of the Bureau]** *Board of Directors of the Bureau* of Consumer Financial Protection, only after notice duly given in the

Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

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SEC. 609. REGULATIONS AND REPORTS BY BOARD.

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

- (1) to carry out the provisions of this title;
- (2) to prevent the circumvention or evasion of such provisions; and
- (3) to facilitate compliance with such provisions.

(b) **REGULATIONS RELATING TO IMPROVEMENT OF CHECK PROCESSING SYSTEM.**—In order to improve the check processing system, the Board shall consider (among other proposals) requiring, by regulation, that—

- (1) depository institutions be charged based upon notification that a check or similar instrument will be presented for payment;
- (2) the Federal Reserve banks and depository institutions provide for check truncation;
- (3) depository institutions be provided incentives to return items promptly to the depository institution of first deposit;
- (4) the Federal Reserve banks and depository institutions take such actions as are necessary to automate the process of returning unpaid checks,
- (5) each depository institution and Federal Reserve bank—
 - (A) place its endorsement, and other notations specified in regulations of the Board, on checks in the positions specified in such regulations; and
 - (B) take such actions as are necessary to—
 - (i) automate the process of reading endorsements; and
 - (ii) eliminate unnecessary endorsements;
- (6) within one business day after an originating depository institution is presented a check (for more than such minimum amount as the Board may prescribe)—
 - (A) such originating depository institution determine whether it will pay such check; and
 - (B) if such originating depository institution determines that it will not pay such check, such originating depository institution directly notify the receiving depository institution of such determination;
- (7) regardless of where a check is cleared initially, all returned checks be eligible to be returned through the Federal Reserve System;
- (8) Federal Reserve banks and depository institutions participate in the development and implementation of an electronic clearinghouse process to the extent the Board determines, pursuant to the study under subsection (f), that such a process is feasible; and

(9) originating depository institutions be permitted to return unpaid checks directly to, and obtain reimbursement for such checks directly from, the receiving depository institution.

(c) REGULATORY RESPONSIBILITY OF BOARD FOR PAYMENT SYSTEM.—

(1) RESPONSIBILITY FOR PAYMENT SYSTEM.— In order to carry out the provisions of this title, the Board of Governors of the Federal Reserve System shall have the responsibility to regulate—

(A) any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and

(B) any related function of the payment system with respect to checks.

(2) REGULATIONS.— The Board shall prescribe such regulations as it may determine to be appropriate to carry out its responsibility under paragraph (1).

(d) REPORTS.—

(1) IMPLEMENTATION PROGRESS REPORTS.—

(A) REQUIRED REPORTS.— The Board shall transmit a report to both Houses of the Congress not later than 18, 30, and 48 months after the date of the enactment of this title.

(B) CONTENTS OF REPORT.— Each such report shall describe—

(i) the actions taken and progress made by the Board to implement the schedules established in section 603, and

(ii) the impact of this title on consumers and depository institutions.

(2) EVALUATION OF TEMPORARY SCHEDULE REPORT.—

(A) REPORT REQUIRED.— The Board shall transmit a report to both Houses of the Congress not later than 2 years after the date of the enactment of this title regarding the effects the temporary schedule established under section 603(c) have had on depository institutions and the public.

(B) CONTENTS OF REPORT.— Such report shall also assess the potential impact the implementation of the schedule established in section 603(b) will have on depository institutions and the public, including an estimate of the risks to and losses of depository institutions and the benefits to consumers. Such report shall also contain such recommendations for legislative or administrative action as the Board may determine to be necessary.

(3) COMPTROLLER GENERAL EVALUATION REPORT.— Not later than 6 months after section 603(b) takes effect, the Comptroller General of the United States shall transmit a report to the Congress evaluating the implementation and administration of this title.

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

(f) ELECTRONIC CLEARINGHOUSE STUDY.—

(1) **STUDY REQUIRED.**— The Board shall study the feasibility of modernizing and accelerating the check payment system through the development of an electronic clearinghouse process utilizing existing telecommunications technology to avoid the necessity of actual presentment of the paper instrument to a payor institution before such institution is charged for the item.

(2) **CONSULTATION; FACTORS TO BE STUDIED.**— In connection with the study required under paragraph (1), the Board shall—

(A) consult with appropriate experts in telecommunications technology; and

(B) consider all practical and legal impediments to the development of an electronic clearinghouse process.

(3) **REPORT REQUIRED.**— The Board shall report its conclusions to the Congress within 9 months of the date of the enactment of this title.

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FEDERAL DEPOSIT INSURANCE ACT

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SEC. 2. MANAGEMENT.

(a) **BOARD OF DIRECTORS.**—

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

(A) 1 of whom shall be the Comptroller of the Currency;

(B) 1 of whom shall be the [Director of the Consumer Financial Protection Bureau] *Chairperson of the Board of Directors of the Bureau of Consumer Financial Protection*; and

(C) 3 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, 1 of whom shall have State bank supervisory experience.

(2) **POLITICAL AFFILIATION.**— After February 28, 1993, not more than 3 of the members of the Board of Directors may be members of the same political party.

(b) **CHAIRPERSON AND VICE CHAIRPERSON.**—

(1) **CHAIRPERSON.**— 1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairperson of the Board of Directors for a term of 5 years.

(2) **VICE CHAIRPERSON.**— 1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairperson of the Board of Directors.

(3) **ACTING CHAIRPERSON.**— In the event of a vacancy in the position of Chairperson of the Board of Directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as Chairperson.

(c) **TERMS.**—

(1) **APPOINTED MEMBERS.**— Each appointed member shall be appointed for a term of 6 years.

(2) INTERIM APPOINTMENTS.— Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(3) CONTINUATION OF SERVICE.— The Chairperson, Vice Chairperson, and each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

(d) VACANCY.—

(1) IN GENERAL.— Any vacancy on the Board of Directors shall be filled in the manner in which the original appointment was made.

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

(e) INELIGIBILITY FOR OTHER OFFICES.—

(1) POSTSERVICE RESTRICTION.—

(A) IN GENERAL.— No member of the Board of Directors may hold any office, position, or employment in any insured depository institution or any depository institution holding company during—

(i) the time such member is in office; and

(ii) the 2-year period beginning on the date such member ceases to serve on the Board of Directors.

(B) EXCEPTION FOR MEMBERS WHO SERVE FULL TERM.—

The limitation contained in subparagraph (A)(ii) shall not apply to any member who has ceased to serve on the Board of Directors after serving the full term for which such member was appointed.

(2) RESTRICTION DURING SERVICE.— No member of the Board of Directors may—

(A) be an officer or director of any insured depository institution, depository institution holding company, Federal Reserve bank, or Federal home loan bank; or

(B) hold stock in any insured depository institution or depository institution holding company.

(3) CERTIFICATION.— Upon taking office, each member of the Board of Directors shall certify under oath that such member has complied with this subsection and such certification shall be filed with the secretary of the Board of Directors.

(f) STATUS OF EMPLOYEES.—

(1) IN GENERAL.— A director, member, officer, or employee of the Corporation has no liability under the Securities Act of 1933 with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. This subsection shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other acts or omissions outside the scope of such person's employment.

(2) DEFINITION.— For purposes of this subsection, the term "employee of the Corporation" includes any employee of the Office of the Comptroller of the Currency or of the Consumer Financial Protection Bureau who serves as a deputy or assistant to a member of the Board of Directors of the Corporation in connection with activities of the Corporation.

(3) EFFECT ON OTHER LAW.— This subsection does not affect—

(A) any other immunities and protections that may be available to such person under applicable law with respect to such transactions, or

(B) any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than a person described in paragraph (1) participating in such transactions.

This subsection shall not be construed to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.

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**FEDERAL FINANCIAL INSTITUTIONS EXAMINATION
COUNCIL ACT OF 1978**

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**TITLE X—FEDERAL FINANCIAL INSTITUTIONS
EXAMINATION COUNCIL**

* * * * *

ESTABLISHMENT OF THE COUNCIL

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

- (1) the Comptroller of the Currency,
- (2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation,
- (3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board,
- (4) the [Director of the Consumer Financial Protection Bureau] *Chairperson of the Board of Directors of the Bureau of Consumer Financial Protection* ,

(5) the Chairman of the National Credit Union Administration Board, and

(6) the Chairman of the State Liaison Committee.

(b) The members of the Council shall select the first chairman of the Council. Thereafter the chairmanship shall rotate among the members of the Council.

(c) The term of the Chairman of the Council shall be two years.

(d) The members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

(e) Each member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member.

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FINANCIAL LITERACY AND EDUCATION IMPROVEMENT ACT

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TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

* * * * *

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

(a) **IN GENERAL.**—There is established a commission to be known as the “Financial Literacy and Education Commission”.

(b) **PURPOSE.**—The Commission shall serve to improve the financial literacy and education of persons in the United States through development of a national strategy to promote financial literacy and education.

(c) **MEMBERSHIP.**—

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

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management;

(C) the [Director] *Chairperson of the Board of Directors* of the Bureau of Consumer Financial Protection; and

(D) at the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Federal Government entities, whom the

President determines to be engaged in a serious effort to improve financial literacy and education.

(2) ALTERNATES.— Each member of the Commission may designate an alternate if the member is unable to attend a meeting of the Commission. Such alternate shall be an individual who exercises significant decisionmaking authority.

(d) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson. The **[Director]** *Chairperson of the Board of Directors* of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman.

(e) MEETINGS.—The Commission shall hold, at the call of the Chairperson, at least 1 meeting every 4 months. All such meetings shall be open to the public. The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this title.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) INITIAL MEETING.—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act.

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HOME MORTGAGE DISCLOSURE ACT OF 1975

TITLE III—HOME MORTGAGE DISCLOSURE

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SEC. 307. COMPLIANCE IMPROVEMENT METHODS.

(a) IN GENERAL.—

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

(2) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated, such sums as may be necessary to carry out this subsection.

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

(b) RECOMMENDATIONS TO CONGRESS.—The **[Director of the Bureau of Consumer]** *Board of Directors of the Bureau of Consumer Financial Protection* shall recommend to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, such additional legislation as the **[Director of the Bureau of Consumer]**

Board of Directors of the Bureau of Consumer Financial Protection deems appropriate to carry out the purpose of this title.

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INTERSTATE LAND SALES FULL DISCLOSURE ACT

TITLE XIV—INTERSTATE LAND SALES

SHORT TITLE

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

DEFINITIONS

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

(1) **“Director ”** means the Director **】** *“Board”* means the *Board of Directors* of the Bureau of Consumer Financial Protection;

(2) **“person”** means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate;

(3) **“subdivision”** means any land which is located in any State or in a foreign country and is divided or is proposed to be divided into lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan;

(4) **“common promotional plan”** means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is offered for sale by such a developer or group of developers acting in concert, and such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan;

(5) **“developer”** means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision;

(6) **“agent”** means any person who represents, or acts for or on behalf of, a developer in selling or leasing, or offering to sell or lease, any lot or lots in a subdivision; but shall not include an attorney at law whose representation or another person consists solely of rendering legal services;

(7) **“blanket encumbrance”** means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority;

(8) **“interstate commerce”** means trade or commerce among the several states or between any foreign country and any state;

(9) **“State”** includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

- (10) “purchaser” means an actual or prospective purchaser or lessee of any lot in a subdivision;
- (11) “offer” includes any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision; and
- (12) “Bureau” means the Bureau of Consumer Financial Protection.

EXEMPTIONS

SEC. 1403. (a) Unless the method of disposition is adopted for the purpose of evasion of this title, the provisions of this title shall not apply to—

- (1) the sale or lease of lots in a subdivision containing less than twenty-five lots;
- (2) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building, or the sale or lease of land under a contract obligating the seller or lessor to erect such a building thereon within a period of two years;
- (3) the sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate;
- (4) the sale of securities issued by a real estate investment trust;
- (5) the sale or lease of real estate by any government or government agency;
- (6) the sale or lease of cemetery lots;
- (7) the sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business; or
- (8) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official records of the city or county in which such real estate is located, when—
 - (A) local authorities have approved access from such real estate to a public street or highway;
 - (B) the purchaser or lessee of such real estate is a duly organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;
 - (C) the purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;
 - (D) the purchaser or lessee of such real estate affirms in writing to the seller or lessor that it either (i) is purchasing or leasing such real estate substantially for its own use, or (ii) has a binding commitment to sell, lease, or sublease such real estate to an entity which meets the requirements of subparagraph (B), is engaged in commercial or industrial business, and is not affiliated with the seller, lessor, or agent thereof; and
 - (E) a policy of title insurance or a title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or

lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but (i) nothing herein shall be construed as requiring the recordation of a lease, and (ii) any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

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

(1) the sale or lease of lots in a subdivision containing fewer than one hundred lots which are not exempt under subsection (a);

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

(3) the sale or lease of lots in a subdivision if each noncontiguous part of such subdivision contains not more than twenty lots, and if the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease;

(4) the sale or lease of lots in a subdivision in which each of the lots is at least twenty acres (inclusive of easements for ingress and egress or public utilities);

(5) the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

(A)(i) the subdivision meets all local codes and standards, and (ii) each lot is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

(B)(i) the lot is situated on a paved street or highway which has been built to standards applicable to streets and highways maintained by the unit of local government in which the subdivision is located and is acceptable to such unit, or, where such street or highway is not complete, a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing such street or highway has been posted to assure completion to such standards, and (ii) the unit of local government or a homeowners association has accepted or is obligated to accept the responsibility of maintaining such street or highway, except that, in any case in which a homeowners asso-

ciation has accepted or is obligated to accept such responsibility, a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease is provided to the purchaser or lessee prior to the signing of the contract or agreement to purchase or lease;

(C) at the time of closing, potable water, sanitary sewage disposal, and electricity have been extended to the lot or the unit of local government is obligated to install such facilities within one hundred and eighty days, and, for subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank;

(D) the contract of sale requires delivery of a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant which warrants that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him) to the purchaser within one hundred and eighty days after the signing of the sales contract;

(E) at the time of closing, a title insurance binder or a title opinion reflecting the condition of the title shall be in existence and issued or presented to the purchaser or lessee showing that, subject only to such exceptions as may be approved in writing by the purchaser or lessee at the time of closing, marketable title to the lot is vested in the seller or lessor;

(F) the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease; and

(G) there are no offers, by direct mail or telephone solicitation, of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot;

(6) the sale or lease of a lot, if a mobile home is to be erected or placed thereon as a residence, where the lot is sold as a homesite by one party and the home by another, under contracts that obligate such sellers to perform, contingent upon the other seller carrying out its obligations so that a completed mobile home will be erected or placed on the completed homesite within a period of two years, and provide for all funds received by the sellers to be deposited in escrow accounts (controlled by parties independent of the sellers) until the transactions are completed, and further provide that such funds shall be released to the buyer on demand without prejudice if the land with the mobile home erected or placed thereon is not conveyed within such two-year period. Such homesite must conform to all local codes and standards for mobile home subdivisions, if any, must provide potable water, sanitary sewage disposal, electricity, access by roads, the purchaser must re-

ceive marketable title to the lot, and where common facilities are to be provided, they must be completed or fully funded;

(7)(A) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature. For purposes of this exemption, a lot may be sold only if—

(i) the lot is free and clear of all liens, encumbrances, and adverse claims;

(ii) the purchaser or lessee (or spouse thereof) has made a personal on-the-lot inspection of the lot to be purchased or leased;

(iii) each purchase or lease agreement contains—

(I) a clear and specific statement describing a good faith estimate of the year of completion of, and the party responsible for, providing and maintaining the roads, water facilities, sewer facilities and any existing or promised amenities; and

(II) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws; and

(iv) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing the receipt of a written statement by the developer containing good faith estimates of the cost of providing electric, water, sewage, gas, and telephone service to such a lot.

(B) As used in subparagraph (A)(i) of this paragraph, the terms “liens”, “encumbrances”, and “adverse claims” do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners’ association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such liens, reservations, taxes, assessments and restrictions which are applicable to the lot to be purchased or leased; and

(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee.

(C) For the purpose of this paragraph, a sales operation is “intrastate in nature” if the developer is subject to the laws of the State in which the land is located, and each lot in the subdivision, other than those which are exempt under section 1403(a), (b)(6), or (b)(8), is sold or leased to residents of the State in which the land is located; or

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

(A) the principal residence of the purchaser or lessee is within the same standard metropolitan statistical area, as defined by the Office of Management and Budget, as the lot purchased or leased;

(B) the lot is free and clear of liens (such as mortgages, deeds of trust, tax liens, mechanics liens, or judgments) at the time of the signing of the contract or agreement and until a deed is delivered to the purchaser or the lease expires. As used in this subparagraph, the term “liens” does not include (i) United States land patents and similar Federal grants or reservations, (ii) property reservations which lands developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, (iii) taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners’ association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, or (iv) other interests described in regulations prescribed by the [Director] Board ;

(C) the purchaser or lessee (or spouse thereof) has made a personal on-the-lot inspection of the lot to be purchased or leased;

(D) each purchase or lease agreement contains (i) a clear and specific statement describing a good faith estimate of the year of completion of and the party responsible for providing and maintaining the roads, water facilities sewer facilities and any existing or promised amenities; and (ii) a non waivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws;

(E) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing receipt of a written statement by the developer setting forth (i) in descriptive and concise terms all liens, reservations, taxes, assessments, beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, and adverse claims which are applicable to the lot to be purchased or leased, and (ii) good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot;

(F) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process and acknowledging that the developer submits to the legal jurisdiction of the State in which the purchaser or lessee resides; and

(G) the developer executes a written affirmation to the effect that he has complied with the provisions of this

paragraph, such affirmation to be given on a form provided by the **[Director] Board** , which shall include the following: the name and address of the developer; the name and address of the purchaser or lessee; a legal description of the lot; and affirmation that the provisions of this paragraph have been complied with; a statement that the developer submits to the jurisdiction of this title with regard to the sale of lease; and the signature of the developer.

(9) the sale or lease of a condominium unit that is not exempt under subsection (a).

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

(d) For purposes of subsection (b), the term “condominium unit” means a unit of residential or commercial property to be designated for separate ownership pursuant to a condominium plan or declaration provided that upon conveyance—

(1) the owner of such unit will have sole ownership of the unit and an undivided interest in the common elements appurtenant to the unit; and

(2) the unit will be an improved lot.

* * * * *

REGISTRATION OF SUBDIVISIONS

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

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

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

(d) The information contained in or filed with any statement of record shall be made available to the public under such regulations as the **[Director] Board** may prescribe and copies thereof shall be furnished to every applicant at such reasonable charge as the **[Director] Board** may prescribe.

INFORMATION REQUIRED IN STATEMENT OF RECORD

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

(1) the name and address of each person having an interest in the lots in the subdivision to be covered by the statement of record and the extent of such interest;

(2) a legal description of, and a statement of the total area included in, the subdivision and a statement of the topography thereof, together with a map showing the division proposed and the dimensions of the lots to be covered by the statement of record and their relation to existing streets and roads;

(3) a statement of the condition of the title to the land comprising the subdivision, including all encumbrances and deed restrictions and covenants applicable thereto;

(4) a statement of the general terms and conditions, including the range of selling prices or rents at which it is proposed to dispose of the lots in the subdivision;

(5) a statement of the present condition of access to the subdivision, the existence of any unusual conditions relating to noise or safety which affect the subdivision and are known to the developer, the availability of sewage disposal facilities and other public utilities (including water, electricity, gas and telephone facilities) in the subdivision, the proximity in miles to the subdivision to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

(6) in the case of any subdivision or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrance and the steps, if any, taken to protect the purchaser in such eventuality;

(7)(A) copy of its articles of incorporation, with all amendments thereto, if the developer is a corporation; (B) copies of all instruments by which the trust is created or declared, if the developer is a trust; (C) copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other form of organization; and (D) if the purported holder of legal title is a person other than developer, copies of the above documents for such person;

(8) copies of the deed or other instrument establishing title to the subdivision in the developer or other person and copies of any instrument creating a lien or encumbrance upon the title of developer or other person or copies of the opinion or opinions of counsel in respect to the title to the subdivision in the developer or other person or copies of the title insurance policy guaranteeing such title;

(9) copies of all forms of conveyance to be used in selling or leasing lots to purchasers;

(10) copies of instruments creating easements or other restrictions;

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

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

TAKING EFFECT OF STATEMENTS OF RECORD AND AMENDMENTS
THERE TO

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

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

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

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

cordance with such order, the **[Director] Board** shall so declare and thereupon the order shall cease to be effective.

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

(f) Any notice required under this section shall be sent to or served on the developer or his authorized agent.

INFORMATION REQUIRED IN PROPERTY REPORT

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

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

CERTIFICATION OF SUBSTANTIALLY EQUIVALENT STATE LAW

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

(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1403 require the seller or lessor of such lots to disclose information which is at least substantially equivalent to the information required to be disclosed by section 1408; and

(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that such information is accurate.

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

(A) that when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1403 provide sufficient protection for purchasers and lessees with respect to the matters for which information is required to be disclosed by section 1408 but which is not re-

quired to be disclosed by such State's laws and regulations; and

(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that (i) information required to be disclosed by such laws and regulations is accurate, and (ii) sufficient protection for purchasers and lessees is made available with respect to the matters for which information is not required to be disclosed.

(3) Any State requesting certification must agree to accept a property report covering land located in another certified State but offered for sale or lease in the State requesting certification if the property report has been approved by the other certified State. Such property report shall be the only property report required by the State with respect to the sale or lease of such land.

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

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

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

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

* * * * *

COURT REVIEW OF ORDERS

SEC. 1411. (a) Any person, aggrieved by an order or determination of the **[Director]** Board issued after a hearing, may obtain a review of such order or determination in the court of appeals of the United States, within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court,

within sixty days after the entry of such order or determination, a written petition praying that the order or determination of the **[Director] Board** be modified or be set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to the **[Director] Board**, and thereupon the **[Director] Board** shall file in the court the record upon which the order or determination complained of was entered, as provided in section 2112 of title 28, United States Code. No objection to an order or determination of the **[Director] Board** shall be considered by the court unless such objection shall have been urged before the **[Director] Board**. The finding of the **[Director] Board** as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the **[Director] Board**, the court may order such additional evidence to be taken before the **[Director] Board** and to be adduced upon a hearing in such manner and upon such terms and conditions as to the court may seem proper. The **[Director] Board** may modify **[his findings] its finding** as to the facts by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and **[his recommendation] a recommendation**, if any, for the modification or setting aside of the original order. Upon the filing of such petition, the jurisdiction of the court shall be exclusive and its judgment and decree, affirming, modifying, or setting aside, in whole or in part, any order of the **[Director] Board**, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the **[Secretary's order] order of the Board**.

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CONTRARY STIPULATION VOID

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

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INVESTIGATIONS, INJUNCTIONS, AND PROSECUTION OF OFFENSES

SEC. 1415. (a) Whenever it shall appear to the **[Director] Board** that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation prescribed pursuant thereto, **[he may, in his discretion] the Board may, at the discretion of the Board**, bring an action in any district court of the United States, or the United States District Court for the District of Columbia to enjoin such acts or practices, and, upon a proper showing, a permanent or temporary injunction or restraining order shall

be granted without bond. The **[Director] Board** may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, **[in his discretion]** *at the discretion of the Board* , institute the appropriate criminal proceedings under this title.

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

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

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

ADMINISTRATION

SEC. 1416. (a) The authority and responsibility for administering this title shall be in the **[Director] Board** **[of the Bureau of Consumer Financial Protection]** who may delegate any of **[his functions, duties, and powers]** *the functions, duties, and powers of the Board* to employees of the Bureau of Consumer Financial Protection or to boards of such employees including functions, duties, and powers with respect to investigating, hearing, determining, order-

ing, or otherwise acting as to any work, business, or matter under this title. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Bureau in compliance with sections 3105, 3344, 5372, and 7521 of title 5 of the United States Code. The **[Director]** *Board* shall by rule prescribe such rights of appeal from the decisions of **[his administrative law judges]** *the administrative law judges of the Bureau of Consumer Financial Protection* to other administrative law judges or to other officers in the Bureau, to boards of officers or to **[himself]** *the Board*, as shall be appropriate and in accordance with law.

(b) All hearings shall be public and appropriate records thereof shall be kept, and any order issued after such hearing shall be based on the record made in such hearing which shall be conducted in accordance with provisions of subchapter II of chapter 5, and chapter 7, of title 5, United States Code.

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

UNLAWFUL REPRESENTATIONS

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

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CIVIL MONEY PENALTIES

SEC. 1418a. (a) IN GENERAL.—

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

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

(b) AGENCY PROCEDURES.—

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

(A) shall provide for the imposition of a penalty only after a person has been given an opportunity for a hearing on the record; and

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

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

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.— In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the **[Director]** *Board* may determine in regulations to be appropriate.

(4) REVIEWABILITY OF IMPOSITION OF PENALTY.— **[The Secretary's determination or order]** *A determination or order of the Board* imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (c).

(c) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

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

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

(d) ACTION TO COLLECT PENALTY.—If any person fails to comply with the determination or order of the **[Director]** *Board* imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (b) and (c), the **[Director]** *Board* may request the Attorney General of the United States to bring an action in any appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of **[the Secretary's determination or order]**

a determination or order of the Board imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY DIRECTOR.—The [Director] Board may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) DEFINITION OF KNOWINGLY.—The term “knowingly” means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

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

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

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

JURISDICTION OF OFFENSES AND SUITS

SEC. 1420. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this title and under the this title and under the rules and regulations prescribed by the [Director] Board pursuant thereto, and concurrent with State courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this title. Any such suit or action may be brought to enforce any liability or duty created by this title. Any such suit or action may be brought in the district where the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254 and 1291 of title 28, United State Code. No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where the United States or any officer or employee of the United States in his official capacity is a party. No costs shall be assessed for or against the [Director] Board or any member of the Board in any proceeding under this title brought by or against [him] the Board or any member of the Board in the Supreme Court or such other courts.

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REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

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HOME BUYING INFORMATION BOOKLETS

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

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

(1) A description and explanation of the nature and purpose of the costs incident to a real estate settlement or a federally related mortgage loan. The description and explanation shall provide general information about the mortgage process as well as specific information concerning, at a minimum—

- (A) balloon payments;
- (B) prepayment penalties;
- (C) the advantages of prepayment; and
- (D) the trade-off between closing costs and the interest rate over the life of the loan.

(2) An explanation and sample of the uniform settlement statement required by section 4.

(3) A list and explanation of lending practices, including those prohibited by the Truth in Lending Act or other applicable Federal law, and of other unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.

(4) A list and explanation of questions a consumer obtaining a federally related mortgage loan should ask regarding the loan, including whether the consumer will have the ability to repay the loan, whether the consumer sufficiently shopped for the loan, whether the loan terms include prepayment penalties or balloon payments, and whether the loan will benefit the borrower.

(5) An explanation of the right of rescission as to certain transactions provided by sections 125 and 129 of the Truth in Lending Act.

(6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled “Consumer Handbook on Adjustable Rate Mortgages”, published by the **[Direc-**

tor] *Board*, or to any suitable substitute of such booklet that the [Director] *Board* may subsequently adopt pursuant to such section.

(7) A brief explanation of the nature of a home equity line of credit and a reference to the pamphlet required to be provided under section 127A of the Truth in Lending Act.

(8) Information about homeownership counseling services made available pursuant to section 106(a)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)), a recommendation that the consumer use such services, and notification that a list of certified providers of homeownership counseling in the area, and their contact information, is available.

(9) An explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate and the requirements under section 10 of this Act regarding such accounts.

(10) An explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incidental to a real estate settlement.

(11) An explanation of a consumer's responsibilities, liabilities, and obligations in a mortgage transaction.

(12) An explanation of the nature and purpose of real estate appraisals, including the difference between an appraisal and a home inspection.

(13) Notice that the Office of Housing of the Bureau of Consumer Financial Protection has made publicly available a brochure regarding loan fraud and a World Wide Web address and toll-free telephone number for obtaining the brochure.

(14) An explanation of flood insurance and the availability of flood insurance under the National Flood Insurance Program or from a private insurance company, whether or not the real estate is located in an area having special flood hazards, and the following statement: "Although you may not be required to maintain flood insurance on all structures, you may still wish to do so, and your mortgage lender may still require you to do so to protect the collateral securing the mortgage. If you choose to not maintain flood insurance on a structure, and it floods, you are responsible for all flood losses relating to that structure."

The booklet prepared pursuant to this section shall take into consideration differences in real estate settlement procedures that may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.

(c) Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Bureau. Each lender shall also include with the booklet a reasonably complete or updated list of homeownership counselors who are certified pursuant to section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) and located in the area of the lender.

(d) Each lender referred to in subsection (a) shall provide the booklet described in such subsection to each person from whom it

receives or for whom it prepares a written application to borrow money to finance the purchase of residential real estate. The lender shall provide the booklet in the version that is most appropriate for the person receiving it. Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3-day period.

(e) Booklets may be printed and distributed by lenders if their form and content are approved by the Bureau as meeting the requirements of subsection (b) of this section.

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

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DIVISION A—HOUSING FINANCE REFORM

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

SEC. 1501. SHORT TITLE.

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

SEC. 1502. PURPOSES AND METHODS FOR ESTABLISHING A MORTGAGE LICENSING SYSTEM AND REGISTRY.

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

- (1) Provides uniform license applications and reporting requirements for State-licensed loan originators.
- (2) Provides a comprehensive licensing and supervisory database.
- (3) Aggregates and improves the flow of information to and between regulators.
- (4) Provides increased accountability and tracking of loan originators.
- (5) Streamlines the licensing process and reduces the regulatory burden.
- (6) Enhances consumer protections and supports anti-fraud measures.
- (7) Provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the

Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.

(8) Establishes a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer.

(9) Facilitates responsible behavior in the subprime mortgage market place and provides comprehensive training and examination requirements related to subprime mortgage lending.

(10) Facilitates the collection and disbursement of consumer complaints on behalf of State and Federal mortgage regulators.

SEC. 1503. DEFINITIONS.

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

(1) BUREAU.— The term “Bureau” means the Bureau of Consumer Financial Protection.

(2) FEDERAL BANKING AGENCY.— The term “Federal banking agency” means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(3) DEPOSITORY INSTITUTION.— The term “depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(4) LOAN ORIGINATOR.—

(A) IN GENERAL.— The term “loan originator”—

(i) means an individual who—

(I) takes a residential mortgage loan application; and

(II) offers or negotiates terms of a residential mortgage loan for compensation or gain;

(ii) does not include any individual who is not otherwise described in clause (i) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause;

(iii) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator; and

(iv) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of title 11, United States Code.

(B) OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR.— For purposes of this subsection, an individual “assists a consumer in obtaining or applying to obtain a residential mortgage loan” by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

(C) ADMINISTRATIVE OR CLERICAL TASKS.— The term “administrative or clerical tasks” means the receipt, collection,

and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(D) REAL ESTATE BROKERAGE ACTIVITY DEFINED.— The term “real estate brokerage activity” means any activity that involves offering or providing real estate brokerage services to the public, including—

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

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

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

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

(v) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), or (iv).

(5) LOAN PROCESSOR OR UNDERWRITER.—

(A) IN GENERAL.— The term “loan processor or underwriter” means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

(i) a State-licensed loan originator; or

(ii) a registered loan originator.

(B) CLERICAL OR SUPPORT DUTIES.— For purposes of subparagraph (A), the term “clerical or support duties” may include—

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

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

(7) NONTRADITIONAL MORTGAGE PRODUCT.— The term “non-traditional mortgage product” means any mortgage product other than a 30-year fixed rate mortgage.

(8) REGISTERED LOAN ORIGINATOR.— The term “registered loan originator” means any individual who—

(A) meets the definition of loan originator and is an employee of—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(9) RESIDENTIAL MORTGAGE LOAN.— The term “residential mortgage loan” means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(10) **[DIRECTOR] BOARD** .— The term **[“Director”** means the Director **]** *“Board” means the Board of Directors* of the Bureau of Consumer Financial Protection.

(11) STATE.— The term “State” means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

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

(A) is a loan originator;

(B) is not an employee of—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

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

(13) UNIQUE IDENTIFIER.—

(A) IN GENERAL.— The term “unique identifier” means a number or other identifier that—

(i) permanently identifies a loan originator;

(ii) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Bureau to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators; and

(iii) shall not be used for purposes other than those set forth under this title.

(B) RESPONSIBILITY OF STATES.— To the greatest extent possible and to accomplish the purpose of this title, States shall use unique identifiers in lieu of social security numbers.

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

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

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

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

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

(1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or nonrenewal of a license for a violation of State or Federal law.

(2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

(3) The State loan originator supervisory authority is required to regularly report violations of such law, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(4) The State loan originator supervisory authority has a process in place for challenging information contained in the Nationwide Mortgage Licensing System and Registry.

(5) The State loan originator supervisory authority has established a mechanism to assess civil money penalties for indi-

viduals acting as mortgage originators in their State without a valid license or registration.

(6) The State loan originator supervisory authority has established minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, or has established a recovery fund paid into by the loan originators.

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

(f) REGULATION AUTHORITY.—

(1) IN GENERAL.— The Bureau is authorized to promulgate regulations setting minimum net worth or surety bond requirements for residential mortgage loan originators and minimum requirements for recovery funds paid into by loan originators.

(2) CONSIDERATIONS.— In issuing regulations under paragraph (1), the Bureau shall take into account the need to provide originators adequate incentives to originate affordable and sustainable mortgage loans, as well as the need to ensure a competitive origination market that maximizes consumer access to affordable and sustainable mortgage loans.

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

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

* * * * *

SEC. 1512. CONFIDENTIALITY OF INFORMATION.

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

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

(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

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

(c) **COORDINATION WITH OTHER LAW.**—Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) **PUBLIC ACCESS TO INFORMATION.**—This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

SEC. 1513. LIABILITY PROVISIONS.

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

SEC. 1514. ENFORCEMENT BY THE BUREAU.

(a) **SUMMONS AUTHORITY.**—The **[Director]** *Board* may—

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

(2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the **[Director]** *Board* or any delegate of the **[Director]** *Board* at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this title.

(b) **EXAMINATION AUTHORITY.**—

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

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

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

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

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

(c) CEASE AND DESIST PROCEEDING.—

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

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

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

(4) REVIEW OF TEMPORARY ORDERS.—

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

(B) JUDICIAL REVIEW.— Within—

(i) 10 days after the date the respondent was served with a temporary cease and desist order entered with a prior hearing before the **[Director] Board** ; or

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

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease and desist order en-

tered without a prior hearing before the **[Director] Board** may not apply to the court except after hearing and decision by the **[Director] Board** on the respondent's application under subparagraph (A).

(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.— The commencement of proceedings under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of the **[Secretary's] Board's** order.

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

(d) AUTHORITY OF THE **[DIRECTOR] BOARD** TO ASSESS MONEY PENALTIES.—

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

(2) MAXIMUM AMOUNT OF PENALTY.— The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$25,000.

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SEC. 1516. REPORTS AND RECOMMENDATIONS TO CONGRESS.

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

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

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

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

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

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

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

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TITLE 44, UNITED STATES CODE

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CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

SUBCHAPTER I—FEDERAL INFORMATION POLICY

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

(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

- (1) be taken to address information resources management problems identified in the report; and
- (2) improve agency performance and the accomplishment of agency missions.

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

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TITLE 31, UNITED STATES CODE

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SUBTITLE II—THE BUDGET PROCESS

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**CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND
PROGRAM INFORMATION**

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§ 1105. Budget contents and submission to Congress

(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) information on activities and functions of the Government.

(2) when practicable, information on costs and achievements of Government programs.

(3) other desirable classifications of information.

(4) a reconciliation of the summary information on expenditures with proposed appropriations.

(5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.

(6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—

(A) laws in effect when the budget is submitted; and

(B) proposals in the budget to increase revenues.

(7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.

(8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.

(9) balanced statements of the—

(A) condition of the Treasury at the end of the prior fiscal year;

(B) estimated condition of the Treasury at the end of the current fiscal year; and

(C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.

(10) essential information about the debt of the Government.

(11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) an allowance for unanticipated uncontrollable expenditures for that year.

(15) a separate statement on each of the items referred to in section 301(a)(1)-(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)-(5)).

(16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3))) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

(17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) an analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.

(21) a horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.

(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.

(27) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.

(28) beginning with fiscal year 1999, a Federal Government performance plan for the overall budget as provided for under section 1115.

(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

(30) an analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.

(31) a separate statement of the amount of appropriations requested for the Chief Financial Officer in the Executive Office of the President.

(32) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(33) a separate appropriation account for appropriations for the Council of the Inspectors General on Integrity and Efficiency, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each academy maintained by the Council of the Inspectors General on Integrity and Efficiency.

(34) with respect to the amount of appropriations requested for use by the Export-Import Bank of the United States, a separate statement of the amount requested for its program budget, the amount requested for its administrative expenses, and of the amount requested for its administrative expenses, the amount requested for technology expenses.

(35)(A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to **【homeland security】 cybersecurity**, with separate displays for mandatory and discretionary amounts, including—

(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for **【homeland security】 cybersecurity** ;

(II) an estimate of the current service levels of **【homeland security】 cybersecurity** spending;

(III) the most recent risk assessment and summary of [homeland security] *cybersecurity* needs in each initiative area (as determined by the administration); and

(IV) an estimate of user fees collected by the Federal Government on behalf of [homeland security] *cybersecurity* activities;

(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

(iii) an estimate of expenditures for [homeland security] *cybersecurity* activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

[(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 "Annual Report to Congress on Combatting Terrorism", the term "homeland security" refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

[(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.]

(B) Prior to implementing this paragraph, including determining what Federal activities or accounts constitute cybersecurity for purposes of budgetary classification, the Office of Management and Budget shall consult with the Committees on Appropriations and the Committees on the Budget of the House of Representatives and the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Government Affairs of the Senate.

(36) as supplementary materials, a separate analysis of the budgetary effects for all prior fiscal years, the current fiscal year, the fiscal year for which the budget is submitted, and ensuing fiscal years of the actions the Secretary of the Treasury has taken or plans to take using any authority provided in the Emergency Economic Stabilization Act of 2008, including—

(A) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 using methodology required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and section 123 of the Emergency Economic Stabilization Act of 2008;

(B) an estimate of the deficit, the debt held by the public, and the gross Federal debt using methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008;

(C) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 calculated on a cash basis;

(D) a revised estimate of the deficit, the debt held by the public, and the gross Federal debt, substituting the cash-based estimates in subparagraph (C) for the estimates calculated under subparagraph (A) pursuant to the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008; and

(E) the portion of the deficit which can be attributed to any action taken by the Secretary using authority provided by the Emergency Economic Stabilization Act of 2008 and the extent to which the change in the deficit since the most recent estimate is due to a reestimate using the methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008.

(37) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for the following accounts of the Department of Veterans Affairs:

(A) Veterans Benefits Administration, Compensation and Pensions.

(B) Veterans Benefits Administration, Readjustment Benefits.

(C) Veterans Benefits Administration, Veterans Insurance and Indemnities.

(D) Veterans Health Administration, Medical Services.

(E) Veterans Health Administration, Medical Support and Compliance.

(F) Veterans Health Administration, Medical Facilities.

(38) a separate statement for the Crow Settlement Fund established under section 411 of the Crow Tribe Water Rights Settlement Act of 2010, which shall include the estimated amount of deposits into the Fund, obligations, and outlays from the Fund.

(39) the list of plans and reports, as provided for under section 1125, that agencies identified for elimination or consolidation because the plans and reports are determined outdated or duplicative of other required plans and reports.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all

changes about the current fiscal year that were made before the budget or information was submitted.

(e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military capital investment programs. In addition, the analysis under this paragraph shall contain—

(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

(i) economic assumptions;

(ii) engineering standards;

(iii) estimates of spending for operation and maintenance;

(iv) estimates of expenditures for similar investments by State and local governments; and

(v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for a number of years and is not classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

(A) roadways or bridges,

(B) airports or airway facilities,

(C) mass transportation systems,

(D) wastewater treatment or related facilities,

- (E) water resources projects,
- (F) hospitals,
- (G) resource recovery facilities,
- (H) public buildings,
- (I) space or communications facilities,
- (J) railroads, and
- (K) federally assisted housing.

(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under this subsection shall be accompanied by an explanation of such criteria and guidelines.

(5) For purposes of this subsection—

(A) the term “construction” includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(B) the term “acquisition” includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation; and

(C) the term “rehabilitation” includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.

(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

(2)(A) In paragraph (1), except as provided in subparagraph (B), the term “advisory and assistance services” means the following services when provided by nongovernmental sources:

- (i) Management and professional support services.
- (ii) Studies, analyses, and evaluations.
- (iii) Engineering and technical services.

(B) In paragraph (1), the term “advisory and assistance services” does not include the following services:

(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

(ii) Architectural and engineering services, as defined in section 1102 of title 40.

(iii) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.

(h)(1) If there is a medicare funding warning under section 801(a)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made in a year, the President shall submit to Congress, within the 15-day period beginning on the date of the budget submission to Congress under subsection (a) for the succeeding year, proposed legislation to respond to such warning.

(2) Paragraph (1) does not apply if, during the year in which the warning is made, legislation is enacted which eliminates excess general revenue medicare funding (as defined in section 801(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) for the 7-fiscal-year reporting period, as certified by the Board of Trustees of each medicare trust fund (as defined in section 801(c)(5) of such Act) not later than 30 days after the date of the enactment of such legislation.

* * * * *

PUBLIC LAW 102-281

AN ACT To require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.

* * * * *

TITLE IV—CHRISTOPHER COLUMBUS QUINCENTENARY COINS AND FELLOWSHIP FOUNDATION

* * * * *

[Subtitle B—Christopher Columbus Fellowship Foundation

[SEC. 421. SHORT TITLE.

[This subtitle may be cited as the “Christopher Columbus Fellowship Act”.

[SEC. 422. PURPOSE.

[The purpose of this subtitle is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

[SEC. 423. CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION.

[(a) ESTABLISHMENT AND PURPOSES.—There is established, as an independent establishment of the executive branch, the Christopher Columbus Fellowship Foundation (hereinafter in this subtitle referred to as the Foundation”).

[(b) MEMBERSHIP.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members as follows:

[(1) 2 members appointed by the President in consultation with the President pro tempore of the Senate.

[(2) 2 members appointed by the President in consultation with the Minority Leader of the Senate.

[(3) 2 members appointed by the President in consultation with the Speaker of the House of Representatives.

[(4) 2 members appointed by the President in consultation with the Minority Leader of the House of Representatives.

[(5) 5 members appointed by the President.

[(c) CHAIRMAN AND VICE CHAIRMAN OF THE FOUNDATION.—The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

[(d) TERMS OF OFFICE; VACANCIES.—Each member of the Board of Trustees appointed under subsection (b) shall serve for a term of 6 years from the expiration of the term of such member’s predecessor, except that—

[(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member’s predecessor was appointed shall be appointed for the remainder of such term; and

[(2) of the members first appointed—

[(A) 4 shall be appointed for a term of 2 years;

[(B) 5 shall be appointed for a term of 4 years; and

[(C) 4 shall be appointed for a term of 6 years, as designated by the President.

[(e) EXPENSES; NO ADDITIONAL COMPENSATION.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

[SEC. 424. FELLOWSHIP RECIPIENTS.

[(a) AWARD.—The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as “Columbus Scholars”.

[(b) TERM.—Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

[(c) SELECTION.—The Foundation may provide, directly or by contract, for the conduct of a nationwide competition for the selection of fellowship recipients.

[SEC. 425. STIPENDS.

[Each person awarded a fellowship under this subtitle shall receive a stipend as determined by the Foundation.

[SEC. 426. CHRISTOPHER COLUMBUS FELLOWSHIP FUND.

[(a) IN GENERAL.—The is established in the Treasury a fund to be known as the Christopher Columbus Scholarship Fund (here-

after in this subtitle referred to as the “fund”), which shall consist of—

- [(1) amounts deposited under subsection (d);
- [(2) obligations obtained under subsection (c);
- [(3) amounts contributed to the Foundation;
- [(4) amounts appropriated to the Foundation, as authorized under section 430; and
- [(5) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

[(b) INVESTMENTS.—

[(1) DUTY OF SECRETARY TO INVEST.— The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

[(2) AUTHORIZED INVESTMENTS.— Invests pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

[(A) on original issue at the issue price; or

[(B) by purchase of outstanding obligations at the market price.

[(3) SPECIAL OBLIGATIONS.— The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of 1/s of 1 percent, the rate of interest of such special obligations shall be the multiple of 3% of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

[(c) SALE OF OBLIGATIONS.—Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accordance with subsection (bX3)) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

[(d) INTEREST.—The interest on, and the proceeds from, the sale or redemption of an obligations held in the fund shall be credited to and form a part of the fund.

[(e) AVAILABILITY OF FUND.—

[(1) STIPENDS.— The fund shall be available to the Foundation for payment of stipends awarded under section 425.

[(2) EXPENSES.— The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this subtitle.

[(f) DISBURSEMENTS.—Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

[SEC. 427. AUDITS.

[The activities of the Foundation under this subtitle may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

[SEC. 428. EXECUTIVE SECRETARY OF FOUNDATION.

[(a) DUTIES.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

[(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at an annual rate of basic pay not in excess of the amount payable for Executive Level V.

[SEC. 429. ADMINISTRATIVE PROVISIONS.

[(a) The foundation may—

[(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subtitle, except that in no case shall employees (other than the Executive Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS-15 of the General Schedule;

[(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for Executive Level V;

[(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

[(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

[(5) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

[(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

[(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31, United States Code;

[(8) rent office space;

[(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's

purpose of encouraging new discoveries in all fields of endeavor for the benefit of mankind; and

[(10) to make other necessary expenditures.

[(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this subtitle.

[SEC. 430. AUTHORIZATION OF APPROPRIATIONS.

【There are authorized to be appropriated to the Foundation, such sums as may be necessary to carry out this subtitle.】

LOCAL BUDGET AUTONOMY AMENDMENT ACT OF 2012

AN ACT To amend the District of Columbia Home Rule Act to provide for local budget autonomy.

DISTRICT OF COLUMBIA HOME RULE ACT

* * * * *

TITLE IV—THE DISTRICT CHARTER

* * * * *

PART D—DISTRICT BUDGET AND FINANCIAL MANAGEMENT

Subpart 1—Budget and Financial Management

* * * * *

GENERAL AND SPECIAL FUNDS

SEC. 450. **[The General Fund]** (a) *IN GENERAL.*—*The General Fund* of the District shall be composed of those District revenues which on the effective date of this title are paid into the Treasury of the United States and credited either to the General Fund of the District or its miscellaneous receipts, but shall not include any revenues which are applied by law to any special fund existing on the date of enactment of this title. The Council may from time to time establish such additional special funds as may be necessary for the efficient operation of the government of the District. All money received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor for deposit in the appropriate fund, except that all money received by the District of Columbia Courts shall be deposited in the Treasury of the United States or the Crime Victims Fund.

(b) *APPLICATION OF FEDERAL APPROPRIATIONS PROCESS.*—*Nothing in this Act shall be construed as creating a continuing appropriation of the General Fund described in subsection (a). All funds provided for the District of Columbia shall be appropriated on an annual fiscal year basis through the Federal appropriations process. For each fiscal year, the District shall be subject to all applicable requirements of subchapter III of chapter 13 and subchapter II of chapter 15 of title 31, United States Code (commonly known as the “Anti-Deficiency Act”), the Budget and Accounting Act of 1921, and all other requirements and restrictions applicable to appropriations for such fiscal year.*

* * * * *

TITLE VI—RESERVATION OF CONGRESSIONAL AUTHORITY

* * * * *

BUDGET PROCESS; LIMITATIONS ON BORROWING AND SPENDING

SEC. 603. (a) Nothing in this Act shall be construed as making any change in **[existing]** law, regulation, or basic procedure and practice relating to the respective roles of the Congress, the President, the Federal Office of Management and Budget, and the Comptroller General of the United States in the preparation, review, submission, examination, authorization, and appropriation of

the total budget of the District of Columbia government[.], or as authorizing the District of Columbia to make any such change.

(b)(1) No general obligation bonds (other than bonds to refund outstanding indebtedness) or Treasury capital project loans shall be issued during any fiscal year in an amount which would cause the amount of principal and interest required to be paid both serially and into a sinking fund in any fiscal year on the aggregate amounts of all outstanding general obligation bonds and such Treasury loans, to exceed 17 percent of the District revenues (less any fees or revenues directed to servicing revenue bonds, any revenues, charges, or fees dedicated for the purposes of water and sewer facilities described in section 490(a) (including fees or revenues directed to servicing or securing revenue bonds issued for such purposes), retirement contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale or general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year in which the bonds will be issued. Treasury capital project loans include all borrowing from the United States Treasury, except those funds advanced to the District by the Secretary of the Treasury under the provisions of title VI of the District of Columbia Revenue Act of 1939.

(2) Obligations incurred pursuant to the authority contained in the District of Columbia Stadium Act of 1957 (71 Stat. 619; D.C. Code title 2, chapter 17, subchapter II), obligations incurred by the agencies transferred or established by sections 201 and 202, whether incurred before or after such transfer or establishment, and obligations incurred pursuant to general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects, shall not be included in determining the aggregate amount of all outstanding obligations subject to the limitation specified in the preceding subsection.

(3) The 17 percent limitation specified in paragraph (1) shall be calculated in the following manner:

(A) Determine the dollar amount equivalent to 14 percent of the District revenues (less any fees or revenues directed to servicing revenue bonds, any revenues, charges, or fees dedicated for the purposes of water and sewer facilities described in section 490(a) (including fees or revenues directed to servicing or securing revenue bonds issued for such purposes), retirement, contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year for which the bonds will be issued.

(B) Determine the actual total amount of principal and interest to be paid in each fiscal year for all outstanding general obligation bonds (less the allocable portion of principal and interest to be paid during the year on general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects) and such Treasury loans.

(C) Determine the amount of principal and interest to be paid during each fiscal year over the term of the proposed general obligation bond or such Treasury loan to be issued.

(D) If in any one fiscal year the sum arrived at by adding subparagraphs (B) and (C) exceeds the amount determined under subparagraph (A), then the proposed general obligation bond or such Treasury loan in subparagraph (C) cannot be issued.

(c) Except as provided in subsection (f), the Council shall not approve any budget which would result in expenditures being made by the District Government, during any fiscal year, in excess of all resources which the Mayor estimates will be available from all funds available to the District for such fiscal year. The budget shall identify any tax increases which shall be required in order to balance the budget as submitted. The Council shall be required to adopt such tax increases to the extent its budget is approved.

(d) Except as provided in subsection (f), the Mayor shall not forward to the President for submission to Congress a budget which is not balanced according to the provision of subsection 603(c).

(e) Nothing in this Act shall be construed as affecting the applicability to the District government of the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665), the so-called Anti-Deficiency Act.

(f) In the case of a fiscal year which is a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), the Council may not approve, and the Mayor may not forward to the President, any budget which is not consistent with the financial plan and budget established for the fiscal year under subtitle A of title II of such Act.

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CONSOLIDATED APPROPRIATIONS ACT, 2016

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DIVISION E—FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2016

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TITLE VIII

GENERAL PROVISIONS—DISTRICT OF COLUMBIA

(INCLUDING TRANSFERS OF FUNDS)

* * * * *

【Sec. 817. (a) This section may be cited as the “D.C. Opportunity Scholarship Program School Certification Requirements Act”.

【(b) Section 3007(a) of the Scholarships for Opportunity and Results Act (Public Law 112-10; 125 Stat. 203) is amended—

【(1) in paragraph (4)—

【(A) in subparagraph (E), by striking “and” after the semicolon;

[(B) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

[(C) by adding at the end the following:

["(G)(i) is provisionally or fully accredited by a national or regional accrediting agency that is recognized in the District of Columbia School Reform Act of 1995 (sec. 38-1802.02(16)(A)-(G), D.C. Official Code) or any other accrediting body deemed appropriate by the Office of the State Superintendent for Schools for the purposes of accrediting an elementary or secondary school; or

["(ii) in the case of a school that is a participating school as of the day before the date of enactment of the D.C. Opportunity Scholarship Program School Certification Requirements Act and, as of such day, does not meet the requirements of clause (i)—

["(I) by not later than 1 year after such date of enactment, is pursuing accreditation by a national or regional accrediting agency recognized in the District of Columbia School Reform Act of 1995 (sec. 38-1802.02(16)(A)-(G), D.C. Official Code) or any other accrediting body deemed appropriate by the Office of the State Superintendent for Schools for the purposes of accrediting an elementary or secondary school; and

["(II) by not later than 5 years after such date of enactment, is provisionally or fully accredited by such accrediting agency, except that an eligible entity may grant not more than one 1-year extension to meet this requirement for each participating school that provides evidence to the eligible entity from such accrediting agency that the school's application for accreditation is in process and the school will be awarded accreditation before the end of the 1-year extension period;

["(H) conducts criminal background checks on school employees who have direct and unsupervised interaction with students; and

["(I) complies with all requests for data and information regarding the reporting requirements described in section 3010."; and

[(2) by adding at the end the following:

["(5) NEW PARTICIPATING SCHOOLS.— If a school is not a participating school as of the date of enactment of the D.C. Opportunity Scholarship Program School Certification Requirements Act, the school shall not become a participating school and none of the funds provided under this division for opportunity scholarships may be used by an eligible student to enroll in that school unless the school—

["(A) is actively pursuing provisional or full accreditation by a national or regional accrediting agency that is recognized in the District of Columbia School Reform Act of 1995 (sec. 38-1802.02(16)(A)-(G), D.C. Official Code) or any other accrediting body deemed appropriate by the Office of the State Superintendent for Schools for the pur-

poses of accrediting an elementary or secondary school; and

["(B) meets all of the other requirements for participating schools under this Act.

["(6) ENROLLING IN ANOTHER SCHOOL.— An eligible entity shall assist the parents of a participating eligible student in identifying, applying to, and enrolling in an another participating school for which opportunity scholarship funds may be used, if—

["(A) such student is enrolled in a participating private school and may no longer use opportunity scholarship funds for enrollment in that participating private school because such school fails to meet a requirement under paragraph 4, or any other requirement of this Act; or

["(B) a participating eligible student is enrolled in a school that ceases to be a participating school.”.

[(c) REPORT TO ELIGIBLE ENTITIES.—Section 3010 of the Scholarships for Opportunity and Results Act (Public Law 112-10; 125 Stat. 203) is further amended—

[(1) by redesignating subsection (d) as subsection (e); and

[(2) by inserting after subsection (c) the following:

["(d) REPORTS TO ELIGIBLE ENTITIES.—The eligible entity receiving funds under section 3004(a) shall ensure that each participating school under this division submits to the eligible entity beginning not later than 5 years after the date of the enactment of the D.C. Opportunity Scholarship Program School Certification Requirements Act, a certification that the school has been awarded provisional or full accreditation, or has been granted an extension by the eligible entity in accordance with section 3007(a)(4)(G).”.

[(d) Unless specifically provided otherwise, this section, and the amendments made by this section, shall take effect 1 year after the date of enactment of this Act.]

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SCHOLARSHIPS FOR OPPORTUNITY AND RESULTS ACT

* * * * *

DIVISION C—SCHOLARSHIPS FOR OPPORTUNITY AND RESULTS ACT

* * * * *

SEC. 3003. PURPOSE.

The purpose of this division is to provide low-income parents residing in the District of Columbia, [particularly parents of students who attend elementary schools or secondary schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965, with] *particularly parents of students who attend an elementary school or secondary school identified as one of the lowest-performing schools under the District of Columbia’s accountability system, with* expanded opportunities for enrolling their children in other schools in the District

of Columbia, at least until the public schools in the District of Columbia have adequately addressed shortfalls in health, safety, and security, and the students in the District of Columbia public schools are testing in mathematics and reading at or above the national average.

SEC. 3004. GENERAL AUTHORITY.

(a) OPPORTUNITY SCHOLARSHIPS.—

(1) *IN GENERAL.*— From funds appropriated under section 3014(a)(1), the Secretary shall award grants on a competitive basis to eligible entities with approved applications under section 3005 to carry out a program to provide eligible students with expanded school choice opportunities. The Secretary may award a single grant or multiple grants, depending on the quality of applications submitted and the priorities of this division.

(2) *DURATION OF GRANTS.*— The Secretary may make grants under this subsection for a period of not more than 5 years.

(3) *PROHIBITING IMPOSITION OF LIMITS ON ELIGIBLE STUDENTS PARTICIPATING IN THE PROGRAM.*—

(A) *IN GENERAL.*— *In carrying out the program under this division, the Secretary may not limit the number of eligible students receiving scholarships under section 3007(a), and may not prevent otherwise eligible students from participating in the program under this division, based on any of the following:*

(i) *The type of school the student previously attended.*

(ii) *Whether or not the student previously received a scholarship or participated in the program, including whether an eligible student was awarded a scholarship in any previous year but has not used the scholarship, regardless of the number of years of nonuse.*

(iii) *Whether or not the student was a member of the control group used by the Institute of Education Sciences to carry out previous evaluations of the program under section 3009.*

(B) *RULE OF CONSTRUCTION.*— *Nothing in subparagraph (A) may be construed to waive the requirement under section 3005(b)(1)(B) that the eligible entity carrying out the program under this Act must carry out a random selection process, which gives weight to the priorities described in section 3006, if more eligible students seek admission in the program than the program can accommodate.*

(b) *DC PUBLIC SCHOOLS AND CHARTER SCHOOLS.*— From funds appropriated under paragraphs (2) and (3) of section 3014(a), the Secretary shall provide funds to the Mayor of the District of Columbia, if the Mayor agrees to the requirements described in section 3011(a), for—

(1) the District of Columbia public schools to improve public education in the District of Columbia; and

(2) the District of Columbia public charter schools to improve and expand quality public charter schools in the District of Columbia.

SEC. 3005. APPLICATIONS.

(a) **IN GENERAL.**—In order to receive a grant under section 3004(a), an eligible entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) **CONTENTS.**—The Secretary may not approve the request of an eligible entity for a grant under section 3004(a) unless the entity's application includes—

(1) a detailed description of—

(A) how the entity will address the priorities described in section 3006;

(B) how the entity will ensure that if more eligible students seek admission in the program of the entity than the program can accommodate, eligible students are selected for admission through a random selection process which gives weight to the priorities described in section 3006;

(C) how the entity will ensure that if more participating eligible students seek admission to a participating school than the school can accommodate, participating eligible students are selected for admission through a random selection process;

(D) how the entity will notify parents of eligible students of the expanded choice opportunities in order to allow the parents to make informed decisions;

(E) the activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 3007(a);

(F) how the entity will determine the amount that will be provided to parents under section 3007(a)(2) for the payment of tuition, fees, and transportation expenses, if any;

(G) how the entity will seek out private elementary schools and secondary schools in the District of Columbia to participate in the program;

(H) how the entity will ensure that each participating school will meet the reporting and other program requirements under this division;

(I) how the entity will ensure that participating schools submit to site visits by the entity as determined to be necessary by the entity~~], except that a participating school may not be required to submit to more than 1 site visit per school year];~~

(J) how the entity will ensure that participating schools are financially responsible and will use the funds received under section 3007 effectively;

(K) how the entity will ensure the financial viability of participating schools in which 85 percent or more of the total number of students enrolled at the school are participating eligible students that receive and use an opportunity scholarship;

~~[(K)] (L) how the entity will address the renewal of scholarships to participating eligible students, including continued eligibility; [and]~~

- [(L)] (M) how the entity will ensure that a majority of its voting board members or governing organization are residents of the District of Columbia; and
- (N) how the eligible entity will ensure that it—
- (i) utilizes internal fiscal and quality controls; and
 - (ii) complies with applicable financial reporting requirements and the requirements of this division; and
- (2) an assurance that the entity will comply with all requests regarding any evaluation carried out under section 3009(a).

SEC. 3006. PRIORITIES.

In awarding grants under section 3004(a), the Secretary shall give priority to applications from eligible entities that will most effectively—

- (1) in awarding scholarships under section 3007(a), give priority to—

(A) eligible students who, in the school year preceding the school year for which the eligible students are seeking a scholarship, [attended an elementary school or secondary school implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965;] *attended an elementary school or secondary school identified as one of the lowest-performing schools under the District of Columbia's accountability system; and*

[(B) students who have been awarded a scholarship in a preceding year under this division or the DC School Choice Incentive Act of 2003 (sec. 38-1851.01 et seq., D.C. Official Code), as such Act was in effect on the day before the date of the enactment of this division, but who have not used the scholarship, including eligible students who were provided notification of selection for a scholarship for school year 2009-2010, which was later rescinded in accordance with direction from the Secretary of Education; and]

[(C)] (B) students whose household includes a sibling or other child who is already participating in the program of the eligible entity under this division, regardless of whether such students have, in the past, been assigned as members of a control study group for the purposes of an evaluation under section 3009(a)[;] *or whether such students have, in the past, attended a private school;*

(2) target resources to students and families that lack the financial resources to take advantage of available educational options; and

(3) provide students and families with the widest range of educational options.

SEC. 3007. USE OF FUNDS.

(a) OPPORTUNITY SCHOLARSHIPS.—

(1) IN GENERAL.— Subject to [paragraphs (2) and (3)] *paragraphs (2), (3), and (5)*, an eligible entity receiving a grant under section 3004(a) shall use the grant funds to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses, if any, to enable the eligible students

to attend the District of Columbia private elementary school or secondary school of their choice beginning in school year 2011-2012. Each such eligible entity shall ensure that the amount of any tuition or fees charged by a school participating in such entity's program under this division to an eligible student participating in the program does not exceed the amount of tuition or fees that the school charges to students who do not participate in the program.

(2) PAYMENTS TO PARENTS.— An eligible entity receiving a grant under section 3004(a) shall make scholarship payments under the entity's program under this division to the parent of the eligible student participating in the program, in a manner which ensures that such payments will be used for the payment of tuition, fees, and transportation expenses (if any), in accordance with this division.

(3) AMOUNT OF ASSISTANCE.—

(A) VARYING AMOUNTS PERMITTED.— Subject to the other requirements of this section, an eligible entity receiving a grant under section 3004(a) may award scholarships in larger amounts to those eligible students with the greatest need.

(B) ANNUAL LIMIT ON AMOUNT.—

(i) LIMIT FOR SCHOOL YEAR 2011-2012.— The amount of assistance provided to any eligible student by an eligible entity under the entity's program under this division for school year 2011-2012 may not exceed—

(I) \$8,000 for attendance in kindergarten through grade 8; and

(II) \$12,000 for attendance in grades 9 through 12.

(ii) CUMULATIVE INFLATION ADJUSTMENT.— Beginning with school year 2012-2013, the Secretary shall adjust the maximum amounts of assistance described in clause (i) for inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(4) PARTICIPATING SCHOOL REQUIREMENTS.— None of the funds provided under this division for opportunity scholarships may be used by an eligible student to enroll in a participating private school unless the participating school—

(A) has and maintains a valid certificate of occupancy issued by the District of Columbia;

(B) makes readily available to all prospective students information on its school accreditation;

(C) in the case of a school that has been operating for 5 years or less, submits to the eligible entity administering the program proof of adequate financial resources reflecting the financial sustainability of the school and the school's ability to be in operation through the school year;

(D) agrees to submit to site visits as determined to be necessary by the eligible entity pursuant to section 3005(b)(1)(I);

(E) has financial systems, controls, policies, and procedures to ensure that funds are used according to this division; **[and]**

[(F) ensures that, with respect to core academic subjects (as such term was defined in section 9101(11) of the Elementary and Secondary Act of 1965 (20 U.S.C. 7801(11)) on the day before the date of enactment of the Every Student Succeeds Act), participating students are taught by a teacher who has a baccalaureate degree or equivalent degree, whether such degree was awarded in or outside of the United States.]

(F) ensures that, with respect to core subject matter, participating students are taught by a teacher who has a baccalaureate degree or equivalent degree, whether such degree was awarded in or outside of the United States;

(G) conducts criminal background checks on school employees who have direct and unsupervised interaction with students; and

(H) complies with all requests for data and information regarding the reporting requirements described in section 3010.

(5) ACCREDITATION REQUIREMENTS.—

(A) IN GENERAL.— *None of the funds provided under this division for opportunity scholarships may be used by a participating eligible student to enroll in a participating private school unless the school—*

(i) in the case of a school that is a participating school as of the date of enactment of the SOAR Reauthorization Act—

(I) is fully accredited by an accrediting body described in any of subparagraphs (A) through (G) of section 2202(16) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; sec. 38–1802.02(16)(A)–(G), D.C. Official Code); or

(II) if such participating school does not meet the requirements of subclause (I)—

(aa) not later than 1 year after the date of enactment of the Consolidated Appropriations Act, 2016 (Public Law 114–113), the school is pursuing full accreditation by an accrediting body described in subclause (I); and

(bb) is fully accredited by such an accrediting body not later than 5 years after the date on which that school began the process of pursuing full accreditation in accordance with item (aa); and

(ii) in the case of a school that is not a participating school as of the date of enactment of the SOAR Reauthorization Act, is fully accredited by an accrediting body described in clause (i)(I) before becoming a participating school under this division.

(B) REPORTS TO ELIGIBLE ENTITY.— *Not later than 5 years after the date of enactment of the SOAR Reauthorization Act, each participating school shall submit to the eligi-*

ble entity a certification that the school has been fully accredited in accordance with subparagraph (A).

(C) ASSISTING STUDENTS IN ENROLLING IN OTHER SCHOOLS.— If a participating school fails to meet the requirements of this paragraph, the eligible entity shall assist the parents of the participating eligible students who attend the school in identifying, applying to, and enrolling in another participating school under this division.

(6) TREATMENT OF STUDENTS AWARDED A SCHOLARSHIP IN A PREVIOUS YEAR.— An eligible entity shall treat a participating eligible student who was awarded an opportunity scholarship in any previous year and who has not used the scholarship as a renewal student and not as a new applicant, without regard as to—

(A) whether the eligible student has used the scholarship; and

(B) the year in which the scholarship was previously awarded.

[(b) ADMINISTRATIVE EXPENSES.—An eligible entity receiving a grant under section 3004(a) may use not more than 3 percent of the amount provided under the grant each year for the administrative expenses of carrying out its program under this division during the year, including—

[(1) determining the eligibility of students to participate;

[(2) selecting eligible students to receive scholarships;

[(3) determining the amount of scholarships and issuing the scholarships to eligible students;

[(4) compiling and maintaining financial and programmatic records; and

[(5) conducting site visits as described in section 3005(b)(1)(I).

[(c) PARENTAL ASSISTANCE.—An eligible entity receiving a grant under section 3004(a) may use not more than 2 percent of the amount provided under the grant each year for the expenses of educating parents about the entity's program under this division, and assisting parents through the application process, under this division, including—

[(1) providing information about the program and the participating schools to parents of eligible students;

[(2) providing funds to assist parents of students in meeting expenses that might otherwise preclude the participation of eligible students in the program; and

[(3) streamlining the application process for parents.]

(b) ADMINISTRATIVE EXPENSES AND PARENTAL ASSISTANCE.—The Secretary shall make \$2,000,000 of the amount made available under section 3014(a)(1) for each fiscal year available to eligible entities receiving a grant under section 3004(a) to cover the following expenses:

(1) The administrative expenses of carrying out its program under this division during the year, including—

(A) determining the eligibility of students to participate;

(B) selecting the eligible students to receive scholarships;

(C) determining the amount of the scholarships and issuing the scholarships to eligible students;

(D) compiling and maintaining financial and programmatic records;

(E) conducting site visits as described in section 3005(b)(1)(I); and

(F)(i) conducting a study, including a survey of participating parents, on any barriers for participating eligible students in gaining admission to, or attending, the participating school that is their first choice; and

(ii) not later than the end of the first full fiscal year after the date of enactment of the SOAR Reauthorization Act, submitting a report to Congress that contains the results of such study.

(2) The expenses of educating parents about the eligible entity's program under this division, and assisting parents through the application process under this division, including—

(A) providing information about the program and the participating schools to parents of eligible students, including information on supplemental financial aid that may be available at participating schools;

(B) providing funds to assist parents of students in meeting expenses that might otherwise preclude the participation of eligible students in the program; and

(C) streamlining the application process for parents.

[(d)] (c) STUDENT ACADEMIC ASSISTANCE.—An eligible entity receiving a grant under section 3004(a) may use not more than 1 percent of the amount provided under the grant each year for expenses to provide tutoring services to participating eligible students that need additional academic assistance. If there are insufficient funds to provide tutoring services to all such students in a year, the eligible entity shall give priority in such year to students who [previously attended an elementary school or secondary school that was implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965.] previously attended an elementary school or secondary school identified as one of the lowest-performing schools under the District of Columbia's accountability system.

(d) REQUIRING USE OF FUNDS REMAINING UNOBLIGATED FROM PREVIOUS FISCAL YEARS.—

(1) IN GENERAL.— To the extent that any funds appropriated for the opportunity scholarship program under this division for any fiscal year remain available for subsequent fiscal years under section 3014(c), the Secretary shall make such funds available to eligible entities receiving grants under section 3004(a) for the uses described in paragraph (2)—

(A) in the case of any remaining funds that were appropriated before the date of enactment of the SOAR Reauthorization Act, beginning on the date of enactment of such Act; and

(B) in the case of any remaining funds appropriated on or after the date of enactment of such Act, by the first day of the first subsequent fiscal year.

(2) USE OF FUNDS.— If an eligible entity to which the Secretary provided additional funds under paragraph (1) elects to

use such funds during a fiscal year, the eligible entity shall use—

(A) not less than 95 percent of such additional funds to provide additional scholarships for eligible students under section 3007(a), or to increase the amount of the scholarships, during such year; and

(B) not more than a total of 5 percent of such additional funds for administrative expenses, parental assistance, or tutoring, as described in subsections (b) and (c), during such year.

(3) SPECIAL RULE.— Any amounts made available for administrative expenses, parental assistance, or tutoring under paragraph (2)(B) shall be in addition to any other amounts made available for such purposes in accordance with subsections (b) and (c).

* * * * *

SEC. 3009. EVALUATIONS.

[(a) IN GENERAL.—

[(1) DUTIES OF THE SECRETARY AND THE MAYOR.— The Secretary and the Mayor of the District of Columbia shall—

[(A) jointly enter into an agreement with the Institute of Education Sciences of the Department of Education to evaluate annually the performance of students who received scholarships under the 5-year program under this division;

[(B) jointly enter into an agreement to monitor and evaluate the use of funds authorized and appropriated for the District of Columbia public schools and the District of Columbia public charter schools under this division; and

[(C) make the evaluations described in subparagraphs (A) and (B) public in accordance with subsection (c).

[(2) DUTIES OF THE SECRETARY.— The Secretary, through a grant, contract, or cooperative agreement, shall—

[(A) ensure that the evaluation under paragraph (1)(A)—

[(i) is conducted using the strongest possible research design for determining the effectiveness of the opportunity scholarship program under this division; and

[(ii) addresses the issues described in paragraph (4); and

[(B) disseminate information on the impact of the program—

[(i) in increasing the academic growth and achievement of participating eligible students; and

[(ii) on students and schools in the District of Columbia.

[(3) DUTIES OF THE INSTITUTE OF EDUCATION SCIENCES.— The Institute of Education Sciences of the Department of Education shall—

[(A) use a grade appropriate, nationally norm-referenced standardized test each school year to assess participating eligible students in a manner consistent with section 3008(h);

[(B) measure the academic achievement of all participating eligible students; and

[(C) work with the eligible entities to ensure that the parents of each student who applies for a scholarship under this division (regardless of whether the student receives the scholarship) and the parents of each student participating in the scholarship program under this division, agree that the student will participate, if requested by the Institute of Education Sciences, in the measurements given annually by the Institute of Educational Sciences for the period for which the student applied for or received the scholarship, respectively, except that nothing in this subparagraph shall affect a student's priority for an opportunity scholarship as provided under section 3006.

[(4) ISSUES TO BE EVALUATED.— The issues to be evaluated under paragraph (1)(A) shall include the following:

[(A) A comparison of the academic growth and achievement of participating eligible students in the measurements described in paragraph (3) to the academic growth and achievement of the eligible students in the same grades who sought to participate in the scholarship program under this division but were not selected.

[(B) The success of the program in expanding choice options for parents of participating eligible students, improving parental and student satisfaction of such parents and students, respectively, and increasing parental involvement of such parents in the education of their children.

[(C) The reasons parents of participating eligible students choose for their children to participate in the program, including important characteristics for selecting schools.

[(D) A comparison of the retention rates, high school graduation rates, and college admission rates of participating eligible students with the retention rates, high school graduation rates, and college admission rates of students of similar backgrounds who do not participate in such program.

[(E) A comparison of the safety of the schools attended by participating eligible students and the schools in the District of Columbia attended by students who do not participate in the program, based on the perceptions of the students and parents.

[(F) Such other issues with respect to participating eligible students as the Secretary considers appropriate for inclusion in the evaluation, such as the impact of the program on public elementary schools and secondary schools in the District of Columbia.

[(G) An analysis of the issues described in subparagraphs (A) through (F) by applying such subparagraphs by substituting “the subgroup of participating eligible students who have used each opportunity scholarship awarded to such students under this division to attend a participating school” for “participating eligible students” each place such term appears.

【(5) PROHIBITION.— Personally identifiable information regarding the results of the measurements used for the evaluations may not be disclosed, except to the parents of the student to whom the information relates.】

(a) *IN GENERAL.*—

(1) *DUTIES OF THE SECRETARY AND THE MAYOR.*— *The Secretary and the Mayor of the District of Columbia shall—*

(A) *jointly enter into an agreement with the Institute of Education Sciences of the Department of Education to evaluate annually the opportunity scholarship program under this division;*

(B) *jointly enter into an agreement to monitor and evaluate the use of funds authorized and appropriated for the District of Columbia public schools and the District of Columbia public charter schools under this division; and*

(C) *make the evaluations described in subparagraphs (A) and (B) public in accordance with subsection (c).*

(2) *DUTIES OF THE SECRETARY.*— *The Secretary, through a grant, contract, or cooperative agreement, shall—*

(A) *ensure that the evaluation under paragraph (1)(A)—*

(i) *is conducted using an acceptable quasi-experimental research design for determining the effectiveness of the opportunity scholarship program under this division that does not use a control study group consisting of students who applied for but did not receive opportunity scholarships; and*

(ii) *addresses the issues described in paragraph (4); and*

(B) *disseminate information on the impact of the program—*

(i) *in increasing academic achievement and educational attainment of participating eligible students who use an opportunity scholarship; and*

(ii) *on students and schools in the District of Columbia.*

(3) *DUTIES OF THE INSTITUTE OF EDUCATION SCIENCES.*— *The Institute of Education Sciences of the Department of Education shall—*

(A) *assess participating eligible students who use an opportunity scholarship in each of grades 3 through 8, as well as one of the grades at the high school level, by supervising the administration of the same reading and mathematics assessment used by the District of Columbia public schools to comply with section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b));*

(B) *measure the academic achievement of all participating eligible students who use an opportunity scholarship in the grades described in subparagraph (A); and*

(C) *work with eligible entities receiving a grant under this division to ensure that the parents of each student who is a participating eligible student that uses an opportunity scholarship agrees to permit their child to participate in the evaluations and assessments carried out by the Institute of Education Sciences under this subsection.*

(4) *ISSUES TO BE EVALUATED.*— *The issues to be evaluated under paragraph (1)(A) shall include the following:*

(A) *A comparison of the academic achievement of participating eligible students who use an opportunity scholarship on the measurements described in paragraph (3)(B) to the academic achievement of a comparison group of students with similar backgrounds in the District of Columbia public schools.*

(B) *The success of the program under this division in expanding choice options for parents of participating eligible students and increasing the satisfaction of such parents and students with their choice.*

(C) *The reasons parents of participating eligible students choose for their children to participate in the program, including important characteristics for selecting schools.*

(D) *A comparison of the retention rates, high school graduation rates, college enrollment rates, college persistence rates, and college graduation rates of participating eligible students who use an opportunity scholarship with the rates of students in the comparison group described in subparagraph (A).*

(E) *A comparison of the college enrollment rates, college persistence rates, and college graduation rates of students who participated in the program in 2004, 2005, 2011, 2012, 2013, 2014, and 2015 as the result of winning the Opportunity Scholarship Program lottery with such enrollment, persistence, and graduation rates for students who entered but did not win such lottery in those years and who, as a result, served as the control group for previous evaluations of the program under this division. Nothing in this subparagraph may be construed to waive section 3004(a)(3)(A)(iii) with respect to any such student.*

(F) *A comparison of the safety of the schools attended by participating eligible students who use an opportunity scholarship and the schools in the District of Columbia attended by students in the comparison group described in subparagraph (A), based on the perceptions of the students and parents.*

(G) *An assessment of student academic achievement at participating schools in which 85 percent of the total number of students enrolled at the school are participating eligible students who receive and use an opportunity scholarship.*

(H) *Such other issues with respect to participating eligible students who use an opportunity scholarship as the Secretary considers appropriate for inclusion in the evaluation, such as the impact of the program on public elementary schools and secondary schools in the District of Columbia.*

(5) *PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.*—

(A) *IN GENERAL.*— *Any disclosure of personally identifiable information obtained under this division shall be in compliance with section 444 of the General Education Provisions Act (commonly known as the “Family Educational Rights and Privacy Act of 1974”) (20 U.S.C. 1232g).*

(B) STUDENTS NOT ATTENDING PUBLIC SCHOOLS.— With respect to any student who is not attending a public elementary school or secondary school, personally identifiable information obtained under this division shall only be disclosed to—

- (i) individuals carrying out the evaluation described in paragraph (1)(A) for such student;*
- (ii) the group of individuals providing information for carrying out the evaluation of such student; and*
- (iii) the parents of such student.*

(b) **REPORTS.**—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Oversight and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Homeland Security and Governmental Affairs of the Senate—

(1) annual interim reports, not later than April 1 of the year following the year of the date of enactment of this division, and each subsequent year through the year in which the final report is submitted under paragraph (2), on the progress and preliminary results of the evaluation of the opportunity scholarship program funded under this division; and

(2) a final report, not later than 1 year after the final year for which a grant is made under section 3004(a), on the results of the evaluation of the program.

(c) **PUBLIC AVAILABILITY.**—All reports and underlying data gathered pursuant to this section shall be made available to the public upon request, in a timely manner following submission of the applicable report under subsection (b), except that personally identifiable information shall not be disclosed or made available to the public.

(d) **LIMIT ON AMOUNT EXPENDED.**—The amount expended by the Secretary to carry out this section for any fiscal year may not exceed 5 percent of the total amount appropriated under section 3014(a)(1) for the fiscal year.

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SEC. 3011. DC PUBLIC SCHOOLS AND DC PUBLIC CHARTER SCHOOLS.

(a) **CONDITION OF RECEIPT OF FUNDS.**—As a condition of receiving funds under this division on behalf of the District of Columbia public schools and the District of Columbia public charter schools, the Mayor shall agree to carry out the following:

[(1) INFORMATION REQUESTS.— Ensure that all the District of Columbia public schools and the District of Columbia public charter schools comply with all reasonable requests for information for purposes of the evaluation under section 3009(a).]

(1) INFORMATION NECESSARY TO CARRY OUT EVALUATIONS.— Ensure that all District of Columbia public schools and District of Columbia public charter schools make available to the Institute of Education Sciences of the Department of Education all of the information the Institute requires to carry out the assessments and perform the evaluations required under section 3009(a).

(2) **AGREEMENT WITH THE SECRETARY.**— Enter into the agreement described in section 3009(a)(1)(B) to monitor and evaluate the use of funds authorized and appropriated for the Dis-

trict of Columbia public schools and the District of Columbia public charter schools under this division.

(3) SUBMISSION OF REPORT.— Not later than 6 months after the first appropriation of funds under section 3014, and each succeeding year thereafter, submit to the Committee on Appropriations, the Committee on Education and the Workforce, and the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Appropriations, the Committee on Health, Education, Labor, and Pensions, and the Committee on Homeland Security and Governmental Affairs of the Senate, information on—

(A) how the funds authorized and appropriated under this division for the District of Columbia public schools and the District of Columbia public charter schools were used in the preceding school year; and

(B) how such funds are contributing to student achievement.

[(b) ENFORCEMENT.—If, after reasonable notice and an opportunity for a hearing for the Mayor, the Secretary determines that the Mayor has not been in compliance with 1 or more of the requirements described in subsection (a), the Secretary may withhold from the Mayor, in whole or in part, further funds under this division for the District of Columbia public schools and the District of Columbia public charter schools.]

(b) ENFORCEMENT.—If, after reasonable notice and an opportunity for a hearing, the Secretary determines that the Mayor has failed to comply with any of the requirements of subsection (a), the Secretary may withhold from the Mayor, in whole or in part—

(1) the funds otherwise authorized to be appropriated under section 3014(a)(2), if the failure to comply relates to the District of Columbia public schools;

(2) the funds otherwise authorized to be appropriated under section 3014(a)(3), if the failure to comply relates to the District of Columbia public charter schools; or

(3) the funds otherwise authorized to be appropriated under both paragraphs (2) and (3) of section 3014(a), if the failure relates to both the District of Columbia public schools and the District of Columbia public charter schools.

(c) SPECIFIC RULES REGARDING FUNDS PROVIDED FOR SUPPORT OF PUBLIC CHARTER SCHOOLS.—The following rules shall apply with respect to the funds provided under this division for the support of District of Columbia public charter schools:

(1) The Secretary may direct the funds provided for any fiscal year, or any portion thereof, to the Office of the State Superintendent of Education of the District of Columbia.

(2) The Office of the State Superintendent of Education of the District of Columbia may transfer the funds to subgrantees that are—

(A) specific District of Columbia public charter schools or networks of such schools; or

(B) District of Columbia-based nonprofit organizations with experience in successfully providing support or assistance to District of Columbia public charter schools or networks of such schools.

(3) *The funds provided under this division for the support of District of Columbia public charter schools shall be available to any District of Columbia public charter school in good standing with the District of Columbia Charter School Board, and the Office of the State Superintendent of Education of the District of Columbia and the District of Columbia Charter School Board may not restrict the availability of such funds to certain types of schools on the basis of the school's location, governing body, or the school's facilities.*

[(c)] (d) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to reduce, or otherwise affect, funding provided under this division for the opportunity scholarship program under this division.

* * * * *

SEC. 3013. DEFINITIONS.

As used in this division:

(1) **CORE SUBJECT MATTER.**— *The term “core subject matter” means—*

- (A) *mathematics;*
- (B) *science; and*
- (C) *English, reading, or language arts.*

[(1)] (2) **ELEMENTARY SCHOOL.**— The term “elementary school” means an institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under District of Columbia law.

[(2)] (3) **ELIGIBLE ENTITY.**— The term “eligible entity” means any of the following:

- (A) A nonprofit organization.
- (B) A consortium of nonprofit organizations.

[(3)] (4) **ELIGIBLE STUDENT.**— The term “eligible student” means a student who is a resident of the District of Columbia and comes from a household—

- (A) receiving assistance under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or
- (B) whose income does not exceed—
 - (i) 185 percent of the poverty line; or
 - (ii) in the case of a *household with a* student participating in the opportunity scholarship program in the preceding year under this division or the DC School Choice Incentive Act of 2003 (sec. 38-1851.01 et seq., D.C. Official Code), as such Act was in effect on the day before the date of enactment of this division, 300 percent of the poverty line.

[(4)] (5) **MAYOR.**— The term “Mayor” means the Mayor of the District of Columbia.

[(5)] (6) **PARENT.**— The term “parent” has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965.

[(6)] (7) **PARTICIPATING ELIGIBLE STUDENT.**— The term “participating eligible student” means an eligible student awarded an opportunity scholarship under this division, without regard to whether the student uses the scholarship to attend a participating school.

[(7)] (8) PARTICIPATING SCHOOL.— The term “participating school” means a private elementary school or secondary school participating in the opportunity scholarship program of an eligible entity under this division.

[(8)] (9) POVERTY LINE.— The term “poverty line” has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965.

[(9)] (10) SECONDARY SCHOOL.— The term “secondary school” means an institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under District of Columbia law, except that the term does not include any education beyond grade 12.

[(10)] (11) SECRETARY.— The term “Secretary” means the Secretary of Education.

SEC. 3014. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated \$60,000,000 for fiscal year 2012 [and for each of the 4 succeeding fiscal years] *and for each fiscal year through fiscal year 2021* , of which—

(1) one-third shall be made available to carry out the opportunity scholarship program under this division for each fiscal year;

(2) one-third shall be made available to carry out section 3004(b)(1) for each fiscal year; and

(3) one-third shall be made available to carry out section 3004(b)(2) for each fiscal year.

(b) APPORTIONMENT.—If the total amount of funds appropriated under subsection (a) for a fiscal year does not equal \$60,000,000, the funds shall be apportioned in the manner described in subsection (a) for such fiscal year.

(c) AVAILABILITY.—*Amounts appropriated under subsection (a)(1), including amounts appropriated and available under such subsection before the date of enactment of the SOAR Reauthorization Act, shall remain available until expended.*

SECURITIES EXCHANGE ACT OF 1934

TITLE I—REGULATION OF SECURITIES EXCHANGES

* * * * *

SECURITIES AND EXCHANGE COMMISSION

SEC. 4. (a) There is hereby established a Securities and Exchange Commission (hereinafter referred to as the “Commission”) to be composed of five commissioners to be appointed by the President by and with the advice and consent of the Senate. Not more than three of such commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable. No commissioner shall engage in any other business, vocation, or employment than that of serving as commissioner, nor shall any commissioner participate, directly or indirectly, in any stock-market operations or transactions of a character subject to

regulation by the Commission pursuant to this title. Each commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the commissioners first taking office after the enactment of this title shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after the date of the enactment of this title.

(b) APPOINTMENT AND COMPENSATION OF STAFF AND LEASING AUTHORITY.—

(1) APPOINTMENT AND COMPENSATION.— The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

(2) REPORTING OF INFORMATION.— In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.

(3) LEASING AUTHORITY.— Notwithstanding any other provision of law, the Commission is authorized to enter directly into leases for real property for office, meeting, storage, and such other space as is necessary to carry out its functions, and shall be exempt from any General Services Administration space management regulations or directives.

(c) Notwithstanding any other provision of law, in accordance with regulations which the Commission shall prescribe to prevent conflicts of interest, the Commission may accept payment and reimbursement, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel, subsistence, and other necessary expenses incurred by Commission members and employees in attending meetings and conferences concerning the functions or activities of the Commission. Any payment or reimbursement accepted shall be credited to the appropriated funds of the Commission. The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Commission may include in its regulations under this subsection a limitation on such amounts.

(d) Notwithstanding any other provision of law, former employers of participants in the Commission's professional fellows programs may pay such participants their actual expenses for relocation to Washington, District of Columbia, to facilitate their participation in

such programs, and program participants may accept such payments.

(e) Notwithstanding any other provision of law, whenever any fee is required to be paid to the Commission pursuant to any provision of the securities laws or any other law, the Commission may provide by rule that such fee shall be paid in a manner other than in cash and the Commission may also specify the time that such fee shall be determined and paid relative to the filing of any statement or document with the Commission.

(f) REIMBURSEMENT OF EXPENSES FOR ASSISTING FOREIGN SECURITIES AUTHORITIES.—Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 21(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

(g) OFFICE OF THE INVESTOR ADVOCATE.—

(1) OFFICE ESTABLISHED.— There is established within the Commission the Office of the Investor Advocate (in this subsection referred to as the “Office”).

(2) INVESTOR ADVOCATE.—

(A) IN GENERAL.— The head of the Office shall be the Investor Advocate, who shall—

(i) report directly to the Chairman; and

(ii) be appointed by the Chairman, in consultation with the Commission, from among individuals having experience in advocating for the interests of investors in securities and investor protection issues, from the perspective of investors.

(B) COMPENSATION.— The annual rate of pay for the Investor Advocate shall be equal to the highest rate of annual pay for other senior executives who report to the Chairman of the Commission.

(C) LIMITATION ON SERVICE.— An individual who serves as the Investor Advocate may not be employed by the Commission—

(i) during the 2-year period ending on the date of appointment as Investor Advocate; or

(ii) during the 5-year period beginning on the date on which the person ceases to serve as the Investor Advocate.

(3) STAFF OF OFFICE.— The Investor Advocate, after consultation with the Chairman of the Commission, may retain or employ independent counsel, research staff, and service staff, as the Investor Advocate deems necessary to carry out the functions, powers, and duties of the Office.

(4) FUNCTIONS OF THE INVESTOR ADVOCATE.— The Investor Advocate shall—

(A) assist retail investors in resolving significant problems such investors may have with the Commission or with self-regulatory organizations;

- (B) identify areas in which investors would benefit from changes in the regulations of the Commission or the rules of self-regulatory organizations;
 - (C) identify problems that investors have with financial service providers and investment products;
 - (D) analyze the potential impact on investors of—
 - (i) proposed regulations of the Commission; and
 - (ii) proposed rules of self-regulatory organizations registered under this title; and
 - (E) to the extent practicable, propose to the Commission changes in the regulations or orders of the Commission and to Congress any legislative, administrative, or personnel changes that may be appropriate to mitigate problems identified under this paragraph and to promote the interests of investors.
- (5) ACCESS TO DOCUMENTS.— The Commission shall ensure that the Investor Advocate has full access to the documents of the Commission and any self-regulatory organization, as necessary to carry out the functions of the Office.
- (6) ANNUAL REPORTS.—
- (A) REPORT ON OBJECTIVES.—
 - (i) IN GENERAL.— Not later than June 30 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Investor Advocate for the following fiscal year.
 - (ii) CONTENTS.— Each report required under clause (i) shall contain full and substantive analysis and explanation.
 - (B) REPORT ON ACTIVITIES.—
 - (i) IN GENERAL.— Not later than December 31 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of the Investor Advocate during the immediately preceding fiscal year.
 - (ii) CONTENTS.— Each report required under clause (i) shall include—
 - (I) appropriate statistical information and full and substantive analysis;
 - (II) information on steps that the Investor Advocate has taken during the reporting period to improve investor services and the responsiveness of the Commission and self-regulatory organizations to investor concerns;
 - (III) a summary of the most serious problems encountered by investors during the reporting period;
 - (IV) an inventory of the items described in subclause (III) that includes—

(aa) identification of any action taken by the Commission or the self-regulatory organization and the result of such action;

(bb) the length of time that each item has remained on such inventory; and

(cc) for items on which no action has been taken, the reasons for inaction, and an identification of any official who is responsible for such action;

(V) recommendations for such administrative and legislative actions as may be appropriate to resolve problems encountered by investors; and

(VI) any other information, as determined appropriate by the Investor Advocate.

(iii) INDEPENDENCE.— Each report required under this paragraph shall be provided directly to the Committees listed in clause (i) without any prior review or comment from the Commission, any commissioner, any other officer or employee of the Commission, or the Office of Management and Budget.

(iv) CONFIDENTIALITY.— No report required under clause (i) may contain confidential information.

(7) REGULATIONS.— The Commission shall, by regulation, establish procedures requiring a formal response to all recommendations submitted to the Commission by the Investor Advocate, not later than 3 months after the date of such submission.

(8) OMBUDSMAN.—

(A) APPOINTMENT.— Not later than 180 days after the date on which the first Investor Advocate is appointed under paragraph (2)(A)(i), the Investor Advocate shall appoint an Ombudsman, who shall report directly to the Investor Advocate.

(B) DUTIES.— The Ombudsman appointed under subparagraph (A) shall—

(i) act as a liaison between the Commission and any retail investor in resolving problems that retail investors may have with the Commission or with self-regulatory organizations;

(ii) review and make recommendations regarding policies and procedures to encourage persons to present questions to the Investor Advocate regarding compliance with the securities laws; and

(iii) establish safeguards to maintain the confidentiality of communications between the persons described in clause (ii) and the Ombudsman.

(C) LIMITATION.— In carrying out the duties of the Ombudsman under subparagraph (B), the Ombudsman shall utilize personnel of the Commission to the extent practicable. Nothing in this paragraph shall be construed as replacing, altering, or diminishing the activities of any ombudsman or similar office of any other agency.

(D) REPORT.— The Ombudsman shall submit a semi-annual report to the Investor Advocate that describes the activities and evaluates the effectiveness of the Ombuds-

man during the preceding year. The Investor Advocate shall include the reports required under this section in the reports required to be submitted by the Inspector Advocate under paragraph (6).

(h) EXAMINERS.—

(1) DIVISION OF TRADING AND MARKETS.— The Division of Trading and Markets of the Commission, or any successor organizational unit, shall have a staff of examiners who shall—

(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and

(B) report to the Director of that Division.

(2) DIVISION OF INVESTMENT MANAGEMENT.— The Division of Investment Management of the Commission, or any successor organizational unit, shall have a staff of examiners who shall—

(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and

(B) report to the Director of that Division.

(i) SECURITIES AND EXCHANGE COMMISSION RESERVE FUND.—

(1) RESERVE FUND ESTABLISHED.— There is established in the Treasury of the United States a separate fund, to be known as the “Securities and Exchange Commission Reserve Fund” (referred to in this subsection as the “Reserve Fund”).

(2) RESERVE FUND AMOUNTS.—

(A) IN GENERAL.— Except as provided in subparagraph (B), any registration fees collected by the Commission under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) or section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(f)) shall be deposited into the Reserve Fund.

(B) LIMITATIONS.— For any 1 fiscal year—

(i) the amount deposited in the Fund may not exceed \$50,000,000; and

(ii) the balance in the Fund may not exceed \$100,000,000.

(C) EXCESS FEES.— Any amounts in excess of the limitations described in subparagraph (B) that the Commission collects from registration fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) or section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(f)) shall be deposited in the General Fund of the Treasury of the United States and shall not be available for obligation by the Commission.

(3) USE OF AMOUNTS IN RESERVE FUND.— The Commission may obligate amounts in the Reserve Fund, not to exceed a total of \$100,000,000 in any 1 fiscal year, as the Commission determines is necessary to carry out the functions of the Commission. Any amounts in the reserve fund shall remain available until expended. Not later than 10 days after the date on which the Commission obligates amounts under this paragraph, the Commission shall notify Congress of the date, amount, and purpose of the obligation.

(4) RULE OF CONSTRUCTION.— Amounts collected and deposited in the Reserve Fund shall not be construed to be Government funds or appropriated monies and shall not be subject to

apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

(j) *OFFICE OF THE ADVOCATE FOR SMALL BUSINESS CAPITAL FORMATION.*—

(1) *OFFICE ESTABLISHED.*— *There is established within the Commission the Office of the Advocate for Small Business Capital Formation (hereafter in this subsection referred to as the “Office”).*

(2) *ADVOCATE FOR SMALL BUSINESS CAPITAL FORMATION.*—

(A) *IN GENERAL.*— *The head of the Office shall be the Advocate for Small Business Capital Formation, who shall—*

(i) report directly to the Commission; and

(ii) be appointed by the Commission, from among individuals having experience in advocating for the interests of small businesses and encouraging small business capital formation.

(B) *COMPENSATION.*— *The annual rate of pay for the Advocate for Small Business Capital Formation shall be equal to the highest rate of annual pay for other senior executives who report directly to the Commission.*

(C) *NO CURRENT EMPLOYEE OF THE COMMISSION.*— *An individual may not be appointed as the Advocate for Small Business Capital Formation if the individual is currently employed by the Commission.*

(3) *STAFF OF OFFICE.*— *The Advocate for Small Business Capital Formation, after consultation with the Commission, may retain or employ independent counsel, research staff, and service staff, as the Advocate for Small Business Capital Formation determines to be necessary to carry out the functions of the Office.*

(4) *FUNCTIONS OF THE ADVOCATE FOR SMALL BUSINESS CAPITAL FORMATION.*— *The Advocate for Small Business Capital Formation shall—*

(A) assist small businesses and small business investors in resolving significant problems such businesses and investors may have with the Commission or with self-regulatory organizations;

(B) identify areas in which small businesses and small business investors would benefit from changes in the regulations of the Commission or the rules of self-regulatory organizations;

(C) identify problems that small businesses have with securing access to capital, including any unique challenges to minority-owned and women-owned small businesses;

(D) analyze the potential impact on small businesses and small business investors of—

(i) proposed regulations of the Commission that are likely to have a significant economic impact on small businesses and small business capital formation; and

(ii) proposed rules that are likely to have a significant economic impact on small businesses and small business capital formation of self-regulatory organizations registered under this title;

(E) conduct outreach to small businesses and small business investors, including through regional roundtables, in order to solicit views on relevant capital formation issues;

(F) to the extent practicable, propose to the Commission changes in the regulations or orders of the Commission and to Congress any legislative, administrative, or personnel changes that may be appropriate to mitigate problems identified under this paragraph and to promote the interests of small businesses and small business investors;

(G) consult with the Investor Advocate on proposed recommendations made under subparagraph (F); and

(H) advise the Investor Advocate on issues related to small businesses and small business investors.

(5) ACCESS TO DOCUMENTS.— *The Commission shall ensure that the Advocate for Small Business Capital Formation has full access to the documents and information of the Commission and any self-regulatory organization, as necessary to carry out the functions of the Office.*

(6) ANNUAL REPORT ON ACTIVITIES.—

(A) IN GENERAL.— *Not later than December 31 of each year after 2015, the Advocate for Small Business Capital Formation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of the Advocate for Small Business Capital Formation during the immediately preceding fiscal year.*

(B) CONTENTS.— *Each report required under subparagraph (A) shall include—*

(i) *appropriate statistical information and full and substantive analysis;*

(ii) *information on steps that the Advocate for Small Business Capital Formation has taken during the reporting period to improve small business services and the responsiveness of the Commission and self-regulatory organizations to small business and small business investor concerns;*

(iii) *a summary of the most serious issues encountered by small businesses and small business investors, including any unique issues encountered by minority-owned and women-owned small businesses and their investors, during the reporting period;*

(iv) *an inventory of the items summarized under clause (iii) (including items summarized under such clause for any prior reporting period on which no action has been taken or that have not been resolved to the satisfaction of the Advocate for Small Business Capital Formation as of the beginning of the reporting period covered by the report) that includes—*

(I) *identification of any action taken by the Commission or the self-regulatory organization and the result of such action;*

(II) *the length of time that each item has remained on such inventory; and*

(III) for items on which no action has been taken, the reasons for inaction, and an identification of any official who is responsible for such action;

(v) recommendations for such changes to the regulations, guidance and orders of the Commission and such legislative actions as may be appropriate to resolve problems with the Commission and self-regulatory organizations encountered by small businesses and small business investors and to encourage small business capital formation; and

(vi) any other information, as determined appropriate by the Advocate for Small Business Capital Formation.

(C) CONFIDENTIALITY.— No report required by subparagraph (A) may contain confidential information.

(D) INDEPENDENCE.— Each report required under subparagraph (A) shall be provided directly to the committees of Congress listed in such subparagraph without any prior review or comment from the Commission, any commissioner, any other officer or employee of the Commission, or the Office of Management and Budget.

(7) REGULATIONS.— The Commission shall establish procedures requiring a formal response to all recommendations submitted to the Commission by the Advocate for Small Business Capital Formation, not later than 3 months after the date of such submission.

(8) GOVERNMENT-BUSINESS FORUM ON SMALL BUSINESS CAPITAL FORMATION.— The Advocate for Small Business Capital Formation shall be responsible for planning, organizing, and executing the annual Government-Business Forum on Small Business Capital Formation described in section 503 of the Small Business Investment Incentive Act of 1980 (15 U.S.C. 80c-1).

(9) RULE OF CONSTRUCTION.— Nothing in this subsection may be construed as replacing or reducing the responsibilities of the Investor Advocate with respect to small business investors.

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SEC. 40. SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND PURPOSE.—

(1) ESTABLISHMENT.— There is established within the Commission the Small Business Capital Formation Advisory Committee (hereafter in this section referred to as the “Committee”).

(2) FUNCTIONS.—

(A) IN GENERAL.— The Committee shall provide the Commission with advice on the Commission’s rules, regulations, and policies with regard to the Commission’s mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation, as such rules, regulations, and policies relate to—

(i) capital raising by emerging, privately held small businesses (“emerging companies”) and publicly traded

companies with less than \$250,000,000 in public market capitalization (“smaller public companies”) through securities offerings, including private and limited offerings and initial and other public offerings;

(ii) trading in the securities of emerging companies and smaller public companies; and

(iii) public reporting and corporate governance requirements of emerging companies and smaller public companies.

(B) *LIMITATION.*— The Committee shall not provide any advice with respect to any policies, practices, actions, or decisions concerning the Commission’s enforcement program.

(b) *MEMBERSHIP.*—

(1) *IN GENERAL.*— The members of the Committee shall be—

(A) the Advocate for Small Business Capital Formation;

(B) not fewer than 10, and not more than 20, members appointed by the Commission, from among individuals—

(i) who represent—

(I) emerging companies engaging in private and limited securities offerings or considering initial public offerings (“IPO”) (including the companies’ officers and directors);

(II) the professional advisors of such companies (including attorneys, accountants, investment bankers, and financial advisors); and

(III) the investors in such companies (including angel investors, venture capital funds, and family offices);

(ii) who are officers or directors of minority-owned small businesses or women-owned small businesses;

(iii) who represent—

(I) smaller public companies (including the companies’ officers and directors);

(II) the professional advisors of such companies (including attorneys, auditors, underwriters, and financial advisors); and

(III) the pre-IPO and post-IPO investors in such companies (both institutional, such as venture capital funds, and individual, such as angel investors); and

(iv) who represent participants in the marketplace for the securities of emerging companies and smaller public companies, such as securities exchanges, alternative trading systems, analysts, information processors, and transfer agents; and

(C) three non-voting members—

(i) one of whom shall be appointed by the Investor Advocate;

(ii) one of whom shall be appointed by the North American Securities Administrators Association; and

(iii) one of whom shall be appointed by the Administrator of the Small Business Administration.

(2) *TERM.*— Each member of the Committee appointed under subparagraph (B), (C)(ii), or (C)(iii) of paragraph (1) shall serve for a term of 4 years.

(3) *MEMBERS NOT COMMISSION EMPLOYEES.*— *Members appointed under subparagraph (B), (C)(ii), or (C)(iii) of paragraph (1) shall not be treated as employees or agents of the Commission solely because of membership on the Committee.*

(c) *CHAIRMAN; VICE CHAIRMAN; SECRETARY; ASSISTANT SECRETARY.*—

(1) *IN GENERAL.*— *The members of the Committee shall elect, from among the members of the Committee—*

- (A) *a chairman;*
- (B) *a vice chairman;*
- (C) *a secretary; and*
- (D) *an assistant secretary.*

(2) *TERM.*— *Each member elected under paragraph (1) shall serve for a term of 3 years in the capacity for which the member was elected under paragraph (1).*

(d) *MEETINGS.*—

(1) *FREQUENCY OF MEETINGS.*— *The Committee shall meet—*

- (A) *not less frequently than four times annually, at the call of the chairman of the Committee; and*
- (B) *from time to time, at the call of the Commission.*

(2) *NOTICE.*— *The chairman of the Committee shall give the members of the Committee written notice of each meeting, not later than 2 weeks before the date of the meeting.*

(e) *COMPENSATION AND TRAVEL EXPENSES.*— *Each member of the Committee who is not a full-time employee of the United States shall—*

(1) *be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Committee; and*

(2) *while away from the home or regular place of business of the member in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.*

(f) *STAFF.*— *The Commission shall make available to the Committee such staff as the chairman of the Committee determines are necessary to carry out this section.*

(g) *REVIEW BY COMMISSION.*— *The Commission shall—*

(1) *review the findings and recommendations of the Committee; and*

(2) *each time the Committee submits a finding or recommendation to the Commission, promptly issue a public statement—*

(A) *assessing the finding or recommendation of the Committee; and*

(B) *disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.*

(h) *FEDERAL ADVISORY COMMITTEE ACT.*—*The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee and its activities.*

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SMALL BUSINESS INVESTMENT INCENTIVE ACT OF 1980

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TITLE V—CAPITAL FORMATION

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ANNUAL GOVERNMENT-BUSINESS FORUM ON CAPITAL FORMATION

SEC. 503. (a) Pursuant to the consultation called for in section 502, the Securities and Exchange Commission (*acting through the Office of the Advocate for Small Business Capital Formation and in consultation with the Small Business Capital Formation Advisory Committee*) shall conduct an annual Government-business forum to review the current status of problems and programs relating to small business capital formation.

(b) The Commission shall invite other Federal agencies, such as the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Small Business Administration, organizations representing State securities commissioners, and leading small business and professional organizations concerned with capital formation, to participate in the planning for such forums.

(c) The Commission may request any of the Federal departments, agencies, or organizations such as those specified in subsection (b), or other groups or individuals, to prepare statements and reports to be delivered at such forums. Such departments and agencies shall cooperate in this effort.

(d) A summary of the proceedings of such forums and any findings and recommendations thereof shall be prepared and transmitted to the participants, appropriate committees of the Congress, and others who may be interested in the subject matter.

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TITLE 11, UNITED STATES CODE

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CHAPTER 1—GENERAL PROVISIONS

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§ 101. Definitions

In this title the following definitions shall apply:

(1) The term “accountant” means accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized.

(2) The term “affiliate” means—

- (A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—
- (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or
 - (ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;
- (B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—
- (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or
 - (ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;
- (C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or
- (D) entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.
- (3) The term “assisted person” means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than \$150,000.
- (4) The term “attorney” means attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law.
- (4A) The term “bankruptcy assistance” means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors’ meeting or appearing in a case or proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title.
- (5) The term “claim” means—
- (A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or
 - (B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.
- (6) The term “commodity broker” means futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer, as defined in section 761 of this title, with respect to which there is a customer, as defined in section 761 of this title.

(7) The term “community claim” means claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) of this title is liable, whether or not there is any such property at the time of the commencement of the case.

(7A) The term “commercial fishing operation” means—

(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A).

(7B) The term “commercial fishing vessel” means a vessel used by a family fisherman to carry out a commercial fishing operation.

(8) The term “consumer debt” means debt incurred by an individual primarily for a personal, family, or household purpose.

(9) The term “corporation”—

(A) includes—

(i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

(ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

(iii) joint-stock company;

(iv) unincorporated company or association; or

(v) business trust; but

(B) does not include limited partnership.

(9A) *The term “covered financial corporation” means any corporation incorporated or organized under any Federal or State law, other than a stockbroker, a commodity broker, or an entity of the kind specified in paragraph (2) or (3) of section 109(b), that is—*

(A) a bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956; or

(B) a corporation that exists for the primary purpose of owning, controlling and financing its subsidiaries, that has total consolidated assets of \$50,000,000,000 or greater, and for which, in its most recently completed fiscal year—

(i) annual gross revenues derived by the corporation and all of its subsidiaries from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, from the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated annual gross revenues of the corporation; or

(ii) the consolidated assets of the corporation and all of its subsidiaries related to activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, related to the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated assets of the corporation.

(10) The term “creditor” means—

(A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

(B) entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h) or 502(i) of this title; or

(C) entity that has a community claim.

(10A) The term “current monthly income”—

(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor’s spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor’s spouse), on a regular basis for the household expenses of the debtor or the debtor’s dependents (and in a joint case the debtor’s spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism.

(11) The term “custodian” means—

(A) receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

(B) assignee under a general assignment for the benefit of the debtor’s creditors; or

(C) trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor’s creditors.

(12) The term “debt” means liability on a claim.

(12A) The term “debt relief agency” means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

- (B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;
- (C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;
- (D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or
- (E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.
- (13) The term “debtor” means person or municipality concerning which a case under this title has been commenced.
- (13A) The term “debtor’s principal residence”—
- (A) means a residential structure if used as the principal residence by the debtor, including incidental property, without regard to whether that structure is attached to real property; and
- (B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer if used as the principal residence by the debtor.
- (14) The term “disinterested person” means a person that—
- (A) is not a creditor, an equity security holder, or an insider;
- (B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and
- (C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason.
- (14A) The term “domestic support obligation” means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—
- (A) owed to or recoverable by—
- (i) a spouse, former spouse, or child of the debtor or such child’s parent, legal guardian, or responsible relative; or
- (ii) a governmental unit;
- (B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent, without regard to whether such debt is expressly so designated;
- (C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of—
- (i) a separation agreement, divorce decree, or property settlement agreement;

- (ii) an order of a court of record; or
 - (iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and
 - (D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt.
- (15) The term "entity" includes person, estate, trust, governmental unit, and United States trustee.
- (16) The term "equity security" means—
- (A) share in a corporation, whether or not transferable or denominated "stock", or similar security;
 - (B) interest of a limited partner in a limited partnership;
- or
- (C) warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B) of this paragraph.
- (17) The term "equity security holder" means holder of an equity security of the debtor.
- (18) The term "family farmer" means—
- (A) individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed \$3,237,000 and not less than 50 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse unless such debt arises out of a farming operation), on the date the case is filed, arise out of a farming operation owned or operated by such individual or such individual and spouse, and such individual or such individual and spouse receive from such farming operation more than 50 percent of such individual's or such individual and spouse's gross income for—
 - (i) the taxable year preceding; or
 - (ii) each of the 2d and 3d taxable years preceding; the taxable year in which the case concerning such individual or such individual and spouse was filed; or
 - (B) corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family, and such family or such relatives conduct the farming operation, and
 - (i) more than 80 percent of the value of its assets consists of assets related to the farming operation;
 - (ii) its aggregate debts do not exceed \$3,237,000 and not less than 50 percent of its aggregate noncontingent, liquidated debts (excluding a debt for one dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a farming operation), on the date the case is filed, arise out of the farming operation owned or operated by such corporation or such partnership; and

(iii) if such corporation issues stock, such stock is not publicly traded.

(19) The term “family farmer with regular annual income” means family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12 of this title.

(19A) The term “family fisherman” means—

(A) an individual or individual and spouse engaged in a commercial fishing operation—

(i) whose aggregate debts do not exceed \$1,500,000 and not less than 80 percent of whose aggregate non-contingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

(ii) who receive from such commercial fishing operation more than 50 percent of such individual’s or such individual’s and spouse’s gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

(B) a corporation or partnership—

(i) in which more than 50 percent of the outstanding stock or equity is held by—

(I) 1 family that conducts the commercial fishing operation; or

(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

(II) its aggregate debts do not exceed \$1,500,000 and not less than 80 percent of its aggregate non-contingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

(III) if such corporation issues stock, such stock is not publicly traded.

(19B) The term “family fisherman with regular annual income” means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title.

(20) The term “farmer” means (except when such term appears in the term “family farmer”) person that received more than 80 percent of such person’s gross income during the taxable year of such person immediately preceding the taxable

year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person.

(21) The term “farming operation” includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state.

(21A) The term “farmout agreement” means a written agreement in which—

(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property.

(21B) The term “Federal depository institutions regulatory agency” means—

(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of such Act);

(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation.

(22) The term “financial institution” means—

(A) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer (whether or not a “customer”, as defined in section 741) in connection with a securities contract (as defined in section 741) such customer; or

(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940.

(22A) The term “financial participant” means—

(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date

of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than \$1,000,000,000 in notional or actual principal amount outstanding (aggregated across counterparties) at such time or on any day during the 15-month period preceding the date of the filing of the petition, or has gross mark-to-market positions of not less than \$100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) at such time or on any day during the 15-month period preceding the date of the filing of the petition; or

(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991).

(23) The term “foreign proceeding” means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

(24) The term “foreign representative” means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of such foreign proceeding.

(25) The term “forward contract” means—

(A) a contract (other than a commodity contract, as defined in section 761) for the purchase, sale, or transfer of a commodity, as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than two days after the date the contract is entered into, including, but not limited to, a repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a “repurchase agreement”, as defined in this section) consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement

or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562.

(26) The term “forward contract merchant” means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade.

(27) The term “governmental unit” means United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a case under this title), a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.

(27A) The term “health care business”—

(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

(i) the diagnosis or treatment of injury, deformity, or disease; and

(ii) surgical, drug treatment, psychiatric, or obstetric care; and

(B) includes—

(i) any—

(I) general or specialized hospital;

(II) ancillary ambulatory, emergency, or surgical treatment facility;

(III) hospice;

(IV) home health agency; and

(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

(ii) any long-term care facility, including any—

(I) skilled nursing facility;

(II) intermediate care facility;

(III) assisted living facility;

(IV) home for the aged;

(V) domiciliary care facility; and

(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assist-

ance with activities of daily living and incidentals to activities of daily living.

(27B) The term “incidental property” means, with respect to a debtor’s principal residence—

(A) property commonly conveyed with a principal residence in the area where the real property is located;

(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

(C) all replacements or additions.

(28) The term “indenture” means mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor’s property, or an equity security of the debtor.

(29) The term “indenture trustee” means trustee under an indenture.

(30) The term “individual with regular income” means individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13 of this title, other than a stockbroker or a commodity broker.

(31) The term “insider” includes—

(A) if the debtor is an individual—

(i) relative of the debtor or of a general partner of the debtor;

(ii) partnership in which the debtor is a general partner;

(iii) general partner of the debtor; or

(iv) corporation of which the debtor is a director, officer, or person in control;

(B) if the debtor is a corporation—

(i) director of the debtor;

(ii) officer of the debtor;

(iii) person in control of the debtor;

(iv) partnership in which the debtor is a general partner;

(v) general partner of the debtor; or

(vi) relative of a general partner, director, officer, or person in control of the debtor;

(C) if the debtor is a partnership—

(i) general partner in the debtor;

(ii) relative of a general partner in, general partner of, or person in control of the debtor;

(iii) partnership in which the debtor is a general partner;

(iv) general partner of the debtor; or

(v) person in control of the debtor;

(D) if the debtor is a municipality, elected official of the debtor or relative of an elected official of the debtor;

(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) managing agent of the debtor.

(32) The term “insolvent” means—

- (A) with reference to an entity other than a partnership and a municipality, financial condition such that the sum of such entity's debts is greater than all of such entity's property, at a fair valuation, exclusive of—
- (i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and
 - (ii) property that may be exempted from property of the estate under section 522 of this title;
- (B) with reference to a partnership, financial condition such that the sum of such partnership's debts is greater than the aggregate of, at a fair valuation—
- (i) all of such partnership's property, exclusive of property of the kind specified in subparagraph (A)(i) of this paragraph; and
 - (ii) the sum of the excess of the value of each general partner's nonpartnership property, exclusive of property of the kind specified in subparagraph (A) of this paragraph, over such partner's nonpartnership debts; and
- (C) with reference to a municipality, financial condition such that the municipality is—
- (i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or
 - (ii) unable to pay its debts as they become due.
- (33) The term "institution-affiliated party"—
- (A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act; and
 - (B) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act.
- (34) The term "insured credit union" has the meaning given it in section 101(7) of the Federal Credit Union Act.
- (35) The term "insured depository institution"—
- (A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act; and
 - (B) includes an insured credit union (except in the case of paragraphs (21B) and (33)(A) of this subsection).
- (35A) The term "intellectual property" means—
- (A) trade secret;
 - (B) invention, process, design, or plant protected under title 35;
 - (C) patent application;
 - (D) plant variety;
 - (E) work of authorship protected under title 17; or
 - (F) mask work protected under chapter 9 of title 17;
- to the extent protected by applicable nonbankruptcy law.
- (36) The term "judicial lien" means lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

(37) The term “lien” means charge against or interest in property to secure payment of a debt or performance of an obligation.

(38) The term “margin payment” means, for purposes of the forward contract provisions of this title, payment or deposit of cash, a security or other property, that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including mark-to-market payments, or variation payments.

(38A) The term “master netting agreement”—

(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a).

(38B) The term “master netting agreement participant” means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor.

(39) The term “mask work” has the meaning given it in section 901(a)(2) of title 17.

(39A) The term “median family income” means for any year—

(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year.

(40) The term “municipality” means political subdivision or public agency or instrumentality of a State.

(40A) The term “patient” means any individual who obtains or receives services from a health care business.

(40B) The term “patient records” means any record relating to a patient, including a written document or a record recorded in a magnetic, optical, or other form of electronic medium.

(41) The term “person” includes individual, partnership, and corporation, but does not include governmental unit, except that a governmental unit that—

(A) acquires an asset from a person—

(i) as a result of the operation of a loan guarantee agreement; or

(ii) as receiver or liquidating agent of a person;

(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

(C) is the legal or beneficial owner of an asset of—

(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986;

shall be considered, for purposes of section 1102 of this title, to be a person with respect to such asset or such benefit.

(41A) The term “personally identifiable information” means—

(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

(ii) the geographical address of a physical place of residence of such individual;

(iii) an electronic address (including an e-mail address) of such individual;

(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

(v) a social security account number issued to such individual; or

(vi) the account number of a credit card issued to such individual; or

(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically.

(42) The term “petition” means petition filed under section 301, 302, 303 and 1504 of this title, as the case may be, commencing a case under this title.

(42A) The term “production payment” means a term overriding royalty satisfiable in cash or in kind—

(A) contingent on the production of a liquid or gaseous hydrocarbon from particular real property; and

(B) from a specified volume, or a specified value, from the liquid or gaseous hydrocarbon produced from such property, and determined without regard to production costs.

(43) The term “purchaser” means transferee of a voluntary transfer, and includes immediate or mediate transferee of such a transferee.

(44) The term “railroad” means common carrier by railroad engaged in the transportation of individuals or property or owner of trackage facilities leased by such a common carrier.

(45) The term “relative” means individual related by affinity or consanguinity within the third degree as determined by the common law, or individual in a step or adoptive relationship within such third degree.

(46) The term “repo participant” means an entity that, at any time before the filing of the petition, has an outstanding repurchase agreement with the debtor.

(47) The term “repurchase agreement” (which definition also applies to a reverse repurchase agreement)—

(A) means—

(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers’ acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction,

measured in accordance with section 562 of this title;
and

(B) does not include a repurchase obligation under a participation in a commercial mortgage loan.

(48) The term “securities clearing agency” means person that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934, or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission, or whose business is confined to the performance of functions of a clearing agency with respect to exempted securities, as defined in section 3(a)(12) of such Act for the purposes of such section 17A.

(48A) The term “securities self regulatory organization” means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934.

(49) The term “security”—

(A) includes—

- (i) note;
- (ii) stock;
- (iii) treasury stock;
- (iv) bond;
- (v) debenture;
- (vi) collateral trust certificate;
- (vii) pre-organization certificate or subscription;
- (viii) transferable share;
- (ix) voting-trust certificate;
- (x) certificate of deposit;
- (xi) certificate of deposit for security;
- (xii) investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is required to be the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933, or is exempt under section 3(b) of such Act from the requirement to file such a statement;
- (xiii) interest of a limited partner in a limited partnership;
- (xiv) other claim or interest commonly known as “security”; and
- (xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but

(B) does not include—

- (i) currency, check, draft, bill of exchange, or bank letter of credit;
- (ii) leverage transaction, as defined in section 761 of this title;
- (iii) commodity futures contract or forward contract;
- (iv) option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;

(v) option to purchase or sell a commodity;

(vi) contract or certificate of a kind specified in subparagraph (A)(xii) of this paragraph that is not required to be the subject of a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 from the requirement to file such a statement; or

(vii) debt or evidence of indebtedness for goods sold and delivered or services rendered.

(50) The term “security agreement” means agreement that creates or provides for a security interest.

(51) The term “security interest” means lien created by an agreement.

(51A) The term “settlement payment” means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade.

(51B) The term “single asset real estate” means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor who is not a family farmer and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto.

(51C) The term “small business case” means a case filed under chapter 11 of this title in which the debtor is a small business debtor.

(51D) The term “small business debtor”—

(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief in an amount not more than \$2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$2,000,000 (excluding debt owed to 1 or more affiliates or insiders).

(52) The term “State” includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title.

(53) The term “statutory lien” means lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

(53A) The term “stockbroker” means person—

(A) with respect to which there is a customer, as defined in section 741 of this title; and

(B) that is engaged in the business of effecting transactions in securities—

(i) for the account of others; or

(ii) with members of the general public, from or for such person’s own account.

(53B) The term “swap agreement”—

(A) means—

(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement;

(III) a currency swap, option, future, or forward agreement;

(IV) an equity index or equity swap, option, future, or forward agreement;

(V) a debt index or debt swap, option, future, or forward agreement;

(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

(VII) a commodity index or a commodity swap, option, future, or forward agreement;

(VIII) a weather swap, option, future, or forward agreement;

(IX) an emissions swap, option, future, or forward agreement; or

(X) an inflation swap, option, future, or forward agreement;

(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference therein); and

(II) is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments,

quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

(iii) any combination of agreements or transactions referred to in this subparagraph;

(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act.

(53C) The term “swap participant” means an entity that, at any time before the filing of the petition, has an outstanding swap agreement with the debtor.

(56A) The term “term overriding royalty” means an interest in liquid or gaseous hydrocarbons in place or to be produced from particular real property that entitles the owner thereof to a share of production, or the value thereof, for a term limited by time, quantity, or value realized.

(53D) The term “timeshare plan” means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three

years. A “timeshare interest” is that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.

(54) The term “transfer” means—

- (A) the creation of a lien;
- (B) the retention of title as a security interest;
- (C) the foreclosure of a debtor’s equity of redemption;
- (D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—
 - (i) property; or
 - (ii) an interest in property.

(54A) The term “uninsured State member bank” means a State member bank (as defined in section 3 of the Federal Deposit Insurance Act) the deposits of which are not insured by the Federal Deposit Insurance Corporation.

(55) The term “United States”, when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.

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§ 103. Applicability of chapters

(a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, 12, or 13 of this title, and this chapter, sections 307, 362(o), 555 through 557, and 559 through 562 apply in a case under chapter 15.

(b) Subchapters I and II of chapter 7 of this title apply only in a case under such chapter.

(c) Subchapter III of chapter 7 of this title applies only in a case under such chapter concerning a stockbroker.

(d) Subchapter IV of chapter 7 of this title applies only in a case under such chapter concerning a commodity broker.

(e) SCOPE OF APPLICATION.—Subchapter V of chapter 7 of this title shall apply only in a case under such chapter concerning the liquidation of an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

(f) Except as provided in section 901 of this title, only chapters 1 and 9 of this title apply in a case under such chapter 9.

(g) Except as provided in section 901 of this title, subchapters I, II, and III of chapter 11 of this title apply only in a case under such chapter.

(h) Subchapter IV of chapter 11 of this title applies only in a case under such chapter concerning a railroad.

(i) Chapter 13 of this title applies only in a case under such chapter.

(j) Chapter 12 of this title applies only in a case under such chapter.

(k) Chapter 15 applies only in a case under such chapter, except that—

- (1) sections 1505, 1513, and 1514 apply in all cases under this title; and

(2) section 1509 applies whether or not a case under this title is pending.

(l) *Subchapter V of chapter 11 of this title applies only in a case under chapter 11 concerning a covered financial corporation.*

* * * * *

§ 109. Who may be a debtor

(a) Notwithstanding any other provision of this section, only a person that resides or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

(b) A person may be a debtor under chapter 7 of this title only if such person is not—

(1) a railroad;

(2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958, a small business investment company licensed by the Small Business Administration under section 301 of the Small Business Investment Act of 1958, credit union, or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act, except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; **[or]**

(3)(A) a foreign insurance company, engaged in such business in the United States; or

(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978) in the United States~~[\.]~~; or

(4) *a covered financial corporation.*

(c) An entity may be a debtor under chapter 9 of this title if and only if such entity—

(1) is a municipality;

(2) is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter;

(3) is insolvent;

(4) desires to effect a plan to adjust such debts; and

(5)(A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such

entity intends to impair under a plan in a case under such chapter;

(C) is unable to negotiate with creditors because such negotiation is impracticable; or

(D) reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of this title.

(d) Only a railroad, a person that may be a debtor under chapter 7 of this title (except a stockbroker or a commodity broker), [and] an uninsured State member bank, [or] a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991, or a covered financial corporation may be a debtor under chapter 11 of this title.

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$250,000 and noncontingent, liquidated, secured debts of less than \$750,000, or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than \$250,000 and noncontingent, liquidated, secured debts of less than \$750,000 may be a debtor under chapter 13 of this title.

(f) Only a family farmer or family fisherman with regular annual income may be a debtor under chapter 12 of this title.

(g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—

(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or

(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section other than paragraph (4) of this subsection, an individual may not be a debtor under this title unless such individual has, during the 180-day period ending on the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 7-day period beginning on the date on which the debtor made that request; and

(iii) is satisfactory to the court.

(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.

(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and “disability” means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).

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CHAPTER 3—CASE ADMINISTRATION

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SUBCHAPTER II—OFFICERS

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§ 322. Qualification of trustee

(a) Except as provided in subsection (b)(1), a person selected under section 701, 702, 703, 1104, 1163, 1202, or 1302 of this title to serve as trustee in a case under this title qualifies if before seven days after such selection, and before beginning official duties, such person has filed with the court a bond in favor of the United

States conditioned on the faithful performance of such official duties.

(b)(1) The United States trustee qualifies wherever such trustee serves as trustee in a case under this title.

(2) **[The]** *In cases under subchapter V, the United States trustee shall recommend to the court, and in all other cases, the United States trustee shall determine—*

(A) the amount of a bond required to be filed under subsection (a) of this section; and

(B) the sufficiency of the surety on such bond.

(c) A trustee is not liable personally or on such trustee's bond in favor of the United States for any penalty or forfeiture incurred by the debtor.

(d) A proceeding on a trustee's bond may not be commenced after two years after the date on which such trustee was discharged.

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CHAPTER 7—LIQUIDATION

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SUBCHAPTER II—COLLECTION, LIQUIDATION, AND DISTRIBUTION OF THE ESTATE

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§ 726. Distribution of property of the estate

(a) Except as provided in section 510 of this title, property of the estate shall be distributed—

(1) first, *in payment of any unpaid fees, costs, and expenses of a special trustee appointed under section 1186, and then in payment of claims of the kind specified in, and in the order specified in, section 507 of this title, proof of which is timely filed under section 501 of this title or tardily filed on or before the earlier of—*

(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

(B) the date on which the trustee commences final distribution under this section;

(2) second, in payment of any allowed unsecured claim, other than a claim of a kind specified in paragraph (1), (3), or (4) of this subsection, proof of which is—

(A) timely filed under section 501(a) of this title;

(B) timely filed under section 501(b) or 501(c) of this title; or

(C) tardily filed under section 501(a) of this title, if—

(i) the creditor that holds such claim did not have notice or actual knowledge of the case in time for timely filing of a proof of such claim under section 501(a) of this title; and

(ii) proof of such claim is filed in time to permit payment of such claim;

(3) third, in payment of any allowed unsecured claim proof of which is tardily filed under section 501(a) of this title, other than a claim of the kind specified in paragraph (2)(C) of this subsection;

(4) fourth, in payment of any allowed claim, whether secured or unsecured, for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, arising before the earlier of the order for relief or the appointment of a trustee, to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the holder of such claim;

(5) fifth, in payment of interest at the legal rate from the date of the filing of the petition, on any claim paid under paragraph (1), (2), (3), or (4) of this subsection; and

(6) sixth, to the debtor.

(b) Payment on claims of a kind specified in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), or (10) of section 507(a) of this title, or in paragraph (2), (3), (4), or (5) of subsection (a) of this section, shall be made pro rata among claims of the kind specified in each such particular paragraph, except that in a case that has been converted to this chapter under section 1112, 1208, or 1307 of this title, a claim allowed under section 503(b) of this title incurred under this chapter after such conversion has priority over a claim allowed under section 503(b) of this title incurred under any other chapter of this title or under this chapter before such conversion and over any expenses of a custodian superseded under section 543 of this title.

(c) Notwithstanding subsections (a) and (b) of this section, if there is property of the kind specified in section 541(a)(2) of this title, or proceeds of such property, in the estate, such property or proceeds shall be segregated from other property of the estate, and such property or proceeds and other property of the estate shall be distributed as follows:

(1) Claims allowed under section 503 of this title shall be paid either from property of the kind specified in section 541(a)(2) of this title, or from other property of the estate, as the interest of justice requires.

(2) Allowed claims, other than claims allowed under section 503 of this title, shall be paid in the order specified in subsection (a) of this section, and, with respect to claims of a kind specified in a particular paragraph of section 507 of this title or subsection (a) of this section, in the following order and manner:

(A) First, community claims against the debtor or the debtor's spouse shall be paid from property of the kind specified in section 541(a)(2) of this title, except to the extent that such property is solely liable for debts of the debtor.

(B) Second, to the extent that community claims against the debtor are not paid under subparagraph (A) of this paragraph, such community claims shall be paid from property of the kind specified in section 541(a)(2) of this title that is solely liable for debts of the debtor.

(C) Third, to the extent that all claims against the debtor including community claims against the debtor are not paid under subparagraph (A) or (B) of this paragraph such claims shall be paid from property of the estate other than property of the kind specified in section 541(a)(2) of this title.

(D) Fourth, to the extent that community claims against the debtor or the debtor's spouse are not paid under subparagraph (A), (B), or (C) of this paragraph, such claims shall be paid from all remaining property of the estate.

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CHAPTER 11—REORGANIZATION

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

Sec.

1101. Definitions for this chapter.

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SUBCHAPTER V—LIQUIDATION, REORGANIZATION, OR RECAPITALIZATION OF A COVERED FINANCIAL CORPORATION

1181. *Inapplicability of other sections.*

1182. *Definitions for this subchapter.*

1183. *Commencement of a case concerning a covered financial corporation.*

1184. *Regulators.*

1185. *Special transfer of property of the estate.*

1186. *Special trustee.*

1187. *Temporary and supplemental automatic stay; assumed debt.*

1188. *Treatment of qualified financial contracts and affiliate contracts.*

1189. *Licenses, permits, and registrations.*

1190. *Exemption from securities laws.*

1191. *Inapplicability of certain avoiding powers.*

1192. *Consideration of financial stability.*

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

* * * * *

§ 1112. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title unless—

(1) the debtor is not a debtor in possession;

(2) the case originally was commenced as an involuntary case under this chapter; or

(3) the case was converted to a case under this chapter other than on the debtor's request.

(b)(1) Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

(2) The court may not convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter if the court finds and specifically identifies unusual circumstances establishing that converting or dismissing the case is not in the best interests of creditors and the estate, and the debtor or any other party in interest establishes that—

(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

(B) the grounds for converting or dismissing the case include an act or omission of the debtor other than under paragraph (4)(A)—

(i) for which there exists a reasonable justification for the act or omission; and

(ii) that will be cured within a reasonable period of time fixed by the court.

(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

(4) For purposes of this subsection, the term “cause” includes—

(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

(B) gross mismanagement of the estate;

(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

(E) failure to comply with an order of the court;

(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

(K) failure to pay any fees or charges required under chapter 123 of title 28;

(L) revocation of an order of confirmation under section 1144;

(M) inability to effectuate substantial consummation of a confirmed plan;

(N) material default by the debtor with respect to a confirmed plan;

(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.

(c) The court may not convert a case under this chapter to a case under chapter 7 of this title if the debtor is a farmer or a corpora-

tion that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.

(d) The court may convert a case under this chapter to a case under chapter 12 or 13 of this title only if—

- (1) the debtor requests such conversion;
- (2) the debtor has not been discharged under section 1141(d) of this title; and
- (3) if the debtor requests conversion to chapter 12 of this title, such conversion is equitable.

(e) Except as provided in subsections (c) and (f), the court, on request of the United States trustee, may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate if the debtor in a voluntary case fails to file, within fifteen days after the filing of the petition commencing such case or such additional time as the court may allow, the information required by paragraph (1) of section 521(a), including a list containing the names and addresses of the holders of the twenty largest unsecured claims (or of all unsecured claims if there are fewer than twenty unsecured claims), and the approximate dollar amounts of each of such claims.

(f) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

(g) *Notwithstanding section 109(b), the court may convert a case under subchapter V to a case under chapter 7 if—*

- (1) *a transfer approved under section 1185 has been consummated;*
- (2) *the court has ordered the appointment of a special trustee under section 1186; and*
- (3) *the court finds, after notice and a hearing, that conversion is in the best interest of the creditors and the estate.*

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SUBCHAPTER II—THE PLAN

* * * * *

§ 1129. Confirmation of plan

(a) The court shall confirm a plan only if all of the following requirements are met:

- (1) The plan complies with the applicable provisions of this title.
- (2) The proponent of the plan complies with the applicable provisions of this title.
- (3) The plan has been proposed in good faith and not by any means forbidden by law.
- (4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable.
- (5)(A)(i) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after con-

firmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and

(ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and

(B) the proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.

(6) Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.

(7) With respect to each impaired class of claims or interests—

(A) each holder of a claim or interest of such class—

(i) has accepted the plan; or

(ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date; or

(B) if section 1111(b)(2) of this title applies to the claims of such class, each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.

(8) With respect to each class of claims or interests—

(A) such class has accepted the plan; or

(B) such class is not impaired under the plan.

(9) Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that—

(A) with respect to a claim of a kind specified in section 507(a)(2) or 507(a)(3) of this title, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;

(B) with respect to a class of claims of a kind specified in section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of this title, each holder of a claim of such class will receive—

(i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim;

(C) with respect to a claim of a kind specified in section 507(a)(8) of this title, the holder of such claim will receive on account of such claim regular installment payments in cash—

(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and

(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).

(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.

(11) Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

(12) All fees payable under section 1930 of title 28, as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan.

(13) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.

(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.

(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first

payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.

(16) All transfers of property under the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.

(17) *In a case under subchapter V, all payable fees, costs, and expenses of the special trustee have been paid or the plan provides for the payment of all such fees, costs, and expenses on the effective date of the plan.*

(18) *In a case under subchapter V, confirmation of the plan is not likely to cause serious adverse effects on financial stability in the United States.*

(b)(1) Notwithstanding section 510(a) of this title, if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

(2) For the purpose of this subsection, the condition that a plan be fair and equitable with respect to a class includes the following requirements:

(A) With respect to a class of secured claims, the plan provides—

(i)(I) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and

(II) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;

(ii) for the sale, subject to section 363(k) of this title, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (i) or (iii) of this subparagraph; or

(iii) for the realization by such holders of the indubitable equivalent of such claims.

(B) With respect to a class of unsecured claims—

(i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the

debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section.

(C) With respect to a class of interests—

(i) the plan provides that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest; or

(ii) the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property.

(c) Notwithstanding subsections (a) and (b) of this section and except as provided in section 1127(b) of this title, the court may confirm only one plan, unless the order of confirmation in the case has been revoked under section 1144 of this title. If the requirements of subsections (a) and (b) of this section are met with respect to more than one plan, the court shall consider the preferences of creditors and equity security holders in determining which plan to confirm.

(d) Notwithstanding any other provision of this section, on request of a party in interest that is a governmental unit, the court may not confirm a plan if the principal purpose of the plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933. In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.

(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).

* * * * *

SUBCHAPTER V—LIQUIDATION, REORGANIZATION, OR RE-CAPITALIZATION OF A COVERED FINANCIAL CORPORATION

§ 1181. Inapplicability of other sections

Sections 303 and 321(c) do not apply in a case under this subchapter concerning a covered financial corporation. Section 365 does not apply to a transfer under section 1185, 1187, or 1188.

§ 1182. Definitions for this subchapter

In this subchapter, the following definitions shall apply:

(1) *The term “Board” means the Board of Governors of the Federal Reserve System.*

(2) *The term “bridge company” means a newly formed corporation to which property of the estate may be transferred under section 1185(a) and the equity securities of which may be transferred to a special trustee under section 1186(a).*

(3) The term “capital structure debt” means all unsecured debt of the debtor for borrowed money for which the debtor is the primary obligor, other than a qualified financial contract and other than debt secured by a lien on property of the estate that is to be transferred to a bridge company pursuant to an order of the court under section 1185(a).

(4) The term “contractual right” means a contractual right of a kind defined in section 555, 556, 559, 560, or 561.

(5) The term “qualified financial contract” means any contract of a kind defined in paragraph (25), (38A), (47), or (53B) of section 101, section 741(7), or paragraph (4), (5), (11), or (13) of section 761.

(6) The term “special trustee” means the trustee of a trust formed under section 1186(a)(1).

§ 1183. Commencement of a case concerning a covered financial corporation

(a) A case under this subchapter concerning a covered financial corporation may be commenced by the filing of a petition with the court by the debtor under section 301 only if the debtor states to the best of its knowledge under penalty of perjury in the petition that it is a covered financial corporation.

(b) The commencement of a case under subsection (a) constitutes an order for relief under this subchapter.

(c) The members of the board of directors (or body performing similar functions) of a covered financial company shall have no liability to shareholders, creditors, or other parties in interest for a good faith filing of a petition to commence a case under this subchapter, or for any reasonable action taken in good faith in contemplation of or in connection with such a petition or a transfer under section 1185 or section 1186, whether prior to or after commencement of the case.

(d) Counsel to the debtor shall provide, to the greatest extent practicable without disclosing the identity of the potential debtor, sufficient confidential notice to the chief judge of the court of appeals for the circuit embracing the district in which such counsel intends to file a petition to commence a case under this subchapter regarding the potential commencement of such case. The chief judge of such court shall randomly assign to preside over such case a bankruptcy judge selected from among the bankruptcy judges designated by the Chief Justice of the United States under section 298 of title 28.

§ 1184. Regulators

The Board, the Securities Exchange Commission, the Office of the Comptroller of the Currency of the Department of the Treasury, the Commodity Futures Trading Commission, and the Federal Deposit Insurance Corporation may raise and may appear and be heard on any issue in any case or proceeding under this subchapter.

§ 1185. Special transfer of property of the estate

(a) On request of the trustee, and after notice and a hearing that shall occur not less than 24 hours after the order for relief, the court may order a transfer under this section of property of the estate, and the assignment of executory contracts, unexpired leases, and qualified financial contracts of the debtor, to a bridge company. Upon the

entry of an order approving such transfer, any property transferred, and any executory contracts, unexpired leases, and qualified financial contracts assigned under such order shall no longer be property of the estate. Except as provided under this section, the provisions of section 363 shall apply to a transfer and assignment under this section.

(b) Unless the court orders otherwise, notice of a request for an order under subsection (a) shall consist of electronic or telephonic notice of not less than 24 hours to—

- (1) the debtor;
 - (2) the holders of the 20 largest secured claims against the debtor;
 - (3) the holders of the 20 largest unsecured claims against the debtor;
 - (4) counterparties to any debt, executory contract, unexpired lease, and qualified financial contract requested to be transferred under this section;
 - (5) the Board;
 - (6) the Federal Deposit Insurance Corporation;
 - (7) the Secretary of the Treasury and the Office of the Comptroller of the Currency of the Treasury;
 - (8) the Commodity Futures Trading Commission;
 - (9) the Securities and Exchange Commission;
 - (10) the United States trustee or bankruptcy administrator;
- and
- (11) each primary financial regulatory agency, as defined in section 2(12) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, with respect to any affiliate the equity securities of which are proposed to be transferred under this section.

(c) The court may not order a transfer under this section unless the court determines, based upon a preponderance of the evidence, that—

- (1) the transfer under this section is necessary to prevent serious adverse effects on financial stability in the United States;
- (2) the transfer does not provide for the assumption of any capital structure debt by the bridge company;
- (3) the transfer does not provide for the transfer to the bridge company of any property of the estate that is subject to a lien securing a debt, executory contract, unexpired lease or agreement (including a qualified financial contract) of the debtor unless—

(A)(i) the bridge company assumes such debt, executory contract, unexpired lease or agreement (including a qualified financial contract), including any claims arising in respect thereof that would not be allowed secured claims under section 506(a)(1) and after giving effect to such transfer, such property remains subject to the lien securing such debt, executory contract, unexpired lease or agreement (including a qualified financial contract); and

(ii) the court has determined that assumption of such debt, executory contract, unexpired lease or agreement (including a qualified financial contract) by the bridge company is in the best interests of the estate; or

- (B) such property is being transferred to the bridge company in accordance with the provisions of section 363;
- (4) the transfer does not provide for the assumption by the bridge company of any debt, executory contract, unexpired lease or agreement (including a qualified financial contract) of the debtor secured by a lien on property of the estate unless the transfer provides for such property to be transferred to the bridge company in accordance with paragraph (3)(A) of this subsection;
- (5) the transfer does not provide for the transfer of the equity of the debtor;
- (6) the trustee has demonstrated that the bridge company is not likely to fail to meet the obligations of any debt, executory contract, qualified financial contract, or unexpired lease assumed and assigned to the bridge company;
- (7) the transfer provides for the transfer to a special trustee all of the equity securities in the bridge company and appointment of a special trustee in accordance with section 1186;
- (8) after giving effect to the transfer, adequate provision has been made for the fees, costs, and expenses of the estate and special trustee; and
- (9) the bridge company will have governing documents, and initial directors and senior officers, that are in the best interest of creditors and the estate.
- (d) Immediately before a transfer under this section, the bridge company that is the recipient of the transfer shall—
- (1) not have any property, executory contracts, unexpired leases, qualified financial contracts, or debts, other than any property acquired or executory contracts, unexpired leases, or debts assumed when acting as a transferee of a transfer under this section; and
- (2) have equity securities that are property of the estate, which may be sold or distributed in accordance with this title.

§ 1186. Special trustee

(a)(1) An order approving a transfer under section 1185 shall require the trustee to transfer to a qualified and independent special trustee, who is appointed by the court, all of the equity securities in the bridge company that is the recipient of a transfer under section 1185 to hold in trust for the sole benefit of the estate, subject to satisfaction of the special trustee's fees, costs, and expenses. The trust of which the special trustee is the trustee shall be a newly formed trust governed by a trust agreement approved by the court as in the best interests of the estate, and shall exist for the sole purpose of holding and administering, and shall be permitted to dispose of, the equity securities of the bridge company in accordance with the trust agreement.

(2) In connection with the hearing to approve a transfer under section 1185, the trustee shall confirm to the court that the Board has been consulted regarding the identity of the proposed special trustee and advise the court of the results of such consultation.

(b) The trust agreement governing the trust shall provide—

- (1) for the payment of the fees, costs, expenses, and indemnities of the special trustee from the assets of the debtor's estate;
- (2) that the special trustee provide—

- (A) quarterly reporting to the estate, which shall be filed with the court; and
- (B) information about the bridge company reasonably requested by a party in interest to prepare a disclosure statement for a plan providing for distribution of any securities of the bridge company if such information is necessary to prepare such disclosure statement;
- (3) that for as long as the equity securities of the bridge company are held by the trust, the special trustee shall file a notice with the court in connection with—
- (A) any change in a director or senior officer of the bridge company;
- (B) any modification to the governing documents of the bridge company; and
- (C) any material corporate action of the bridge company, including—
- (i) recapitalization;
- (ii) a material borrowing;
- (iii) termination of an intercompany debt or guarantee;
- (iv) a transfer of a substantial portion of the assets of the bridge company; or
- (v) the issuance or sale of any securities of the bridge company;
- (4) that any sale of any equity securities of the bridge company shall not be consummated until the special trustee consults with the Federal Deposit Insurance Corporation and the Board regarding such sale and discloses the results of such consultation with the court;
- (5) that, subject to reserves for payments permitted under paragraph (1) provided for in the trust agreement, the proceeds of the sale of any equity securities of the bridge company by the special trustee be held in trust for the benefit of or transferred to the estate;
- (6) the process and guidelines for the replacement of the special trustee; and
- (7) that the property held in trust by the special trustee is subject to distribution in accordance with subsection (c).
- (c)(1) The special trustee shall distribute the assets held in trust—
- (A) if the court confirms a plan in the case, in accordance with the plan on the effective date of the plan; or
- (B) if the case is converted to a case under chapter 7, as ordered by the court.
- (2) As soon as practicable after a final distribution under paragraph (1), the office of the special trustee shall terminate, except as may be necessary to wind up and conclude the business and financial affairs of the trust.
- (d) After a transfer to the special trustee under this section, the special trustee shall be subject only to applicable nonbankruptcy law, and the actions and conduct of the special trustee shall no longer be subject to approval by the court in the case under this subchapter.

§1187. Temporary and supplemental automatic stay; assumed debt

(a)(1) A petition filed under section 1183 operates as a stay, applicable to all entities, of the termination, acceleration, or modification of any debt, contract, lease, or agreement of the kind described in paragraph (2), or of any right or obligation under any such debt, contract, lease, or agreement, solely because of—

(A) a default by the debtor under any such debt, contract, lease, or agreement; or

(B) a provision in such debt, contract, lease, or agreement, or in applicable nonbankruptcy law, that is conditioned on—

(i) the insolvency or financial condition of the debtor at any time before the closing of the case;

(ii) the commencement of a case under this title concerning the debtor;

(iii) the appointment of or taking possession by a trustee in a case under this title concerning the debtor or by a custodian before the commencement of the case; or

(iv) a credit rating agency rating, or absence or withdrawal of a credit rating agency rating—

(I) of the debtor at any time after the commencement of the case;

(II) of an affiliate during the period from the commencement of the case until 48 hours after such order is entered;

(III) of the bridge company while the trustee or the special trustee is a direct or indirect beneficial holder of more than 50 percent of the equity securities of—

(aa) the bridge company; or

(bb) the affiliate, if all of the direct or indirect interests in the affiliate that are property of the estate are transferred under section 1185; or

(IV) of an affiliate while the trustee or the special trustee is a direct or indirect beneficial holder of more than 50 percent of the equity securities of—

(aa) the bridge company; or

(bb) the affiliate, if all of the direct or indirect interests in the affiliate that are property of the estate are transferred under section 1185.

(2) A debt, contract, lease, or agreement described in this paragraph is—

(A) any debt (other than capital structure debt), executory contract, or unexpired lease of the debtor (other than a qualified financial contract);

(B) any agreement under which the debtor issued or is obligated for debt (other than capital structure debt);

(C) any debt, executory contract, or unexpired lease of an affiliate (other than a qualified financial contract); or

(D) any agreement under which an affiliate issued or is obligated for debt.

(3) The stay under this subsection terminates—

(A) for the benefit of the debtor, upon the earliest of—

(i) 48 hours after the commencement of the case;

- (ii) assumption of the debt, contract, lease, or agreement by the bridge company under an order authorizing a transfer under section 1185;
- (iii) a final order of the court denying the request for a transfer under section 1185; or
- (iv) the time the case is dismissed; and
- (B) for the benefit of an affiliate, upon the earliest of—
 - (i) the entry of an order authorizing a transfer under section 1185 in which the direct or indirect interests in the affiliate that are property of the estate are not transferred under section 1185;
 - (ii) a final order by the court denying the request for a transfer under section 1185;
 - (iii) 48 hours after the commencement of the case if the court has not ordered a transfer under section 1185; or
 - (iv) the time the case is dismissed.
- (4) Subsections (d), (e), (f), and (g) of section 362 apply to a stay under this subsection.
 - (b) A debt, executory contract (other than a qualified financial contract), or unexpired lease of the debtor, or an agreement under which the debtor has issued or is obligated for any debt, may be assumed by a bridge company in a transfer under section 1185 notwithstanding any provision in an agreement or in applicable nonbankruptcy law that—
 - (1) prohibits, restricts, or conditions the assignment of the debt, contract, lease, or agreement; or
 - (2) accelerates, terminates, or modifies, or permits a party other than the debtor to terminate or modify, the debt, contract, lease, or agreement on account of—
 - (A) the assignment of the debt, contract, lease, or agreement; or
 - (B) a change in control of any party to the debt, contract, lease, or agreement.
 - (c)(1) A debt, contract, lease, or agreement of the kind described in subparagraph (A) or (B) of subsection (a)(2) may not be accelerated, terminated, or modified, and any right or obligation under such debt, contract, lease, or agreement may not be accelerated, terminated, or modified, as to the bridge company solely because of a provision in the debt, contract, lease, or agreement or in applicable nonbankruptcy law—
 - (A) of the kind described in subsection (a)(1)(B) as applied to the debtor;
 - (B) that prohibits, restricts, or conditions the assignment of the debt, contract, lease, or agreement; or
 - (C) that accelerates, terminates, or modifies, or permits a party other than the debtor to terminate or modify, the debt, contract, lease or agreement on account of—
 - (i) the assignment of the debt, contract, lease, or agreement; or
 - (ii) a change in control of any party to the debt, contract, lease, or agreement.
 - (2) If there is a default by the debtor under a provision other than the kind described in paragraph (1) in a debt, contract, lease or agreement of the kind described in subparagraph (A) or (B) of sub-

section (a)(2), the bridge company may assume such debt, contract, lease, or agreement only if the bridge company—

(A) shall cure the default;

(B) compensates, or provides adequate assurance in connection with a transfer under section 1185 that the bridge company will promptly compensate, a party other than the debtor to the debt, contract, lease, or agreement, for any actual pecuniary loss to the party resulting from the default; and

(C) provides adequate assurance in connection with a transfer under section 1185 of future performance under the debt, contract, lease, or agreement, as determined by the court under section 1185(c)(4).

§ 1188. Treatment of qualified financial contracts and affiliate contracts

(a) Notwithstanding sections 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 362(o), 555, 556, 559, 560, and 561, a petition filed under section 1183 operates as a stay, during the period specified in section 1187(a)(3)(A), applicable to all entities, of the exercise of a contractual right—

(1) to cause the modification, liquidation, termination, or acceleration of a qualified financial contract of the debtor or an affiliate;

(2) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a qualified financial contract of the debtor or an affiliate; or

(3) under any security agreement or arrangement or other credit enhancement forming a part of or related to a qualified financial contract of the debtor or an affiliate.

(b)(1) During the period specified in section 1187(a)(3)(A), the trustee or the affiliate shall perform all payment and delivery obligations under such qualified financial contract of the debtor or the affiliate, as the case may be, that become due after the commencement of the case. The stay provided under subsection (a) terminates as to a qualified financial contract of the debtor or an affiliate immediately upon the failure of the trustee or the affiliate, as the case may be, to perform any such obligation during such period.

(2) Any failure by a counterparty to any qualified financial contract of the debtor or any affiliate to perform any payment or delivery obligation under such qualified financial contract, including during the pendency of the stay provided under subsection (a), shall constitute a breach of such qualified financial contract by the counterparty.

(c) Subject to the court's approval, a qualified financial contract between an entity and the debtor may be assigned to or assumed by the bridge company in a transfer under, and in accordance with, section 1185 if and only if—

(1) all qualified financial contracts between the entity and the debtor are assigned to and assumed by the bridge company in the transfer under section 1185;

(2) all claims of the entity against the debtor in respect of any qualified financial contract between the entity and the debtor (other than any claim that, under the terms of the qualified financial contract, is subordinated to the claims of general unse-

cured creditors) are assigned to and assumed by the bridge company;

(3) all claims of the debtor against the entity under any qualified financial contract between the entity and the debtor are assigned to and assumed by the bridge company; and

(4) all property securing or any other credit enhancement furnished by the debtor for any qualified financial contract described in paragraph (1) or any claim described in paragraph (2) or (3) under any qualified financial contract between the entity and the debtor is assigned to and assumed by the bridge company.

(d) Notwithstanding any provision of a qualified financial contract or of applicable nonbankruptcy law, a qualified financial contract of the debtor that is assumed or assigned in a transfer under section 1185 may not be accelerated, terminated, or modified, after the entry of the order approving a transfer under section 1185, and any right or obligation under the qualified financial contract may not be accelerated, terminated, or modified, after the entry of the order approving a transfer under section 1185 solely because of a condition described in section 1187(c)(1), other than a condition of the kind specified in section 1187(b) that occurs after property of the estate no longer includes a direct beneficial interest or an indirect beneficial interest through the special trustee, in more than 50 percent of the equity securities of the bridge company.

(e) Notwithstanding any provision of any agreement or in applicable nonbankruptcy law, an agreement of an affiliate (including an executory contract, an unexpired lease, qualified financial contract, or an agreement under which the affiliate issued or is obligated for debt) and any right or obligation under such agreement may not be accelerated, terminated, or modified, solely because of a condition described in section 1187(c)(1), other than a condition of the kind specified in section 1187(b) that occurs after the bridge company is no longer a direct or indirect beneficial holder of more than 50 percent of the equity securities of the affiliate, at any time after the commencement of the case if—

(1) all direct or indirect interests in the affiliate that are property of the estate are transferred under section 1185 to the bridge company within the period specified in subsection (a);

(2) the bridge company assumes—

(A) any guarantee or other credit enhancement issued by the debtor relating to the agreement of the affiliate; and

(B) any obligations in respect of rights of setoff, netting arrangement, or debt of the debtor that directly arises out of or directly relates to the guarantee or credit enhancement; and

(3) any property of the estate that directly serves as collateral for the guarantee or credit enhancement is transferred to the bridge company.

§ 1189. Licenses, permits, and registrations

(a) Notwithstanding any otherwise applicable nonbankruptcy law, if a request is made under section 1185 for a transfer of property of the estate, any Federal, State, or local license, permit, or registration that the debtor or an affiliate had immediately before the commencement of the case and that is proposed to be transferred under

section 1185 may not be accelerated, terminated, or modified at any time after the request solely on account of—

(1) the insolvency or financial condition of the debtor at any time before the closing of the case;

(2) the commencement of a case under this title concerning the debtor;

(3) the appointment of or taking possession by a trustee in a case under this title concerning the debtor or by a custodian before the commencement of the case; or

(4) a transfer under section 1185.

(b) Notwithstanding any otherwise applicable nonbankruptcy law, any Federal, State, or local license, permit, or registration that the debtor had immediately before the commencement of the case that is included in a transfer under section 1185 shall be valid and all rights and obligations thereunder shall vest in the bridge company.

§ 1190. Exemption from securities laws

For purposes of section 1145, a security of the bridge company shall be deemed to be a security of a successor to the debtor under a plan if the court approves the disclosure statement for the plan as providing adequate information (as defined in section 1125(a)) about the bridge company and the security.

§ 1191. Inapplicability of certain avoiding powers

A transfer made or an obligation incurred by the debtor to an affiliate prior to or after the commencement of the case, including any obligation released by the debtor or the estate to or for the benefit of an affiliate, in contemplation of or in connection with a transfer under section 1185 is not avoidable under section 544, 547, 548(a)(1)(B), or 549, or under any similar nonbankruptcy law.

§ 1192. Consideration of financial stability

The court may consider the effect that any decision in connection with this subchapter may have on financial stability in the United States.

CHANGES IN THE APPLICATION OF EXISTING LAW

Pursuant to clause 3(f)(1)(A) of rule XIII of the Rules of the House of Representatives, the following statements are submitted describing the effect of provisions proposed in the accompanying bill which may be considered, under certain circumstances, to change the application of existing law, either directly or indirectly. The bill provides that appropriations shall remain available for more than one year for a number of programs for which the basic authorizing legislation does not explicitly authorize such extended availability. In addition, the bill carries language, in some instances, permitting activities not authorized by law, or exempting agencies from certain provisions of law, but which has been carried in appropriations acts for many years.

The bill includes several limitations on official entertainment, reception and representation expenses. Similar provisions have appeared in many previous appropriations Acts. The bill includes a number of limitations on the purchase of automobiles or office furnishings that also have appeared in many previous appropriations Acts. Language is included in several instances permitting certain

funds to be credited to the appropriations recommended. Language is also included in several instances permitting funding for services authorized by 5 U.S.C. 3109 and for the hire of passenger motor vehicles.

TITLE I—DEPARTMENT OF THE TREASURY

Language is included for Departmental Offices, “Salaries and Expenses”, that provides funds for operation and maintenance of the Treasury Building Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for real properties leased or owned overseas.

Language is also included designating funds for official reception and representation expenses; unforeseen emergencies of a confidential nature; and extending the period of availability for certain funds.

Language is included for the Office of Terrorism and Financial Intelligence, “Salaries and Expenses” that provides funds combating threats to national security.

Language is included for the Office of Inspector General, “Salaries and Expenses”, that provides funds to carry out the provisions of the Inspector General Act of 1978, including official reception and representation expenses, the hire of vehicles, and provides funds for unforeseen emergencies of a confidential nature.

Language is included for the Treasury Inspector General for Tax Administration, Salaries and Expenses, that provides funds to carry out the provisions of the Inspector General Act of 1978, including consulting services, official reception and representation expenses, the purchase and hire of motor vehicles, unforeseen emergencies of a confidential nature, and specifies the period of availability for certain funds.

Language is included for the Special Inspector General for the Troubled Asset Relief Program, “Salaries and Expenses”, that provides funds for the necessary expenses of the SIGTARP in carrying out the provisions of the Emergency Economic Stabilization Act of 2008 (P.L. 110-343).

Language is included for the Financial Crimes Enforcement Network, “Salaries and Expenses”, that provides funds for the hire of motor vehicles; travel and training of non-federal and foreign government personnel attending meetings involving domestic or foreign financial law enforcement, intelligence, and regulation; official reception and representation expenses; and assistance to Federal law enforcement agencies with or without reimbursement. Language is also included that extends the availability of certain amounts.

Language is included under the heading “Treasury Forfeiture Fund” rescinding certain funds.

Language is included for the Bureau of the Fiscal Service, “Salaries and Expenses”, that provides a certain amount for official reception and representation expenses, and extends the availability for systems modernization funds. Language is also included specifying an amount to be derived from the Oil Spill Liability Trust Fund.

Language is included for the Alcohol and Tobacco Tax and Trade Bureau, “Salaries and Expenses”, that provides funds for the hire of passenger motor vehicles, laboratory assistance to State and

local agencies with or without reimbursement. Language is included that specifies the amounts for official reception and representation expenses and cooperative research and development. Language is also included to increase label and formula processing times and for enforcement of trade practice violations.

Language is included for the U.S. Mint, "United States Mint Public Enterprise Fund", which identifies the source of funding for the operations and activities of the U.S. Mint and specifies the level of funding for circulating coinage and protective service capital investments.

Language is included for the Community Development Financial Institutions Fund Program Account that provides specific amounts for: financial and technical assistance; Native American initiatives; administrative expenses for the program and cost of direct loans; New Markets Tax Credit Program; Bank Enterprise Award program; and integrating the needs of the disability community.

Language is included with award specifications to serve populations living in persistent poverty counties. Language is included clarifying the cost of direct loans and the cost of modifying direct loans, and specifying the limitation on gross obligations for the principal amount of direct loans.

Language is included under Internal Revenue Service, Taxpayer Services, that provides funds for pre-filing assistance and education, filing and account services, and taxpayer advocacy services, and dedicating funding for the Tax Counseling for the Elderly Program, low-income taxpayer clinic grants, and Community Volunteer Income Tax Assistance grants.

Language is included for Internal Revenue Service, Enforcement, that provides funds to determine and collect owed taxes, provide legal and litigation support, conduct criminal investigations, enforce criminal statutes, purchase and hire of vehicles; and designates funding for the Interagency Crime and Drug Enforcement program. Language is included specifying the period of availability for certain funds.

Language is included for the Internal Revenue Service, Operations Support, that provides funds for operating and supporting taxpayer services and tax law enforcement programs; rent; facilities services; printing; postage; physical security; headquarters and other IRS-wide administration activities; research and statistics of income; telecommunications; information technology development, enhancement, operations, maintenance, and security; hire of passenger motor vehicles; and official reception and representation expenses. Language is included specifying the period of availability for certain funds and requiring reports on information technology.

Language is included for Internal Revenue Service, Business Systems Modernization, that provides for the business systems modernization program, including capital asset acquisition of information technology, including management and related contractual costs and IRS labor costs of said acquisitions, contractual costs associated with operations, an extended availability of the funds and requires quarterly reports.

In addition, the bill provides the following administrative provisions:

Section 101. Language is included that allows for the transfer of five percent of any appropriation made available to the IRS to any

other IRS appropriation, upon the advance approval of the Committees on Appropriations.

Section 102. Language is included that requires the IRS to maintain a training program in taxpayers' rights, dealing courteously with taxpayers, cross-cultural relations, and the impartial application of tax law.

Section 103. Language is included that requires the IRS to institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information and protect taxpayers against identity theft.

Section 104. Language is included that makes funds available for improved facilities and increased staffing to provide efficient and effective 1-800 number help line service for taxpayers.

Section 105. Language is included requiring videos produced by the IRS to be approved in advance by the Service-Wide Video Editorial Board.

Section 106. Language is included to require the IRS to issue notices to employers of any address change request and to give special consideration to offers in compromise for taxpayers who have been victims of payroll tax preparer fraud.

Section 107. Language is included to prohibit the IRS from targeting U.S. citizens for exercising their First Amendment rights.

Section 108. Language is included to prohibit the use of funds by the IRS to target groups based on their ideological beliefs.

Section 109. Language is included to prohibit the use of funds by the IRS on conferences that do not adhere to recommendations made by the Treasury Inspector General for Tax Administration.

Section 110. Language is included prohibiting funds made available in the healthcare reform act from being transferred to the IRS for implementing the healthcare reform act.

Section 111. Language is included prohibiting funds from being used to implement the individual mandate of the Affordable Care Act.

Section 112. Language is included prohibiting funds for IRS employee awards or hiring programs that do not consider employee conduct and Federal tax compliance.

Section 113. Language included to prohibit the use of funds in contravention of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information).

Section 114. Language is included to prohibit funds for pre-populated returns.

Section 115. Language is included to provide \$290,000,000 to be used solely for measurable improvement in the customer service representative level of service rate, to improve the identification and prevention of refund fraud and identity theft, and to enhance cybersecurity to safeguard taxpayer data. None of the funds are to implement the Affordable Care Act and the Commissioner is required to submit a spend plan.

Section 116. Language is included that authorizes the Department to purchase uniforms, insurance for motor vehicles that are overseas, and motor vehicles that are overseas without regard to the general purchase price limitations; to enter into contracts with the State Department for health and medical services for Treasury employees that are overseas; and to hire experts or consultants.

Section 117. Language is included that authorizes transfers, up to two percent, between “Departmental Offices—Salaries and Expenses”, “Office of Inspector General”, “Special Inspector General for the Troubled Asset Relief Program”, “Financial Crimes Enforcement Network”, “Bureau of the Fiscal Service”, “Alcohol and Tobacco Tax and Trade Bureau”, and “Community Development Financial Institutions Fund Program Account” appropriations under certain circumstances.

Section 118. Language is included that authorizes transfers, up to two percent, between the Internal Revenue Service and the Treasury Inspector General for Tax Administration under certain circumstances.

Section 119. Language is included prohibiting the Department of the Treasury from undertaking a redesign of the one dollar Federal Reserve note.

Section 120. Language is included providing for transfers from and reimbursements to “Bureau of the Fiscal Service, Salaries and Expenses” for the purposes of debt collection.

Section 121. Language is included requiring congressional approval for the construction and operation of a museum by the United States Mint.

Section 122. Language is included prohibiting funds in this or any other Act from being used to merge the U.S. Mint and the Bureau of Engraving and Printing without the approval of the House and Senate committees of jurisdiction.

Section 123. Language is included deeming that funds for the Department of the Treasury’s intelligence-related activities are specifically authorized in fiscal year 2016 until enactment of the Intelligence Authorization Act for fiscal year 2016.

Section 124. Language is included permitting the Bureau of Engraving and Printing to use \$5,000 from the Industrial Revolving Fund for reception and representation expenses.

Section 125. Language is included requiring the Department of the Treasury to submit a capital investment plan.

Section 126. Language is included requiring the Department of the Treasury to submit a report on its Franchise Fund.

Section 127. Language is included prohibiting the Department of the Treasury from finalizing any regulation related to the standards used to determine the tax-exempt status of a 501(c)(4) organization.

Section 128. Language is included requiring a quarterly report from both the Office of Financial Research and Office of Financial Stability Oversight.

Section 129. Language is included requiring the Office of Financial Research to provide public notice of not less than 90 days before issuing a rule, report, or regulation.

Section 130. Language is included limiting the fees available for obligation by the Office of Financial Research.

Section 131. Language is included prohibit the Department from enforcing guidance for U.S. positions on multilateral development banks engaging with developing countries on coal-fired power generation.

Section 132. Language is included with respect to the people-to-people category of travel to Cuba.

Section 133. Language is included prohibiting funds to approve, license, facilitate, authorize, or otherwise allow the importation of property confiscated by the Cuban Government.

Section 134. Language is included prohibiting funds to approve, license, facilitate, authorize, or otherwise allow any financial transactions with the Cuban military or intelligence service.

Section 135. Language is included prohibiting funds to approve or otherwise allow the licensing of a mark, trade name, or commercial name that is substantially similar to one that was used in connection with a business or assets that were confiscated unless expressly consented.

Section 136. Language is included to prohibit funds for the Internal Revenue Service (IRS) to determine that a church is not exempt from taxation for participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidates for public office unless the IRS Commissioner consents to such determination, the Commissioner notifies the tax committees of Congress, and the determination is effective 90 days after such notification.

TITLE II—EXECUTIVE OFFICE OF THE PRESIDENT

Language under The White House, “Salaries and Expenses”, provides funds for services authorized by 5 U.S.C. 3109 and 3 U.S.C. 103, 105 and 107, hire of vehicles, and official reception and representation expenses; and the Office of Policy Development.

Language under the Executive Residence at the White House, “Operating Expenses”, provides funds for necessary expenses as authorized by 3 U.S.C. 105, 109, 110, and 112–114.

Language under the Executive Residence at the White House, “Reimbursable Expenses”, specifies the authorized use of funds; specifies that reimbursable expenses are the exclusive authority of the Executive Residence to incur obligations and receive offsetting collections; requires the sponsors of political events to make advance payments; requires the national committee of the political party of the President to maintain \$25,000 on deposit; requires the Executive Residence to ensure that amounts owed are billed within 60 days of a reimbursable event and collected within 30 days of the bill notice; authorizes the Executive Residence to charge and assess interest and penalties on late payments; authorizes all reimbursements to be deposited into the Treasury as a miscellaneous receipt; requires a report to the Committee on the reimbursable expenses within 90 days of the end of the fiscal year; requires the Executive Residence to maintain a system for tracking and classifying reimbursable events; and specifies that the Executive Residence is not exempt from the requirements of subchapter I or II of chapter 37 of title 31, United States Code.

Language under “White House Repair and Restoration” provides funds for the repair, alteration and improvement of the Executive Residence at the White House; and allows funds to remain available until expended.

Language under Council of Economic Advisors, “Salaries and Expenses”, is provided for necessary expenses in carrying out the Employment Act of 1946.

Language under National Security Council and Homeland Security Council, “Salaries and Expenses”, provides for services authorized by 5 U.S.C. 3109.

Language under Office of Administration, “Salaries and Expenses”, provides funds for continued modernization of the information resources within the Executive Office of the President, to remain available until expended, and provides for services authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and for the hire of vehicles.

Language under “Presidential Transition Administrative Support” provides for services to carry out the Presidential Transition Act of 1963, as amended. Language is included permitting the transfer of funds for offices within the Executive Office of the President and the Office of the Vice President.

Language under Office of Management and Budget, “Salaries and Expenses”, provides funds for expenses, services authorized by 5 U.S.C. 3109, the hire of vehicles; carrying out provisions of chapter 35 of title 44 United States Code and to prepare the budget request; specifies funds for official representation expenses; prohibits the review of agricultural marketing orders; prohibits the use of funds for the purpose of altering the transcript of testimony except for OMB officials; prohibits the use of funds for evaluating or determining if water resource project or study reports submitted by the Chief of Engineers are in compliance with all applicable laws, regulations, and requirements; and specifies the amount of time to perform budgetary policy reviews of water resource matters on which the Chief of Engineers has reported before the report is considered approved, and specifies notification requirements.

Language under the Office of National Drug Control Policy, “Salaries and Expenses”, provides funds for expenses, research, official reception and representation expenses, participation in joint projects, and allows for the acceptance of gifts.

Language under Federal Drug Control Programs, “High Intensity Drug Trafficking Areas Program”, provides for the transfer of funds to State, local and Federal entities. Language is also included regarding the availability of funds, specifying the amount of funds for auditing and associated activities, providing for the reprogramming of certain balances requiring, each designated High Intensity Drug Trafficking Area to receive not less than the fiscal year 2016 base allocation unless the Director of the Office of National Drug Control Policy determines otherwise and submits a report to the Committees on Appropriations, and requiring reports regarding initial allocations and discretionary funding.

Language under Federal Drug Control Programs, “Other Federal Drug Control Programs” provides funds for drug-free communities (with an amount specified to be made available as directed by section 4 of Public Law 107–82, as amended by Public Law 109–469), anti-doping activities, the U.S. membership dues to the World Anti-Doping Agency, drug courts and a competitive grant program. Language also allows for transfers and makes funds available until expended.

Language under “Information Technology Oversight and Reform” provides funds for the furtherance of integrated, efficient, secure, and effective uses of information technology, to remain available until expended; allows funding to be transferred to agencies to carry out projects.

Language under Special Assistance to the President, “Salaries and Expenses”, enables the Vice President to provide assistance to the President, services authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, and the hire of vehicles.

Language under Official Residence of the Vice President, “Operating Expenses”, provides funds for operation and maintenance of the official residence of the Vice President, the hire of vehicles, expenses authorized by 3 U.S.C. 106(b)(2) and provides for the transfer of funds as necessary.

In addition, the bill provides the following administrative provisions:

Section 201. Language is included permitting the transfer of not to exceed ten percent of funds between various accounts within the Executive Office of the President, with advance approval of the Committees on Appropriations. The amount of an appropriation shall not be increased by more than 50 percent.

Section 202. Language is included requiring the Director of the Office of Management and Budget to report on the costs of implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203).

Section 203. Language is included requiring the Director of the Office of Management and Budget to include a statement of budgetary impact with any Executive Order or Presidential Memorandum issued or rescinded during fiscal year 2017.

Section 204. Language is included prohibiting funds to prepare, sign or approve statements abrogating legislation passed by the House of Representatives and the Senate and signed by the President.

Section 205. Language is included prohibiting funding to prepare or implement Executive Orders in contravention of existing law.

TITLE III—THE JUDICIARY

Language is included under Supreme Court, “Salaries and Expenses”, providing for certain funds to remain available until expended; the hire of passenger motor vehicles, official reception and representation, and miscellaneous expenses. Language is included providing funds for salaries of judges as authorized by law.

Language is included under Supreme Court, “Care of the Building and Grounds”, permitting funds to remain available until expended.

Language is included under United States Court of Appeals for the Federal Circuit, “Salaries and Expenses”, for necessary expenses of the court. Language is included providing funds for salaries of judges as authorized by law.

Language is included under United States Court of International Trade, “Salaries and Expenses”, for necessary expenses of the court. Language is included providing funds for salaries of judges as authorized by law.

Language is included under Courts of Appeals, District Courts, and Other Judicial Services, “Salaries and Expenses”, providing funds for the salaries of certain judges, and all other employees not otherwise provided for; necessary expenses; the purchase, rental, repair and cleaning of uniforms for Probation and Pretrial Services Office staff; firearms and ammunition; and specifies certain funds remain available for certain periods for specific purposes. Language

is included providing funds for salaries of judges as authorized by law. Language is also included providing funding from the Vaccine Injury Compensation Trust Fund for certain purposes.

Language is included under Defender Services, providing for the compensation and reimbursement of expenses for attorneys, investigative, expert and other services, the operation of Federal Defender organizations, travel, training, general administrative expenses and permitting funds to remain available until expended.

Language is included under Fees of Jurors and Commissioners, permitting funds to remain available until expended and specifying limitations for the compensation of land commissioners.

Language is included under Court Security, providing for protective guard services and procurement, installation and maintenance of security systems and equipment, building ingress-egress control, inspection of mail and packages, directed security patrols, perimeter security and services provided by the Federal Protective Services. Language is included permitting certain funds to remain available until expended, which may be transferred to the United States Marshals Service.

Language is included under Administrative Office of the United States Courts, "Salaries and Expenses", providing for travel, the hire of passenger motor vehicles, advertising and rent in the District of Columbia. Language is included specifying certain amounts for official reception and representation expenses. Language is included that provides funds for the Virginia Graeme Baker Pool and Spa Safety Act grant program.

Language is included under Federal Judicial Center, "Salaries and Expenses", extending the availability of certain funds for education and training, and specifying certain amounts for official reception and representation expenses.

Language is included under United States Sentencing Commission, "Salaries and Expenses", specifying certain amounts for official reception and representation expenses.

In addition, the bill provides the following administrative provisions:

Section 301. Language is included permitting funds for salaries and expenses to be available for the employment of experts and consultant services as authorized by 5 U.S.C. 3109.

Section 302. Language is included permitting up to five percent of any appropriation made available for fiscal year 2017 to be transferred between Judiciary appropriations provided that no appropriation shall be decreased by more than five percent or increased by more than ten percent by any such transfer except in certain circumstances. In addition, the language provides that any such transfer shall be treated as a reprogramming of funds under sections 604 and 608 of the accompanying bill and shall not be available for obligation or expenditure except in compliance with the procedures set forth in those sections.

Section 303. Language is included allowing not to exceed \$11,000 to be used for official reception and representation expenses incurred by the Judicial Conference of the United States.

Section 304. Language is included allowing the delegation of authority to the Judiciary for contracts for repairs of less than \$100,000 through fiscal year 2017.

Section 305. Language is included allowing a court security pilot program.

Section 306. Language is included requested by the Judicial Conference of the United States extending temporary judgeships in Alabama, Arizona, California, Florida, Kansas, Missouri, New Mexico, North Carolina and Texas.

Section 307. Language is included authorizing an increase of the daily juror attendance fee by \$10.

Section 308. Language is included requested by the Judicial Conference of the United States extending temporary bankruptcy judgeships in Virginia, Michigan, Puerto Rico, Delaware, and Florida.

TITLE IV—DISTRICT OF COLUMBIA

Language is included under “Federal Payment for Resident Tuition Support”, permitting the amount appropriated to remain available until expended; specifying conditions for the use, award, and financial accounting of funds; and requiring quarterly reports.

Language is included under “Federal Payment for Emergency Planning and Security Costs in the District of Columbia”, providing that the amount appropriated shall remain available until expended for providing public safety at events, including support of the United States Secret Service, and to respond to terrorist threats or attacks.

Language is included under “Federal Payment to the District of Columbia Courts”, authorizing official reception and representation expenses; specifying certain amounts for specific purposes; providing all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies; allowing funds made available for capital improvements to remain available until September 30, 2018; providing for the reallocation of funds and providing for certain payments.

Language is included under “Defender Services in the District of Columbia Courts”, providing that the amount appropriated shall remain available until expended; specifying who shall administer these funds; and providing that all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies.

Language is included under “Federal Payment to the Court Services and Offender Supervision Agency for the District of Columbia”, allowing the transfer and hire of motor vehicles; authorizing official reception and representation expenses; specifying certain amounts for specific purposes and programs; providing that all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies; and allowing the use of programmatic incentives for defendants who successfully meet the terms of their supervision

Language is included under “Federal Payment to District of Columbia Public Defender Service”, allowing the transfer and hire of motor vehicles; providing that all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget

and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies; and authorizing the acceptance and use of voluntary and uncompensated services to facilitate the work of the District of Columbia Public Defender Service.

Language is included under “Federal Payment to the Criminal Justice Coordinating Council”, specifying that the amount appropriated shall remain available until expended to support initiatives related to the coordination of Federal and local criminal justice resources.

Language is included under “Federal Payment for Judicial Commissions”, specifying certain amounts for certain commissions and allowing for appropriations to remain available until September 30, 2018.

Language is included under “Federal Payment for School Improvement”, allowing for appropriations to remain available until expended for payments authorized under the Scholarships for Opportunity and Results Act and specifying conditions and uses for the funds.

Language is included under “Federal Payment for the District of Columbia National Guard”, providing funds for the National Guard Retention and College Access Program to remain available until expended.

Language is included under “Federal Payment for Testing and Treatment of HIV/AIDS” for testing and treatment.

Language is included under “District of Columbia Funds”: (1) providing funds as proposed in the Fiscal Year 2017 Local Request Act as amended; (2) limits the amount provided in this Act for the District of Columbia to the amount of the proposed budget or the sum of total revenues; (3) providing conditions for increasing the amount provided; directing the Chief Financial Officer to ensure the District of Columbia meets all requirements, but prohibits the reprogramming of capital projects; (5) repeals the Fiscal Year 2017 Local Request Act.

TITLE V—INDEPENDENT AGENCIES

Language is included for the Administrative Conference of the United States, “Salaries and Expenses”, providing for expenses, including official reception and representation and allowing funds to be available until September 30, 2018.

The bill includes the following administrative provisions under the Bureau of Consumer Financial Protection (CFPB):

Section 501. Language is included repealing the prohibition against the Committees on Appropriations reviewing transfers from the Federal Reserve System to the CFPB.

Section 502. Language is included changing CFPB’s source of funding from transfers from the Federal Reserve System to annual appropriations beginning in fiscal year 2017.

Section 503. Language is included requiring CFPB to make transfer requests to the Federal Reserve System and the response from Federal Reserve System available on the Bureau’s public website, in addition to requiring CFPB to notify Congress of when it makes such a request and to describe how the funds will be used in the course of protecting consumers.

Section 504. Language is included requiring CFPB to submit quarterly reports on its activities and to testify on its activities when requested.

Section 505. Language is included changing the management of the CFPB to a five-member commission.

Section 506. Language is included prohibiting the CFPB from implementing a rule related to arbitration until the CFPB addresses certain requirements.

Language is included for the Consumer Product Safety Commission, "Salaries and Expenses", that provides funds for expenses, the hire of motor vehicles, services as authorized by 5 U.S.C. 3109 (with a limitation on rates for individuals), and official reception and representation expenses. Language is included that provides funds for the Virginia Graeme Baker Pool and Spa Safety Act grant program.

The bill includes the following administrative provision under the Consumer Product Safety Commission:

Section 510. Language is included prohibiting funds to finalize, implement, or enforce the proposed rule on recreational off-highway vehicles until a study is completed by the National Academy of Sciences.

Language is included for the Election Assistance Commission, "Salaries and Expenses", that provides necessary funds to carry out the Help America Vote Act of 2002.

Language is included under the Federal Communications Commission, "Salaries and Expenses", permitting funds for uniforms and allowances therefor, official reception and representation expenses, purchase and hire of motor vehicles, special counsel fees, and services as authorized by 5 U.S.C. 3109. Language provides for the assessment and collection of offsetting collections, authorizes retention of such collections, and provides that they remain available until expended. Language prohibits the availability for obligation of excess collections. Language limits the use of proceeds from the use of a competitive bidding system. Language provides funding for the Office of Inspector General.

Language is included for the Federal Deposit Insurance Corporation, "Office of Inspector General", that provides for the funds to be derived from the Deposit Insurance Fund, and the FSLIC Resolution Fund.

Language is included for the Federal Election Commission, "Salaries and Expenses", providing for expenses including official reception and representation; and allowing \$8,000,000 to remain available until September 30, 2018.

Language is included for the Federal Labor Relations Authority, "Salaries and Expenses", that provides funds for services authorized by 5 U.S.C. 3109, the hire of experts and consultants, hire of motor vehicles, reception and representation expenses and the rental of conference rooms; authorizes travel payments to public members of the Federal Service Impasses Panel; and allows for fees collected to be transferred to and merged with the appropriation.

Language is included for the Federal Trade Commission, "Salaries and Expenses", permitting funds for uniforms and allowances therefor, services authorized by 5 U.S.C. 3109, official reception and representation expenses, hire of motor vehicles, and contract for collection services. Language provides for the crediting and re-

tention of certain fees. Language also prohibits funds from being used to implement subsection (e)(2)(B) of section 43 of the Federal Deposit Insurance Act.

Language is included for the General Services Administration, “Federal Buildings Fund” that allows for revenues and collections to be spent from the Fund; specifies the conditions under which funds made available can be used; limits the availability of funds for certain purposes; specifies funding for construction and acquisition projects; specifies funding for special emphasis programs; provides for certain transfers of funds; requires spending plans; and prohibits excess funds from being available.

Language is included for the General Services Administration, “Government-wide Policy”, that provides funds for policy and evaluation activities associated with the management of real and personal property assets and certain administrative services; support responsibilities relating to acquisition, telecommunications, motor vehicles, information technology management, and related technology activities; and services authorized by 5 U.S.C. 3109.

Language is included for the General Services Administration, “Operating Expenses” that provides funds for Government-wide activities associated with personal and real property disposal, and services authorized by 5 U.S.C. 3109; for expenses for activities associated with agency-wide policy direction and management; for official reception and representation; and designates funds for certain purposes.

Language is included for the General Services Administration, “Civilian Board of Contract Appeals” that provides funds for necessary expenses of the Civilian Board of Contract Appeals and services authorized by 5 U.S.C. 3109.

Language is included for the General Services Administration, “Office of Inspector General” that makes certain funds available until expended and provides for awards in recognition of efforts that enhance the office. Language is included for services authorized by 5 U.S.C. 3109 and designates funds for information and detection of fraud.

Language is included for the General Services Administration, “Allowances and Office Staff for Former Presidents”, for carrying out the provisions of 3 U.S.C. 102 note and Public Law 95–138.

Language is included for the General Services Administration, “Expenses, Presidential Transition” for activities in accordance with the Presidential Transition Act of 1963. Language is included certain transfers to the Acquisition Services Fund or Federal Buildings Fund to reimburse obligations.

Language is included for the General Services Administration, “Federal Citizen Services Fund”, that provides funds for the Office of Citizen Services and other information technology costs. Language is included allowing for certain transfers to the Federal Citizen Services Fund. Language is also included for the “Federal Citizen Services Fund” that authorizes funds to be deposited in the Fund and limits the availability of funds in the Fund.

In addition, the bill includes the following administrative provisions under the General Services Administration (GSA):

Section 520. Language is included providing authority for the use of funds for the hire of motor vehicles.

Section 521. Language is included providing that funds made available for activities of the Federal Buildings Fund may be transferred between appropriations with advance approval of the Congress to apply to funds provided in prior appropriations Acts.

Section 522. Language is included requiring funds proposed for developing courthouse construction requests to meet appropriate standards and the priorities of the Judicial Conference.

Section 523. Language is included providing that no funds may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided, to any agency which does not pay the assessed rent.

Section 524. Language is included permitting GSA to pay small claims (up to \$250,000) made against the Federal Government.

Section 525. Language is included requiring the Administrator to ensure that the delineated area of procurement for all lease agreements is identical to the delineated area included in the prospectus unless prior notice is given to the Committees.

Section 526. Language is included requiring a spend plan for certain accounts and programs.

Section 527. Language is included preventing GSA from transferring amounts that are about to lapse into the Working Capital Fund for spending on major equipment acquisitions.

Language is included for the Merit Systems Protection Board, "Salaries and Expenses", that provides funds for services authorized by 5 U.S.C. 3109, rental of conference rooms, hire of passenger motor vehicles, direct procurement of survey printing, official reception and representation expenses, specifies the period of availability for certain funds, provides for administration expenses to adjudicate retirement appeals, and provides for the transfer of some funds.

Language is included for the National Archives and Records Administration, "Operating Expenses", that provides funds for uniforms or allowances therefor, as authorized by 5 U.S.C. 5901 et seq., including maintenance, repairs, and cleaning, the hire of passenger motor vehicles, activities of the Public Interest Declassification Board, the review and declassification of documents, and the operations and maintenance of the electronic records archive.

Language is included for the National Archives and Records Administration, "Office of Inspector General", that provides funds for the hire of motor vehicles.

Language is included for the National Archives and Records Administration, "Repairs and Restoration", that provides funds for the repair, alteration, improvement, and provision of adequate storage; and provides that funds remain available until expended.

Language is included under the National Archives and Records Administration, "National Historical Publications and Records Commission Grants Program", that provides funds for allocations and grants for historical publications and records; and provides that funds remain available until expended.

Language is included under the National Credit Union Administration, "Community Development Credit Union Revolving Loan Fund", that provides funds for technical assistance and extends the availability of funds.

Language is included under the Office of Government Ethics, Salaries and Expenses, that provides funds for services authorized

by 5 U.S.C. 3109, rental of conference rooms, hire of passenger motor vehicles, and official reception and representation expenses.

Language is included under the Office of Personnel Management, Salaries and Expenses, that provides funds for services authorized by 5 U.S.C. 3109, medical examinations for veterans, rental of conference rooms, hire of passenger motor vehicles, official reception and representation expenses, advances for reimbursements, payment of per diem and/or subsistence allowances, and the transfer of administrative expenses; directs that provisions shall not affect other authorities; prohibits funds for the Legal Examining Unit; and authorizes the acceptance of donations under certain conditions. Language is also included specifying the period of availability for certain funds and requiring a report on information technology.

Language is included for the Office of Personnel Management, Office of Inspector General, Salaries and Expenses, that provides funds for services authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, rental of conference rooms, and a transfer for administrative expenses.

Language is included for the Office of Special Counsel, Salaries and Expenses, that provides funds for services authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms, and the hire of passenger motor vehicles.

Language is included for the Postal Regulatory Commission, "Salaries and Expenses", that provides for transfer of funds from the Postal Service Fund.

Language is included for the Privacy and Civil Liberties Oversight Board, "Salaries and Expenses", that provides funds authorized by section 1061 of 42 U.S.C. 2000ee.

Language is included for the Securities and Exchange Commission, "Salaries and Expenses", that provides for rental of space, services, reception and representation expenses, a permanent secretariat for the International Organization of Securities Commissions, and consultations and meetings hosted by the Commission. Language is included designating funds for information technology initiatives and the economics division. Language is included that provides for the crediting of offsetting collections. Language provides for the assessment and collection of offsetting collections, authorizes retention of such collections, and provides that they remain available until expended.

Language is included for the Selective Service System, "Salaries and Expenses", that provides funds for attendance of meetings, training, hire of passenger motor vehicles, services authorized by 5 U.S.C. 3109, and official reception and representation expenses; authorizes certain exemptions under certain conditions; and prohibits funds used in connection with the induction of any person into the Armed Forces of the United States.

Language is included for the Small Business Administration, "Salaries and Expenses", that provides for hire of motor vehicles and official reception and representation expenses. Language is also included to provide authority to charge fees and credit such fees to the account without further appropriation. Language is also included designating funds for lender oversight. Language is also included for the Loan Modernization and Accounting System and co-sponsor activities.

Language is included for the Small Business Administration, “Entrepreneurial Development Programs”, that provides for supporting entrepreneurial and small business development grant programs. Language is included extending the availability of funds.

Language is included for the Small Business Administration, “Office of Inspector General”, that provides funds to carry out the provisions of the Inspector General Act of 1978.

Language is included for the Small Business Administration, “Office of Advocacy”, that provides funds to carry out the provisions of the Independent Office of Advocacy Act of 2003 and the Regulatory Flexibility Act of 1980 and allows funds to remain available until expended.

Language is included for the Small Business Administration, “Business Loans Program Account”, limiting commitments for certain guaranteed loan programs and for providing for the cost of direct loans and guaranteed loans. Language is also included authorizing the transfer of funds to “Salaries and Expenses” for administrative expenses.

Language is included for the Small Business Administration “Disaster Loan Program Account”, that provides for administrative expenses, the transfer of funds to the “Office of Inspector General” and to “Salaries and Expenses” and allows funds to remain available until expended.

Section 530 allows for the transfer of funds between Small Business Administration appropriations.

Section 531 prohibits the Small Business Administration from charging fees on loans to veterans or their spouses.

Section 532 rescinds prior year unobligated balances related to business loan subsidy for programs that are now zero subsidy.

Language is included for the United States Postal Service, “Payment to the Postal Service Fund”, that provides funds for revenue foregone; stipulates that mail for overseas voting and mail for the blind is free; provides that 6-day delivery shall continue at not less than the 1983 level; prohibits funds in this Act from being used to charge a fee to a child support enforcement agency seeking the address of a postal customer; prohibits funds from being used to consolidate or close small rural and other small post offices; and requires the Postal Service to maintain and comply with service standards for First Class Mail and periodicals effective on July 1, 2012.

Language is included for the United States Postal Service, “Office of Inspector General”, that provides for transfer from the Postal Service Fund.

Language is included for the United States Tax Court, Salaries and Expenses, that provides funds for contract reporting and services authorized by 5 U.S.C. 3109, and that travel expenses of the judges shall be paid upon the written certificate of the judge.

TITLE VI—GENERAL PROVISIONS—THIS ACT

In addition, the bill provides the following provisions under this title:

Section 601. Language is included prohibiting pay and other expenses for non-Federal parties in regulatory or adjudicatory proceedings funded in this Act.

Section 602. Language is included prohibiting obligations beyond the current fiscal year and prohibits transfers of funds unless expressly so provided herein.

Section 603. Language is included limiting procurement contracts for consulting service expenditures to contracts that are matters of public record and available for public inspection.

Section 604. Language is included prohibiting transfer of funds in this Act without express authority.

Section 605. Language is included prohibiting the use of funds to engage in activities that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

Section 606. Language is included concerning compliance with the Buy American Act.

Section 607. Language is included prohibiting the use of funds by any person or entity convicted of violating the Buy American Act.

Section 608. Language is included specifying reprogramming procedures. The provision requires that agencies or entities funded by the Act notify the Committee and obtain prior approval from the Committee for any reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; (5) augments existing programs, projects, or activities in excess of \$5,000,000 or 10 percent, whichever is less; (6) reduces existing programs, projects, or activities by \$5,000,000 or 10 percent, whichever is less; or (7) reorganizes offices, programs, or activities. The provision also directs the agencies funded by this Act to submit operating plans for the Committee's review within 60 days of the bill's enactment.

Section 609. Language is included providing that fifty percent of unobligated balances may remain available for certain purposes.

Section 610. Language is included prohibiting funding for the Executive Office of the President to request either a Federal Bureau of Investigation background investigation or Internal Revenue Service determination with respect to section 501(a) of the Internal Revenue Code of 1986, except with the express consent of the individual involved in an investigation or in extraordinary circumstances involving national security.

Section 611. Language is included regarding cost accounting standards for contracts under the Federal Employee Health Benefits Program.

Section 612. Language is included regarding non-foreign area cost of living allowances.

Section 613. Language is included prohibiting the expenditure of funds for abortion under the Federal Employees Health Benefits program.

Section 614. Language is included making exceptions to the preceding provision where the life of the mother is in danger or the pregnancy is a result of an act of rape or incest.

Section 615. Language is included waiving restrictions on the purchase of non-domestic articles, materials, and supplies in the case of acquisition of information technology by the Federal Government.

Section 616. Language is included prohibiting officers or employees of any regulatory agency or commission funded by this Act from accepting travel payments or reimbursements from a person or entity regulated by such agency or commission.

Section 617. Language is included permitting the Securities and Exchange Commission and Commodities Futures Trading Commission to fund a joint advisory committee to advise on emerging regulatory issues, notwithstanding Section 708 of this Act.

Section 618. Language is included requiring certain agencies in this Act to consult with the General Services Administration before seeking new office space or making alterations to existing office space.

Section 619. Language is included providing for several appropriated mandatory accounts. These are accounts where authorizing language requires the payment of funds. The Congressional Budget Office estimates the cost for the following programs addressed in this provision: \$450,000 for Compensation of the President including \$50,000 for expenses, \$161,000,000 for the Judicial Retirement Funds (Judicial Officers' Retirement Fund, Judicial Survivors' Annuities Fund, and the United States Court of Federal Claims Judges' Retirement Fund), \$12,699,000,000 for the Government Payment for Annuitants, Employee Health Benefits, \$47,000,000 for the Government Payment for Annuitants, Employee Life Insurance, and \$8,469,000,000 for the Payment to the Civil Service Retirement and Disability Fund.

Section 620. Language is included prohibiting funds for the Federal Trade Commission to complete the draft report entitled "Interagency Working Group on Food Marketed to Children: Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts" unless the Interagency Working Group on Food Marketed to Children complies with Executive Order 13563, including the requirement to provide quantified present and future benefits and costs.

Section 621. Language is included prohibiting funding for certain czars including the Director of the White House Office of Health Reform, the Assistant to the President for Energy and Climate Change, the Senior Advisor to the Secretary of the Treasury assigned to the Presidential Task Force on the Auto Industry and Senior Counselor for Manufacturing Policy, and the White House Director of Urban Affairs, or any substantially similar positions.

Section 622. Language is included prohibiting funds in contravention of the Federal Records Act.

Section 623. Language is included requiring certain regulatory agencies to provide a report on increasing public participation in rulemaking, improving coordination among Federal agencies, and identifying ineffective or excessively burdensome regulations.

Section 624. Language is included permanently rescinding funds in fiscal year 2017 from the Securities and Exchange Commission Reserve Fund established by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Section 625. Language is included prohibiting funds for the Securities and Exchange Commission to require the disclosure of political contributions, contributions to tax exempt organizations, or dues paid to trade associations.

Section 626. Language is included prohibiting the Financial Stability Oversight Council from designating nonbanks as systemically important financial institutions until it identifies the risks to financial stability presented by the nonbank and allows the nonbank to present a plan to modify its business, structure, or operation to mitigate the identified risk prior to final designation.

Section 627. Language is included prohibiting agencies from requiring Internet Service Providers (ISPs) to disclose electronic communications information in a manner that violates the Fourth Amendment.

Section 628. Language is included clarifying language related to joint sales agreements included in P.L. 114–113.

Section 629. Language is included prohibiting any modification of Universal Service Fund rules related to Mobility Fund Phase II.

Section 630. Language is included prohibiting the Federal Communications Commission (FCC) from implementing, administering, or enforcing any rule unless the FCC publishes the text of the rule 21 days before a vote on the rule.

Section 631. Language is included prohibiting the Federal Communications Commission from regulating rates for either broadband or wireless internet providers.

Section 632. Language is included prohibiting the Federal Communications Commission from implementing FCC Order 15–24 regarding open internet until specific court challenges have been resolved.

Section 633. Language is included requiring the Office of Management and Budget to submit a report on cybersecurity spending.

Section 634. Language is included to dissolve the Christopher Columbus Fellowship Foundation (CCFF) as a Federal agency within one year of enactment of this Act. The CCFF, if it so chooses, may reconstitute itself as a private, non-profit organization and apply for tax exempt status.

Section 635. Language is included prohibiting any funds made available in this Act from being used to establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

Section 636. Language is included requiring a study and public comment before any proposed rules under section 629 of the Communications Act of 1934 (47 U.S.C. 549) go into effect.

Section 637. Language is included revising the definition of a mortgage originator as the term applies to manufactured housing.

Section 638. Language is included revising the definition of a high-cost mortgage as the term applies to manufactured housing.

Section 639. Language is included prohibiting funding for the Consumer Financial Protection Bureau to issue or enforce any rule with respect to payday loans, vehicle title loans, or similar loans during fiscal year 2017 or after until the Bureau has submitted a report to Congress.

Section 640. Language is included prohibiting funds from being used to implement, promulgate, finalize or enforce Executive Order 13673 until a study is conducted by the Comptroller General and reviewed by the Secretary of Labor.

Section 641. Language is included prohibiting funds to pay for an abortion or the administrative expenses in connection with a multi-State qualified health plan offered under a contract under section

1334 of the Patient Protection and Affordable Care Act which provides any benefits or coverage for abortions, except for endangerment of the life of the mother, rape or incest.

TITLE VII—GENERAL PROVISIONS—GOVERNMENT-WIDE

In addition, the bill provides the following provisions under this title:

Section 701. Language is included requiring agencies to administer a policy designed to ensure that all of its workplaces are free from the illegal use of controlled substances.

Section 702. Language is included establishing price limitations on vehicles to be purchased by the Federal Government with certain exceptions.

Section 703. Language is included allowing funds made available to agencies for travel to also be used for quarters allowances and cost-of-living allowances.

Section 704. Language is included prohibiting the employment of noncitizens with certain exceptions.

Section 705. Language is included giving agencies the authority to pay General Services Administration bills for space renovation and other services.

Section 706. Language is included allowing agencies to finance the costs of recycling and waste prevention programs with proceeds from the sale of materials recovered through such programs.

Section 707. Language is included providing that funds made available to corporations and agencies subject to 31 U.S.C. 91 may pay rent and other service costs in the District of Columbia.

Section 708. Language is included prohibiting interagency financing of groups absent prior statutory approval.

Section 709. Language is included prohibiting the use of funds for enforcing regulations disapproved in accordance with the applicable law of the U.S.

Section 710. Language is included limiting the amount of funds that can be used for redecoration of offices under certain circumstances.

Section 711. Language is included allowing for interagency funding of national security and emergency telecommunications initiatives.

Section 712. Language is included requiring agencies to certify that a Schedule C appointment was not created solely or primarily to detail the employee to the White House.

Section 713. Language is included prohibiting the payment of any employee who prohibits, threatens or prevents another employee from communicating with Congress.

Section 714. Language is included prohibiting Federal training not directly related to the performance of official duties.

Section 715. Language is included prohibiting, other than for normal and recognized executive-legislative relationships, propaganda, publicity and lobbying by executive agency personnel in support or defeat of legislative initiatives.

Section 716. Language is included prohibiting any Federal agency from disclosing an employee's home address to any labor organization, absent employee authorization or court order.

Section 717. Language is included prohibiting funds to be used to provide non-public information such as mailing, telephone, or

electronic mailing lists to any person or organization outside the government without the approval of the Committees on Appropriations.

Section 718. Language is included prohibiting the use of funds for propaganda and publicity purposes not authorized by Congress.

Section 719. Language is included directing agency employees to use official time in an honest effort to perform official duties.

Section 720. Language is included allowing the use of funds to finance an appropriate share of the Federal Accounting Standards Advisory Board.

Section 721. Language is included allowing the transfer of funds to the General Services Administration to finance an appropriate share of various government-wide boards and councils and for Federal Government Priority Goals under certain conditions.

Section 722. Language is included permitting breast feeding in a Federal building or on Federal property if the woman and child are authorized to be there.

Section 723. Language is included permitting interagency funding of the National Science and Technology Council and provides for a report on the budget and resources of the National Science and Technology Council.

Section 724. Language is included requiring documents involving the distribution of Federal funds to indicate the agency providing the funds and the amount provided.

Section 725. Language is included prohibiting the use of funds to monitor personal access or use of Internet sites or to collect, review, or obtain any personally identifiable information relating to access to or use of an Internet site.

Section 726. Language is included requiring health plans participating in the Federal Employees Health Benefits Program to provide contraceptive coverage and provides exemptions to certain religious plans.

Section 727. Language is included supporting strict adherence to anti-doping activities.

Section 728. Language is included allowing funds for official travel to be used by departments and agencies, if consistent with OMB Circular A-126, to participate in the fractional aircraft ownership pilot program.

Section 729. Language is included prohibiting funds for implementation of Office of Personnel Management regulations limiting detailees to the Legislative Branch, and implementing limitations on the Coast Guard Congressional Fellowship Program.

Section 730. Language is included restricting the use of funds for Federal law enforcement training facilities.

Section 731. Language is included prohibiting Executive Branch agencies from creating prepackaged news stories that are broadcast or distributed in the United States unless the story includes a clear notification within the text or audio of that news story that the prepackaged news story was prepared or funded by that executive branch agency.

Section 732. Language is included prohibiting use of funds in contravention of section 552a of title 5, United States Code (the Privacy Act) and regulations implementing that section.

Section 733. Language is included prohibiting funds from being used for any Federal Government contract with any foreign incor-

porated entity which is treated as an inverted domestic corporation.

Section 734. Language is included requiring agencies to pay a fee to the Office of Personnel Management for processing retirement of employees who separate under Voluntary Early Retirement Authority or who receive Voluntary Separation Incentive payments.

Section 735. Language is included prohibiting funds to require any entity submitting an offer for a Federal contract or participating in an acquisition to disclose political contributions.

Section 736. Language is included prohibiting funds for the painting of a portrait of an employee of the Federal Government including the President, the Vice President, a Member of Congress, the head of an executive branch agency, or the head of an office of the legislative branch.

Section 737. Language is included limiting the pay increases of certain prevailing rate employees.

Section 738. Language is included eliminating automatic statutory pay increases for the Vice President, political appointees paid under the executive schedule, ambassadors who are not career members of the Foreign Service, politically appointed (non-career) Senior Executive Service employees, and any other senior political appointee paid at or above level IV of the executive schedule.

Section 739. Language is included requiring agencies to submit reports to Inspectors General concerning expenditures for agency conferences.

Section 740. Language is included prohibiting funds to be used to increase, eliminate, or reduce funding for a program or project unless such change is made pursuant to reprogramming or transfer provisions.

Section 741. Language is included ensuring contractors are not prevented from reporting waste, fraud, or abuse by signing confidentiality agreements that would prohibit such disclosure.

Section 742. Language is included prohibiting the expenditure of funds for the implementation of certain nondisclosure agreements unless certain provisions are included in the agreements.

Section 743. Language is included prohibiting funds to any corporation with certain unpaid Federal tax liabilities unless an agency has considered suspension or debarment of the corporation and made a determination that further action is not necessary to protect the interests of the Government.

Section 744. Language is included prohibiting funds to any corporation that was convicted of a felony criminal violation within the preceding 24 months unless an agency has considered suspension or debarment of the corporation and made a determination that further action is not necessary to protect the interests of the Government.

Section 745. Language is included to modify the conditions for implementing Executive Order 13690.

Section 746. Language is included concerning the non-application of these general provisions to title IV and to title VIII.

TITLE VIII—GENERAL PROVISIONS—DISTRICT OF COLUMBIA

In addition, the bill provides the following provisions under this title:

Section 801. Language is included that appropriates funds to refund overpayments of taxes collected and to pay settlements and judgments against the District of Columbia government.

Section 802. Language is included prohibiting the use of Federal funds for publicity or propaganda purposes.

Section 803. Language is included establishing reprogramming procedures for Federal and local funds.

Section 804. Language is included prohibiting the use of Federal funds to provide salaries or other costs associated with the offices of United States Senator or Representative.

Section 805. Language is included restricting the use of official vehicles to official duties.

Section 806. Language is included prohibiting the use of Federal funds for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

Section 807. Language is included prohibiting the use of Federal funds for needle exchange programs.

Section 808. Language is included providing for a “conscience clause” on legislation that pertains to contraceptive coverage by health insurance plans.

Section 809. Language is included prohibiting the use of Federal funds to legalize or reduce penalties associated with the possession, use, or distribution on any schedule I substance under the Controlled Substance Act or any tetrahydrocannabinols derivative.

Language is also included prohibiting local and Federal funds to legalize or reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substance Act or any tetrahydrocannabinols derivative for recreational use.

Section 810. Language is included prohibiting the use of funds for abortion except in the cases of rape or incest or if necessary to save the life of the mother.

Section 811. Language is included requiring the Chief Financial Officer (CFO) to submit a revised operating budget for all agencies in the D.C. government, no later than 30 calendar days after the enactment of this Act that realigns budgeted data with anticipated actual expenditures.

Section 812. Language is included requiring the CFO to submit a revised operating budget for D.C. Public Schools, no later than 30 calendar days after the enactment of this Act, that realigns school budgets to actual school enrollment.

Section 813. Language is included allowing the transfer of local funds and capital and enterprise funds.

Section 814. Language is included prohibiting the obligation of Federal funds beyond the current fiscal year and transfers of funds unless expressly provided herein.

Section 815. Language is included providing that not to exceed 50 percent of unobligated balances from Federal appropriations for salaries and expenses may remain available for certain purposes.

Section 816. Language is included appropriating local funds during fiscal year 2018 if there is an absence of a continuing resolution or regular appropriation for the District of Columbia. Funds are provided under the same authorities and conditions and in the same manner and extent as provided for in fiscal year 2017.

Section 817. Language is included to repeal the Local Budget Autonomy Amendment Act of 2012.

Section 818. Language is included limiting references to “this Act” as referring to only this title and title IV.

TITLE IX—SCHOLARSHIPS FOR OPPORTUNITY AND RESULTS ACT

Language is included to reauthorize the Scholarships for Opportunity and Results Act through fiscal year 2021.

TITLE X—SEC SMALL BUSINESS ADVOCATE ACT

Language is included to establish the Office of the Advocate for Small Business Capital Formation and Small Business Capital Formation Advisory Committee.

TITLE XI—FINANCIAL INSTITUTION BANKRUPTCY ACT

Language is included to amend the Bankruptcy Code for financial institutions.

TITLE XII—ADDITIONAL GENERAL PROVISION

Section 1201. Language is included establishing a Spending Reduction Account.

APPROPRIATIONS NOT AUTHORIZED BY LAW

Pursuant to clause 3(f)(1)(B) of rule XIII of the Rules of the House of Representatives, the following table lists the appropriations in the accompanying bill which are not authorized by law for the period concerned:

(Dollars in thousands)

	Last Year of Authorization	Authorization Level	Appropriation in Last Year of Authorization	Appropriations in this bill
Title I—Department of the Treasury				
Departmental Offices	n/a	n/a	n/a	250,000
Office of Terrorism and Financial Intelligence	n/a	n/a	n/a	120,000
Treasury Inspector General for Tax Administration	n/a	n/a	n/a	169,634
Financial Crimes Enforcement Network	2013	100,419	111,788	116,000
Bureau of Fiscal Service	n/a	n/a	n/a	353,057
Community Development and Financial Institutions Fund	1998	111,000	45,000	250,000
Internal Revenue Service:				
Taxpayer Services	n/a	n/a	n/a	2,156,554
Enforcement	n/a	n/a	n/a	4,760,000
Operations Support	n/a	n/a	n/a	3,502,446
Business Systems Modernization	n/a	n/a	n/a	290,000
Title II—Executive Office of the President				
Office of Management and Budget	2003	various	61,988	91,000
Office of National Drug Control Policy Salaries and Expenses	2010	n/a	29,575	19,274
High Intensity Drug Trafficking Areas	2011	280,000	238,522	253,000
Other Federal Drug Control Programs	various	various	105,550	111,871
Information Technology Oversight and Reform	n/a	n/a	n/a	25,000
Title IV—District of Columbia				
Federal Payment for Resident Tuition Support	2012	such sums	30,000	20,000
Federal Payment for the Judicial Commissions	n/a	n/a	n/a	585
Federal Payment for School Improvement	2016	60,000	45,000	45,000
Federal Payment for the DC National Guard	n/a	n/a	n/a	450
Federal Payment for Testing and Treatment of HIV/AIDS	n/a	n/a	n/a	5,000

(Dollars in thousands)

	Last Year of Authorization	Authorization Level	Appropriation in Last Year of Authorization	Appropriations in this bill
Title V—Independent Agencies				
Administrative Conference of the United States ..	2011	3,200	2,750	3,100
Consumer Safety Product Commission	2014	136,409	118,000	121,300
Election Assistance Commission	2005	n/a	13,888	4,900
Federal Communications Commission	1991	such sums	115,794	314,844
Federal Election Commission	1981	9,400	9,662	80,540
Federal Trade Commission	1998	111,000	106,500	317,000
General Services Administration:				
Government-wide Policy	n/a	n/a	n/a	58,000
Operating Expenses	n/a	n/a	n/a	47,966
Federal Citizen Services Fund	n/a	n/a	n/a	55,894
Merit Systems Protection Board	2007	such sums	29,110	47,131
National Historical Public Records Commission ..	2009	10,000	11,250	6,000
Office of Government Ethics	2007	such sums	11,148	16,090
Office of Special Counsel	2007	such sums	15,524	25,735
Securities and Exchange Commission	2015	2,250,000	1,500,000	1,555,000

COMPARISON WITH THE BUDGET RESOLUTION

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1)(A) of the Congressional Budget Act of 1974, the following table compares the levels of new budget authority provided in the bill with the appropriate allocation under section 302(b) of the Budget Act.

SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT

(In Millions of Dollars)

	302b allocation		This bill	
	Budget Authority	Outlays	Budget Authority	Outlays *
Discretionary	21,735	23,012	21,735	23,012
Mandatory	21,937	21,930	21,937	21,930

* Includes outlays from prior year budget authority.

FIVE-YEAR OUTLAY PROJECTIONS

Pursuant to clause 3(c)(2) of rule XIII and section 308(a)(1)(B) of the Congressional Budget Act of 1974, the following table contains five-year projections of outlays associated with the budget authority provided in the accompanying bill, as provided to the Committee by the Congressional Budget Office.

(In Millions of Dollars)

2017	* 39,229
2018	3,082
2019	- 170
2020	- 572
2021 and future years	- 4,935

* Excludes outlays from prior-year budget authority.

FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Pursuant to clause 3(c)(2) of rule XIII and section 308(a)(1)(C) of the Congressional Budget Act of 1974, the Congressional Budget Office has provided the following estimates of new budget authority

and outlays provided by the accompanying bill for financial assistance to State and local governments.

[In Millions of Dollars]

	Budget Authority	Outlays
Financial assistance to State and local governments for 2017	696	* 474

* Excludes outlays from prior-year budget authority.

PROGRAM DUPLICATION

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DIRECTED RULE MAKING

The bill does not direct any rule making.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

The following table provides a detailed summary, for each Department and agency, comparing the amounts recommended in the bill with amounts enacted for fiscal year 2016 and budget estimates presented for fiscal year 2017.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF THE TREASURY					
Departmental Offices					
Salaries and Expenses.....	222,500	334,376	250,000	+27,500	-84,376
Office of Terrorism and Financial Intelligence.....	---	(117,000)	---	---	(-117,000)
Office of Terrorism and Financial Intelligence.....	117,000	---	120,000	+3,000	+120,000
Cybersecurity Enhancement Account.....	---	109,827	---	---	-109,827
Department-wide Systems and Capital Investments Programs.....	5,000	5,000	---	-5,000	-5,000
Office of Inspector General.....	35,416	37,044	37,044	+1,628	---
Treasury Inspector General for Tax Administration.....	167,275	169,634	169,634	+2,359	---
Special Inspector General for TARP.....	40,671	41,160	41,160	+489	---
Financial Crimes Enforcement Network.....	112,979	115,003	116,000	+3,021	+997
Subtotal, Departmental Offices.....	700,841	812,044	733,838	+32,997	-78,206
Treasury Forfeiture Fund (rescission).....	-700,000	-657,000	-753,610	-53,610	-96,610
Total, Departmental Offices.....	841	155,044	-19,772	-20,613	-174,816
Bureau of the Fiscal Service.....	363,850	353,057	353,057	-10,793	---
Alcohol and Tobacco Tax and Trade Bureau.....	106,439	106,439	111,439	+5,000	+5,000
Franchise Fund.....	---	3,000	---	---	-3,000
Community Development Financial Institutions Fund Program Account.....	233,523	245,923	250,000	+16,477	+4,077
Payment of Government Losses in Shipment.....	2,000	2,000	2,000	---	---
Total, Department of the Treasury, non-IRS.....	706,653	865,463	696,724	-9,929	-168,739

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
Internal Revenue Service					
Taxpayer Services.....	2,156,554	2,406,318	2,156,554	---	-249,764
Enforcement.....	4,860,000	4,984,919	4,760,000	-100,000	-224,919
Program integrity initiatives.....	---	231,344	---	---	-231,344
Subtotal.....	4,860,000	5,216,263	4,760,000	-100,000	-456,263
Operations Support.....	3,638,446	4,030,695	3,502,446	-136,000	-528,249
Program integrity initiatives.....	---	283,404	---	---	-283,404
Subtotal.....	3,638,446	4,314,099	3,502,446	-136,000	-811,653
Business Systems Modernization.....	290,000	343,415	290,000	---	-53,415
General Provision (Sec. 115).....	290,000	---	290,000	---	+290,000
Total, Internal Revenue Service.....	11,235,000	12,280,095	10,999,000	-236,000	-1,281,095
=====					
Total, title I, Department of the Treasury.....	11,941,653	13,145,558	11,695,724	-245,929	-1,449,834
Appropriations.....	(12,641,653)	(13,802,558)	(12,449,334)	(-192,319)	(-1,353,224)
Rescissions.....	(-700,000)	(-657,000)	(-753,610)	(-53,610)	(-96,610)
(Mandatory).....	(2,000)	(2,000)	(2,000)	---	---
(Discretionary).....	(11,939,653)	(13,143,558)	(11,693,724)	(-245,929)	(-1,449,834)
=====					

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE II - EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT					
The White House					
Salaries and Expenses.....	55,000	55,214	55,000	---	-214
Executive Residence at the White House:					
Operating Expenses.....	12,723	12,723	12,723	---	---
White House Repair and Restoration.....	750	750	750	---	---
Subtotal.....	13,473	13,473	13,473	---	---
Council of Economic Advisers.....	4,195	4,201	4,200	+5	-1
National Security Council and Homeland Security Council.....	12,800	13,069	10,896	-1,904	-2,173
Office of Administration.....	96,116	96,116	96,116	---	---
Presidential Transition Administrative Support.....	---	7,582	7,582	+7,582	---
Total, The White House.....	181,584	189,655	187,267	+5,683	-2,388

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
Office of Management and Budget.....	95,000	100,725	91,000	-4,000	-9,725
Office of National Drug Control Policy					
Salaries and Expenses.....	20,047	19,274	19,274	-773	---
High Intensity Drug Trafficking Areas Program.....	250,000	196,410	253,000	+3,000	+56,590
Other Federal Drug Control Programs.....	109,810	98,480	111,871	+2,061	+13,391
Total, Office of National Drug Control Policy...	379,857	314,164	384,145	+4,288	+69,981
Unanticipated Needs.....	800	1,000	---	-800	-1,000
Information Technology Oversight and Reform.....	30,000	35,200	25,000	-5,000	-10,200
Special Assistance to the President and Official Residence of the Vice President:					
Salaries and Expenses.....	4,228	4,228	4,228	---	---
Operating Expenses.....	299	299	299	---	---
Subtotal.....	4,527	4,527	4,527	---	---
Total, title II, Executive Office of the President and Funds Appropriated to the President.....	691,768	645,271	691,939	+171	+46,668

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
 (Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE III - THE JUDICIARY					
Supreme Court of the United States					
Salaries and Expenses:					
Salaries of Justices.....	2,557	3,000	3,000	+443	---
Other salaries and expenses.....	75,838	76,668	76,668	+830	---
Subtotal.....	78,395	79,668	79,668	+1,273	---
Care of the Building and Grounds.....	9,964	14,868	14,868	+4,904	---
Total, Supreme Court of the United States.....	88,359	94,536	94,536	+6,177	---
United States Court of Appeals for the Federal Circuit					
Salaries and Expenses:					
Salaries of judges.....	2,922	3,000	3,000	+78	---
Other salaries and expenses.....	30,872	30,108	30,108	-764	---
Total, United States Court of Appeals for the Federal Circuit.....	33,794	33,108	33,108	-686	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request

United States Court of International Trade					
Salaries and Expenses:					
Salaries of judges.....	2,005	2,000	2,000	-5	---
Other salaries and expenses.....	18,160	18,462	18,462	+302	---
Total, U.S. Court of International Trade.....	20,165	20,462	20,462	+297	---

Courts of Appeals, District Courts, and Other Judicial Services					
Salaries and Expenses:					
Salaries of judges and bankruptcy judges.....	417,000	424,000	424,000	+7,000	---
Other salaries and expenses.....	4,918,969	5,045,785	5,010,000	+91,031	-35,785
Subtotal.....	5,335,969	5,469,785	5,434,000	+98,031	-35,785

Vaccine Injury Compensation Trust Fund					
Defender Services.....	6,050	6,260	6,260	+210	---
Fees of Jurors and Commissioners.....	1,004,949	1,056,326	1,056,326	+51,377	---
Court Security.....	44,199	43,723	43,723	-476	---
	538,196	565,388	565,388	+27,192	---
Total, Courts of Appeals, District Courts, and Other Judicial Services.....	6,929,363	7,141,482	7,105,697	+176,334	-35,785

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
 (Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request

Administrative Office of the United States Courts					
Salaries and Expenses.....	85,665	87,748	87,500	+1,835	-248
Federal Judicial Center					
Salaries and Expenses.....	27,719	28,335	28,200	+481	-135
United States Sentencing Commission					
Salaries and Expenses.....	17,570	18,150	18,000	+430	-150
=====					
Total, title III, the Judiciary.....	7,202,635	7,423,821	7,387,503	+184,868	-36,318
(Mandatory).....	(424,484)	(432,000)	(432,000)	(+7,516)	---
(Discretionary).....	(6,778,151)	(6,991,821)	(6,955,503)	(+177,352)	(-36,318)
=====					

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE IV - DISTRICT OF COLUMBIA					
Federal Payment for Resident Tuition Support.....	40,000	40,000	20,000	-20,000	-20,000
Federal Payment for Emergency Planning and Security Costs in the District of Columbia.....	13,000	34,895	40,000	+27,000	+5,105
Federal Payment to the District of Columbia Courts....	274,401	274,681	274,541	+140	-140
Federal Payment for Defender Services in District of Columbia Courts.....	49,890	49,890	49,890	---	---
Federal Payment to the Court Services and Offender Supervision Agency for the District of Columbia.....	244,763	248,008	246,386	+1,623	-1,622
Federal Payment to the District of Columbia Public Defender Service.....	40,889	41,829	41,359	+470	-470
Federal Payment to the District of Columbia Water and Sewer Authority.....	14,000	14,000	---	-14,000	-14,000
Federal Payment to the Criminal Justice Coordinating Council.....	1,900	2,000	2,000	+100	---
Federal Payment for Judicial Commissions.....	565	585	585	+20	---
Federal Payment for School Improvement.....	45,000	43,200	45,000	---	+1,800
Federal Payment for the D.C. National Guard.....	435	450	450	+15	---
Federal Payment for Testing and Treatment of HIV/AIDS.	5,000	5,000	5,000	---	---
Federal Payment for the Federal City Shelter.....	---	9,000	---	---	-9,000
Total, Title IV, District of Columbia.....	729,843	763,538	725,211	-4,632	-38,327

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE V - OTHER INDEPENDENT AGENCIES					
Administrative Conference of the United States.....	3,100	3,200	3,100	---	-100
Consumer Product Safety Commission.....	125,000	130,500	121,300	-3,700	-9,200
Election Assistance Commission.....	9,600	9,800	4,900	-4,700	-4,900
Federal Communications Commission					
Salaries and Expenses.....	384,012	358,286	314,844	-69,168	-43,442
Offsetting fee collections.....	-384,012	-358,286	-314,844	+69,168	+43,442
Direct appropriation.....	---	---	---	---	---
Federal Deposit Insurance Corporation					
Office of Inspector General (by transfer).....	(34,588)	(35,958)	(35,958)	(+1,380)	---
Deposit Insurance Fund (transfer).....	(-34,588)	(-35,958)	(-35,958)	(-1,390)	---
Federal Election Commission.....	76,119	80,540	80,540	+4,421	---
Federal Labor Relations Authority.....	26,200	27,062	26,631	+431	-431
Federal Trade Commission					
Salaries and Expenses.....	306,900	342,000	317,000	+10,100	-25,000
Offsetting fee collections (mergers).....	-124,000	-125,000	-125,000	-1,000	---
Offsetting fee collections (telephone).....	-14,000	-15,000	-15,000	-1,000	---
Direct appropriation.....	168,900	202,000	177,000	+8,100	-25,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
General Services Administration					
Federal Buildings Fund					
Limitations on Availability of Revenue:					
Construction and acquisition of facilities.....	1,607,738	1,330,522	504,918	-1,102,820	-825,604
Repairs and alterations.....	735,331	841,617	758,790	+23,459	-82,827
Rental of space.....	5,579,055	5,655,581	5,645,000	+65,945	-10,581
Building operations.....	2,274,000	2,350,618	2,336,100	+62,100	-14,518
Subtotal, Limitations on Availability of Revenue.....	10,196,124	10,178,338	9,244,808	-951,316	-933,530
Rental income to fund.....	-9,807,722	-10,178,338	-10,178,338	-370,616	---
Total, Federal Buildings Fund	388,402	---	-933,530	-1,321,932	-933,530
Government-wide Policy					
Operating Expenses.....	58,000	64,497	58,000	---	-6,497
Civilian Board of Contract Appeals	49,376	50,174	47,966	-1,410	-2,208
Office of Inspector General	9,184	9,275	9,275	+91	---
Allowances and Office Staff for Former Presidents.....	65,000	66,000	65,000	---	-1,000
Expenses, Presidential Transition	3,277	3,865	1,932	-1,345	-1,933
Federal Citizen Services Fund.....	---	9,500	9,500	+9,500	---
Pre-Election Presidential Transition.....	55,894	58,428	55,894	---	-2,534
Information Technology Modernization Fund.....	13,278	---	---	-13,278	---
Total, General Services Administration.....	642,411	361,739	-685,963	-1,328,374	-1,047,702

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AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
Harry S Truman Scholarship Foundation.....	1,000	---	---	-1,000	---
Merit Systems Protection Board					
Salaries and Expenses.....	44,490	45,083	44,786	+296	-297
Limitation on administrative expenses.....	2,345	2,345	2,345	---	---
Total, Merit Systems Protection Board.....	46,835	47,428	47,131	+296	-297
Morris K. Udall and Stewart L. Udall Foundation					
Morris K. Udall and Stewart L. Udall Trust Fund.....	1,995	1,895	---	-1,995	-1,895
Environmental Dispute Resolution Fund.....	3,400	3,249	---	-3,400	-3,249
Total, Morris K. Udall and Stewart L Udall Foundation.....	5,395	5,144	---	-5,395	-5,144

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AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2017
(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
National Archives and Records Administration					
Operating Expenses.....	379,393	380,634	380,634	+1,241	---
Reduction of debt.....	-21,208	-23,000	-23,000	-1,792	---
Subtotal.....	358,185	357,634	357,634	-551	---
Office of Inspector General.....	4,180	4,801	4,801	+621	---
Repairs and Restoration.....	7,500	7,500	7,500	---	---
National Historical Publications and Records Commission Grants Program.....	5,000	5,000	6,000	+1,000	+1,000
Total, National Archives and Records Administration.....	374,865	374,935	375,935	+1,070	+1,000
NCUA Community Development Revolving Loan Fund.....	2,000	2,000	2,000	---	---
Office of Government Ethics.....	15,742	16,090	16,090	+348	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
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(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request

Office of Personnel Management					
Salaries and Expenses.....	120,688	144,867	144,867	+24,179	---
Limitation on administrative expenses.....	124,550	144,653	141,611	+17,061	-3,042
Subtotal, Salaries and Expenses.....	245,238	289,520	286,478	+41,240	-3,042

Office of Inspector General.....	4,365	5,072	5,072	+707	---
Limitation on administrative expenses.....	22,479	26,662	26,662	+4,183	---
Subtotal, Office of Inspector General.....	26,844	31,734	31,734	+4,890	---
Total, Office of Personnel Management.....	272,082	321,254	318,212	+46,130	-3,042

Office of Special Counsel.....	24,119	26,535	25,735	+1,616	-800
Postal Regulatory Commission.....	15,200	17,726	16,200	+1,000	-1,526
Privacy and Civil Liberties Oversight Board.....	21,297	10,081	8,297	-13,000	-1,784
Securities and Exchange Commission.....	1,605,000	1,781,457	1,555,000	-50,000	-226,457
SEC fees.....	-1,605,000	-1,781,457	-1,555,000	+50,000	+226,457
SEC Reserve Fund (rescission).....	-25,000	---	-75,000	-50,000	-75,000
Selective Service System.....	22,703	22,900	22,703	---	-197

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
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(Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
Small Business Administration					
Salaries and expenses.....	268,000	275,033	268,000	---	-7,033
Entrepreneurial Development Programs.....	231,100	230,600	243,100	+12,000	+12,500
Office of Inspector General.....	19,900	19,900	19,900	---	---
Office of Advocacy.....	9,120	9,320	9,320	+200	---
Business Loans Program Account:					
Direct loans subsidy.....	3,338	4,338	4,338	+1,000	---
Guaranteed loans subsidy.....	---	---	---	---	---
Administrative expenses.....	152,726	152,726	152,726	---	---
Total, Business loans program account.....	156,064	157,064	157,064	+1,000	---
Disaster Loans Program Account:					
Administrative expenses.....	186,858	27,148	185,977	-881	+158,829
Disaster relief category.....	---	158,829	---	---	-158,829
Total, Small Business Administration.....	871,042	877,894	883,361	+12,319	+5,467
Subtotal, Disaster Relief Category.....	---	158,829	---	---	-158,829
General Provision (Sec. 532).....	---	-55,000	-55,000	-55,000	---

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 (Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request

United States Postal Service					
Payment to the Postal Service Fund.....	55,075	63,658	41,151	-13,924	-22,507
Advance appropriations.....	---	---	---	---	---
Total, Payment to the Postal Service Fund.....	55,075	63,658	41,151	-13,924	-22,507
Office of Inspector General.....	248,600	258,800	258,000	+9,400	-800
Total, United States Postal Service.....	303,675	322,458	299,151	-4,524	-23,307
United States Tax Court.....	51,300	53,861	51,300	---	-2,561
=====					
Total, title V, Independent Agencies.....	3,053,585	2,858,147	1,663,623	-1,389,962	-1,194,524
Appropriations.....	(3,078,585)	(2,754,316)	(1,793,623)	(-1,284,962)	(-960,695)
Rescissions.....	(-25,000)	(-55,000)	(-130,000)	(-105,000)	(-75,000)
Disaster relief category.....	---	(158,828)	---	---	(-158,828)
(by transfer).....	(34,588)	(35,958)	(35,958)	(+1,390)	---
(Discretionary).....	(3,053,585)	(2,858,147)	(1,663,623)	(-1,389,962)	(-1,194,524)
=====					

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2016
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 (Amounts in thousands)

	FY 2016 Enacted	FY 2017 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE VI - GENERAL PROVISIONS					
Mandatory appropriations (Sec. 619).....	20,961,450	21,376,450	21,376,450	+415,000	---
Total, title VI, General Provisions.....	20,961,450	21,376,450	21,376,450	+415,000	---
Grand total.....	44,580,934	46,212,785	43,540,450	-1,040,484	-2,672,335
Appropriations.....	(45,305,934)	(46,765,956)	(44,424,060)	(-881,874)	(-2,341,896)
Rescissions.....	(-725,000)	(-712,000)	(-883,610)	(-158,610)	(-171,610)
Disaster relief category.....	---	(158,829)	---	---	(-158,829)
(by transfer).....	(34,568)	(35,958)	(35,958)	(+1,390)	---
Discretionary total.....	23,235,000	24,427,335	21,735,000	-1,500,000	-2,692,335

DISSENTING VIEWS

We thank Chairman Crenshaw and his staff for their work in sharing information and keeping a professional process in place. Despite clear policy differences, both sides engaged in respectful debate on difficult issues.

The fiscal year (FY) 2017 bill approved by the committee provides net budget authority of \$21.735 billion, a cut of \$1.5 billion (6%) below the FY 2016 level and \$2.7 billion (11%) below the Administration's request. This grossly inadequate allocation creates unworkable shortcomings that will hurt programs that protect families, investors, and consumers, while rewarding tax cheats—not honest, hardworking Americans—by failing to provide sufficient funding to enforce tax law and assist taxpayers.

This is the eighth appropriations bill to be considered by the full committee. Yet the majority continues their refusal to provide the public with a full slate of allocations for all of the appropriations bills. Democrats on the committee have long warned that releasing piecemeal allocations was a method to underfund appropriations bills that would be considered later in the process as was borne out in the Financial Services and General Government bill's allocation.

Beyond the funding shortcomings, the bill is again used as a vehicle for the most extreme policy priorities of the Republican majority. It contains the riders that Republicans tried to attach to the bill last year and then doubles down on that failed strategy with new partisan efforts. It would undermine key elements of the Affordable Care Act (ACA) and Dodd-Frank financial reform, diminish women's access to legal health services, meddle in the District of Columbia's internal affairs, undermine the President's Cuba policy, roll back the work of the Consumer Financial Protection Bureau, and prevent fair treatment of internet content to benefit the interests of a few large corporations.

WALL STREET REFORM

Without crucial resources for the Securities and Exchange Commission (SEC) to police financial markets, this bill invites mischief by bad actors that could again hurt American investors. A cut of \$226 million below the President's request leads to less enforcement and hinders the ongoing implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Dodd-Frank is the law of the land and was enacted to deter truly outrageous behavior in our financial sector. Without proper SEC enforcement, we cannot expect to prevent the exact malfeasance Dodd-Frank set out to stop.

Because the SEC is deficit-neutral, as a fee-funded agency, full funding at the President's request would not cost a dime in taxpayer dollars, but would make significant strides in greater enforcement and promulgation of Dodd-Frank required rules as well

as vast improvements to the agency's information technology infrastructure. Ranking Member Lowey offered an amendment during Committee consideration to fully fund the SEC, but it was rejected by the majority.

TAXPAYER SERVICES

The Internal Revenue Service (IRS) is cut by \$236 million below the 2016 level and an astounding \$1.281 billion below the level requested by the President. The IRS's funding has been artificially low due to the sequester, the budget deal made to end the government shutdown, and the draconian cuts of previous years. While not as extreme as last year's House bill, this bill maintains the wrong trajectory, bringing the IRS below the FY 2008 level and, in real terms, less than the 1996 budget—20 years ago when there were 35 million fewer individual taxpayers and a far less complicated tax code.

Currently the IRS operates with 15,000 fewer FTEs than in 2010, which includes more than 5,000 fewer revenue agents, revenue officers and criminal investigators, thereby ensuring that tax cheats will not be pursued as vigorously. The IRS estimates these staffing and resource shortfalls will result in the government losing \$11 billion more in enforcement collections each year than the IRS could have collected if FY 2010 staffing levels had been maintained. Although this bill, like the FY 16 Omnibus, allocates a \$290 million increase to improve taxpayer services, identity theft, and cybersecurity, it negates that good by cutting the base funding by hundreds of millions of dollars. Additionally, inflationary cost increases would further reduce funding availability. As many as 27 million taxpayers would be unable to reach the IRS for assistance, which is simply unacceptable.

Taxpayer questions will go unanswered, tax cheats will go unchecked, revenue will go uncollected, and the deficit will increase due to these cuts. It simply does not make economic or budgetary sense.

NATIONAL SECURITY

The President requested funding for the Department of Homeland Security (DHS) and the Federal Bureau of Investigations (FBI) headquarters. This bill provides nothing for DHS and only 26 percent of the request for the FBI. These two agencies protect the Homeland from foreign and domestic threats and must have every tool at their disposal to keep our communities safe. DHS is a relatively young federal agency, created in 2002, and continues to need congressional oversight and assistance to fully integrate in order to confront both man-made and natural threats. The St. Elizabeth's headquarters is essential to unifying the various agencies that are now under the DHS umbrella but continue to be spread across different locations in the region. FBI has been in its current headquarters since 1974, which can only accommodate half of the agency's staff and is in deplorable condition. Both agencies have made compelling cases that consolidation into new headquarters is essential to their missions. This bill's inadequate allocation puts those missions at risk.

WOMEN'S RIGHTS

This bill has become the central target for the majority's efforts to remove women's reproductive health choices in the District of Columbia (DC) and across the country. Restrictions in the bill attack the ACA, which is providing millions more Americans with access to affordable health care as well as the provision of the full range of reproductive services coverage for all health benefits programs provided under the Act. ACA is the law of the land, upheld by the Supreme Court, and should not be under attack year after year in this bill. In addition, restrictions on DC using its own tax revenue to provide access to legal services for low-income women are outrageous.

DISTRICT OF COLUMBIA

In addition to the language that restricts DC from using its local funds for abortion services, this bill is the very epitome of congressional overreach with repeal of DC's law to manage its own budget and prohibitions on DC's ability to act on marijuana legalization and needle exchanges. The Republican majority's inability to pass legislation to impose these extreme beliefs on their own constituents has results in their abuse of power provided by the Constitution to disenfranchise DC voters who have supported many of these policies in referenda.

Specifically with regard to Budget Autonomy, Congress did not exercise its ultimate authority to veto DC's Budget Autonomy Act when that Act was sent to Congress for a review period, which expired in January 2014. The lack of congressional action is one of the many reasons DC Superior Court Judge Brian F. Holeman upheld DC's Budget Autonomy Act.

Ironically, the same Republican majority that wants DC's budget under their control has failed to pass a Federal budget this year and has not met the October 1st deadline for even one appropriations bill since they assumed the House majority. It seems to us that DC is a much better candidate to manage its own affairs than this Congress.

CONCLUSION

Democrats attempted to address many inadequacies through the amendment process in Committee. Ranking Member Lowey offered an amendment to remove thirty partisan riders, including those affecting the SEC, CFPB and other agencies, the District of Columbia, diplomatic relations with Cuba, the FCC's order on open internet, and federal employee health benefits. The majority strongly rejected these efforts. Instead, more controversial riders were added during Committee mark-up including those prohibiting the CFPB from issuing a final rule on payday lending until the Bureau issues a report, prohibiting funds for the IRS to audit churches that are 501(c)(3)s unless that audit is approved by the Commissioner and certain notifications are made to Congress, removing Dodd Frank consumer protections for those purchasing manufactured housing, allowing federal contractors who have violated labor laws to continue to receive contracts, and banning funds for abortion in multi-state health plans under the ACA. The majority once again rejected

an amendment to provide the full \$1.9 billion requested by the Administration to protect Americans from the Zika virus.

A rare bright spot in the mark-up was an amendment offered by Representative Marcy Kaptur (D-OH) requiring the United States Postal Service to maintain and comply with July 2012 service standards for First Class Mail and periodicals. It passed with bipartisan support. The amendment requires the Postal Service to restore the service standards that were in place before it degraded mail delivery standards by virtually eliminating overnight delivery of First-Class mail on January 5th of last year. Our constituents deserve a Postal Service that works, and delayed mail harms businesses, rural America, and our economy.

One other positive was the amendment offered by Representative Debbie Wasserman Schultz, (D-FL) funding the Virginia Graeme Baker Pool and Spa Safety grants at \$1.3 million. These grants provide assistance to local governments for education, training, and enforcement of pool safety requirements, and serve as a powerful incentive for municipalities to have their own pool safety laws on the books. More than 300 children succumb to fatal drownings each year, and more than 5,000 children are treated in our nation's emergency departments for non-fatal drownings from various causes. This program has made great progress in its first round of grants, and additional funding could help continue to reduce deaths and injuries.

We appreciate the Chairman's efforts to adequately fund the Small Business Administration, the Community Development Financial Institutions Fund, the Federal Judiciary, and anti-terrorism programs at the Department of Treasury. However, this dismal bill remains marred by unacceptably low funding levels and even more controversial riders than usual. The functions carried out by agencies in this bill are vital to taxpayers, consumers, businesses, and the economy as a whole. Shortchanging these functions does nothing to help our economic growth, create jobs, or reduce the deficit; in fact, this bill makes our markets less secure, reduces spending on infrastructure, and increases the deficit. In its current form, we cannot support the bill.

NITA M. LOWEY.
JOSÉ E. SERRANO.

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