

AMENDMENT NO. _____ Calendar No. _____

Purpose: To establish a Division of Consumer Financial Protection within the Federal Deposit Insurance Corporation, and for other purposes.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

S. 3217

To promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 Strike title X and insert the following:

2 **TITLE X—DIVISION FOR CON-**
3 **SUMER FINANCIAL PROTEC-**
4 **TION**

5 **SEC. 1001. SHORT TITLE.**

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

1 **SEC. 1002. DEFINITIONS.**

2 Except as otherwise provided in this title, for pur-
3 poses of this title, the following definitions shall apply:

4 (1) COVERED PERSON.—The term covered per-
5 son means—

6 (A) a depository institution; or

7 (B) a person other than a depository insti-
8 tution that is subject to one or more of the enu-
9 merated consumer protection statutes.

10 (2) DESIGNATED TRANSFER DATE.—The term
11 “designated transfer date” means the date estab-
12 lished under section 1042.

13 (3) DIVISION.—The term “Division” means the
14 Division for Consumer Financial Protection.

15 (4) ENUMERATED CONSUMER PROTECTION
16 STATUTES.—The term “enumerated consumer pro-
17 tection statute” means—

18 (A) subsections (c) through (f) of section
19 43 of the Federal Deposit Insurance Act (12
20 U.S.C. 1831t);

21 (B) the Consumer Leasing Act of 1976
22 (15 U.S.C. 1667 et seq.);

23 (C) the Electronic Fund Transfer Act (15
24 U.S.C. 1693 et seq.);

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

1 (E) the Fair Credit Billing Act (15 U.S.C.
2 1666 et seq.);

3 (F) the Fair Credit Reporting Act (15
4 U.S.C. 1681 et seq.), other than sections 615(e)
5 and 628 of that Act (15 U.S.C. 1681m(e),
6 1681w);

7 (G) the Homeowners Protection Act of
8 1998 (12 U.S.C. 4901, et seq.);

9 (H) the Fair Debt Collection Practices Act
10 (15 U.S.C. 1692 et seq.);

11 (I) sections 502 through 509 of the
12 Gramm-Leach-Bliley Act (15 U.S.C. 6802–
13 6809);

14 (J) the Home Mortgage Disclosure Act of
15 1975 (12 U.S.C. 2801 et seq.);

16 (K) the Home Ownership and Equity Pro-
17 tection Act of 1994 (15 U.S.C. 1601 note);

18 (L) the Real Estate Settlement Procedures
19 Act of 1974 (12 U.S.C. 2601 et seq.);

20 (M) the S.A.F.E. Mortgage Licensing Act
21 of 2008 (12 U.S.C. 5101 et seq.);

22 (N) the Truth in Lending Act (15 U.S.C.
23 1601 et seq.);

24 (O) the Truth in Savings Act (12 U.S.C.
25 4301 et seq.); and

1 (P) the authority of the Federal Trade
2 Commission, the Board of Governors, the Office
3 of Thrift Supervision, and the National Credit
4 Union Administration to prohibit unfair or de-
5 ceptive acts or practices under section 18(f) of
6 the Federal Trade Commission Act (15 U.S.C.
7 57a(f))—

8 (i) only to the same extent that the
9 Board of Governors, the Office of Thrift
10 Supervision, the National Credit Union
11 Administration, and the Federal Trade
12 Commission could exercise such authority
13 over covered persons on the day before the
14 designated transfer date; and

15 (ii) except that such authority shall
16 not extend to persons or activities covered
17 under the Fair Credit Reporting Act that
18 do not meet the definition in section
19 603(p) of the Fair Credit Reporting Act
20 (15 U.S.C. 1681a(p)).

21 (5) MORTGAGE LOAN ORIGINATOR.—The term
22 “mortgage loan originator” means any person (other
23 than an individual) that takes applications for resi-
24 dential mortgage transactions and offers or nego-
25 tiates terms of residential mortgage transactions.

1 (6) NONDEPOSITORY COVERED PERSON.—The
2 term “nondepository covered person” means any en-
3 tity that—

4 (A) is not a depository institution;

5 (B) is not an affiliate or subsidiary of a
6 depository institution;

7 (C) is not subject to supervision or en-
8 forcement by a Federal banking regulator; and

9 (D) is a financial services provider subject
10 to the enumerated consumer protection stat-
11 utes.

12 (7) PERSON.—The term “person” has the same
13 meaning as in section 103 of the Truth in Lending
14 Act (15 U.S.C. 1602).

15 (8) PRUDENTIAL REGULATOR.—The term “pru-
16 dential regulator” means the Office of the Comp-
17 troller of the Currency, the Federal Deposit Insur-
18 ance Corporation, or the National Credit Union Ad-
19 ministration, as appropriate, with respect to deposi-
20 tory institutions and affiliates of depository institu-
21 tions supervised by such agencies.

22 (9) RESIDENTIAL MORTGAGE TRANSACTION.—
23 The term “residential mortgage transaction” has the
24 same meaning as in section 103 of the Truth in
25 Lending Act (15 U.S.C. 1602).

1 **Subtitle A—Division of Consumer**
2 **Protection**

3 **SEC. 1011. ESTABLISHMENT OF THE DIVISION.**

4 (a) DIVISION ESTABLISHED.—There is established
5 within the Federal Deposit Insurance Corporation the Di-
6 vision for Consumer Protection, which shall regulate, by
7 rule or order, consumer financial products and services
8 under the enumerated consumer protection statutes, and
9 where applicable, as provided for in section 1024, enforce
10 the enumerated consumer protection statutes.

11 (b) DIRECTOR AND DEPUTY DIRECTOR.—

12 (1) DIRECTOR.—The Division shall be headed
13 by a Director, who shall be appointed by the Presi-
14 dent, by and with the advice and consent of the Sen-
15 ate, to serve for a term of 4 years.

16 (2) DEPUTY DIRECTOR.—The Director shall
17 designate a Deputy Director.

18 (3) ACTING DIRECTOR.—In the event of a va-
19 cancy in the position of the Director or during the
20 absence or disability of the Director, the Deputy Di-
21 rector shall act as Director.

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

1 **SEC. 1012. ADMINISTRATION.**

2 (a) SPECIFIC FUNCTIONAL UNITS.—

3 (1) RESEARCH.—The Director shall establish a
4 unit, the functions of which shall include research-
5 ing, analyzing, and reporting on—

6 (A) developments in markets for consumer
7 financial products or services, including market
8 areas of alternative consumer financial products
9 or services with high growth rates and areas of
10 risk to consumers;

11 (B) consumer awareness, understanding,
12 and use of disclosures and communications re-
13 garding consumer financial products or services;
14 and

15 (C) consumer awareness and under-
16 standing of costs, risks, and benefits of con-
17 sumer financial products or services.

18 (2) COLLECTING AND TRACKING COM-
19 PLAINTS.—

20 (A) IN GENERAL.—The Director shall es-
21 tablish a unit, the functions of which shall in-
22 clude establishing a single, toll-free telephone
23 number, a website, and database to facilitate
24 the centralized collection, monitoring, and re-
25 sponse to consumer complaints regarding con-
26 sumer financial products or services. The Direc-

1 tor shall coordinate with other Federal agencies
2 to route complaints to other Federal regulators,
3 where appropriate.

4 (B) ROUTING CALLS TO STATES.—To the
5 extent practicable, State agencies may receive
6 appropriate complaints from the systems estab-
7 lished under subparagraph (A), if—

8 (i) the State agency system has the
9 functional capacity to receive calls or elec-
10 tronic reports routed by the Division sys-
11 tems; and

12 (ii) the State agency has satisfied any
13 conditions of participation in the system
14 that the Division may establish, including
15 treatment of personally identifiable infor-
16 mation and sharing of information on com-
17 plaint resolution or related compliance pro-
18 cedures and resources.

19 (C) REPORTS TO CONGRESS.—The Direc-
20 tor shall present an annual report to Congress,
21 not later than March 31 of each year on the
22 complaints received by the Division in the prior
23 year regarding consumer financial products and
24 services. Such report shall include information
25 and analysis about complaint numbers, types,

1 and, where applicable, information about resolu-
2 tion of complaints.

3 (D) DATA SHARING REQUIRED.—To facili-
4 tate preparation of the reports required under
5 subparagraph (C), supervision and enforcement
6 activities, and monitoring of the market for
7 consumer financial products and services, the
8 Division shall share consumer complaint infor-
9 mation with prudential regulators, other Fed-
10 eral agencies, and State agencies, consistent
11 with Federal law applicable to personally identi-
12 fiable information. The prudential regulators
13 and other Federal agencies shall share data re-
14 lating to consumer complaints regarding con-
15 sumer financial products and services with the
16 Division, consistent with Federal law applicable
17 to personally identifiable information.

18 (b) OFFICE OF FINANCIAL LITERACY.—

19 (1) ESTABLISHMENT.—The Division shall es-
20 tablish an Office of Financial Literacy, which shall
21 be responsible for developing and implementing ini-
22 tiatives intended to educate and empower consumers
23 to make better informed financial decisions. The Di-
24 rector shall serve as the Vice Chairperson on the Fi-
25 nancial Literacy and Education Commission estab-

1 lished under section 513 of the Financial Literacy
2 and Education Improvement Act (20 U.S.C. 9702).

3 (2) OTHER DUTIES.—The Office of Financial
4 Literacy shall develop and implement a strategy to
5 improve financial literacy, consistent with the Na-
6 tional Strategy for Financial Education.

7 (3) COORDINATION.—The Office of Financial
8 Literacy shall coordinate with other units within the
9 Division in carrying out its functions, including
10 working with the research unit established by the
11 Director to conduct research related to consumer fi-
12 nancial education and counseling.

13 (4) REPORT.—Not later than 24 months after
14 the designated transfer date, and annually there-
15 after, the Director shall submit a report on its finan-
16 cial literacy activities and strategy to improve finan-
17 cial literacy of consumers to—

18 (A) the Committee on Banking, Housing,
19 and Urban Affairs of the Senate; and

20 (B) the Committee on Financial Services
21 of the House of Representatives.

22 **SEC. 1013. CONSUMER ADVISORY BOARD.**

23 (a) ESTABLISHMENT REQUIRED.—The Director shall
24 establish a Consumer Advisory Board to advise and con-
25 sult with the Division in the exercise of its functions under

1 this title, the enumerated consumer protection statutes,
2 and to provide information on emerging practices in the
3 consumer financial products or services industry, including
4 regional trends, concerns, and other relevant information.

5 (b) MEMBERSHIP.—In appointing the members of
6 the Consumer Advisory Board, the Director shall seek to
7 assemble experts in consumer protection, financial serv-
8 ices, and consumer financial products or services and seek
9 representation of the interests of nondepository covered
10 persons and consumers, without regard to party affili-
11 ation. Not fewer than 6 members shall be appointed upon
12 the recommendation of the regional Federal Reserve Bank
13 Presidents, on a rotating basis.

14 (c) MEETINGS.—The Consumer Advisory Board shall
15 meet from time to time at the call of the Director, but
16 not less frequently than twice in each year.

17 (d) COMPENSATION AND TRAVEL EXPENSES.—Mem-
18 bers of the Consumer Advisory Board who are not full-
19 time employees of the United States shall be allowed travel
20 expenses, including transportation and subsistence, while
21 away from their homes or regular places of business.

22 **SEC. 1014. COORDINATION.**

23 The Director shall coordinate with other Federal
24 agencies and State regulators, as appropriate, to promote

1 consistent regulatory treatment of consumer financial and
2 investment products and services.

3 **SEC. 1015. FUNDING.**

4 (a) FEES AND ASSESSMENTS.—

5 (1) IN GENERAL.—The Chairperson shall estab-
6 lish, by rule, an assessment schedule, including the
7 assessment base and rates, applicable to covered per-
8 sons subject to section 1023 to recover the costs of
9 the Corporation in carrying out its responsibilities
10 described under this title. The Chairperson may, by
11 rule or other action, impose additional assessments
12 on insured depository institutions to regulate con-
13 sumer financial products and services under the enu-
14 merated consumer protection statutes specified in
15 this title.

16 (2) LIMITATION.—The assessments imposed by
17 the Chairperson by rules established pursuant to
18 paragraph (1) shall not exceed the costs reasonably
19 necessary to cover the expenses associated with car-
20 rying out its supervisory and rulemaking respon-
21 sibilities under this title.

22 (b) FUND ESTABLISHED.—

23 (1) IN GENERAL.—There is established in the
24 Treasury of the United States, a separate account,
25 to be known as the Consumer Financial Protection

1 Fund (referred to in this title as the “CFP Fund”).
2 Fees and assessments collected under subsection (a)
3 shall be deposited into the CFP Fund.

4 (2) RULE OF CONSTRUCTION.—Any amounts
5 deposited into the CFP Fund may not be construed
6 to be Government funds or appropriated monies.

7 (3) NO APPORTIONMENT.—Any amounts depos-
8 ited into the CFP Fund shall not be subject to ap-
9 portionment for the purpose of chapter 15 of title
10 31, United States Code, or under any other author-
11 ity.

12 (4) USE OF FUNDS.—Funds in the CFP Fund
13 shall be immediately available to the Corporation
14 and under the control of the Corporation, and shall
15 remain available until expended, to pay the expenses
16 of the Corporation in carrying out its duties and re-
17 sponsibilities pursuant to this title.

18 (c) CONFORMING AMENDMENTS.—Section
19 11(a)(4)(A) of the Federal Deposit Insurance Act (12
20 U.S.C. 1821(a)(4)(A)) is amended—

21 (1) in clause (ii), by striking “and” at the end;

22 (2) by redesignating clause (iii) as clause (iv);

23 and

24 (3) by inserting after clause (ii) the following:

1 “(iii) to carry out additional duties
2 pursuant to the Consumer Financial Pro-
3 tection Act of 2010; and”.

4 (d) FUNDING.—

5 (1) SET ASIDE.—The Chairperson shall dedi-
6 cate not less than 10 percent of the annual esti-
7 mated budget of the Corporation, excluding any
8 funding provided pursuant to section 11(c) of the
9 Federal Deposit Insurance Act (12 U.S.C. 1821(c)),
10 to carry out the requirements specified in this title.

11 (2) TRANSFER.—Funds set aside pursuant to
12 subparagraph (1) shall be transferred to the CFP
13 Fund.

14 **SEC. 1016. APPEARANCES BEFORE AND REPORTS TO CON-**
15 **GRESS.**

16 (a) APPEARANCES BEFORE CONGRESS.—The Direc-
17 tor shall appear before the Committee on Banking, Hous-
18 ing, and Urban Affairs of the Senate and the Committee
19 on Financial Services of the House of Representatives at
20 semi-annual hearings regarding the reports required under
21 subsection (b).

22 (b) REPORTS REQUIRED.—The Director shall, con-
23 current with each semi-annual hearing referred to in sub-
24 section (a), prepare and submit to the President and to
25 the Committee on Banking, Housing, and Urban Affairs

1 of the Senate and the Committee on Financial Services
2 of the House of Representatives, a report, beginning with
3 the session following the designated transfer date.

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

6 (1) a discussion of the significant problems
7 faced by consumers in shopping for or obtaining
8 consumer financial products or services;

9 (2) a justification of the budget request of the
10 previous year;

11 (3) a list of the significant rules and orders
12 adopted by the Corporation, as well as other signifi-
13 cant initiatives conducted by the Division, during the
14 preceding year and the plan of the Division for
15 rules, orders, or other initiatives to be undertaken
16 during the upcoming period;

17 (4) an analysis of complaints about consumer
18 financial products or services that the Division, in
19 consultation with the Federal Trade Commission has
20 received and collected in its central database on
21 complaints during the preceding year;

22 (5) a list, with a brief statement of the issues,
23 of the public supervisory and enforcement actions to
24 which the Division was a party during the preceding
25 year; and

1 (3) outdated, unnecessary, or unduly burden-
2 some regulations are regularly identified and ad-
3 dressed in order to reduce unwarranted regulatory
4 burdens; and

5 (4) enumerated consumer protection statutes
6 are enforced consistently, without regard to the sta-
7 tus of a person as a depository institution, in order
8 to ensure uniform consumer protection in the mar-
9 ketplace.

10 (c) FUNCTIONS.—The primary functions of the Divi-
11 sion are—

12 (1) issuing rules, orders and guidance imple-
13 menting the enumerated consumer protection stat-
14 utes;

15 (2) collecting, investigating, and responding to
16 consumer complaints;

17 (3) collecting, researching, and publishing infor-
18 mation relevant to the functioning of markets for
19 consumer financial products and services to identify
20 risks to consumers, and the proper functioning of
21 such markets;

22 (4) subject to section 1023, supervising non-
23 depository covered persons for compliance with the
24 enumerated consumer protection statutes, and tak-
25 ing appropriate enforcement action to address viola-

1 tions of the enumerated consumer protection stat-
2 utes;

3 (5) conducting financial education programs;
4 and

5 (6) performing such support activities as may
6 be necessary or useful to facilitate the other func-
7 tions of the Division.

8 **SEC. 1022. RULEMAKING AUTHORITY.**

9 (a) IN GENERAL.—The Division is authorized to ex-
10 ercise its authorities under the enumerated consumer pro-
11 tection statutes to implement the provisions of the enu-
12 merated consumer protection statutes.

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

14 (1) IN GENERAL.—The Division may prescribe
15 rules and issue orders and guidance, as may be nec-
16 essary or appropriate to enable the Division to ad-
17 minister and carry out the enumerated consumer
18 protection statutes, and to prevent evasions thereof.

19 (2) EXCLUSIVE RULEMAKING AUTHORITY.—
20 Notwithstanding any other provisions of Federal
21 law, to the extent that a provision of the enumerated
22 consumer protection statutes authorizes the Division
23 and another Federal agency to issue regulations
24 under that provision of law for purposes of assuring
25 compliance with the enumerated consumer protection

1 statutes, the Division shall have the exclusive au-
2 thority to prescribe rules pursuant to those provi-
3 sions of law, with respect to compliance with those
4 provisions of law by covered persons.

5 (3) CORPORATION APPROVAL REQUIRED.—No
6 rule or regulation of the Division may become effec-
7 tive with respect to any person, unless approved by
8 majority vote of the members of the Board of Direc-
9 tors of the Corporation.

10 (c) PRESERVATION OF STATE REGULATION OF IN-
11 SURANCE.—Nothing in this title shall abrogate or limit in
12 any way section 2 of the Act of March 9, 1945 (15 U.S.C.
13 1012) or otherwise grant the Division authority over the
14 business of insurance.

15 (d) LIMITATION ON AUTHORITY OF DIVISION.—The
16 Division shall have no authority to issue rules, regulations,
17 orders, or guidance that affect any underwriting standards
18 of depository institutions or affiliates thereof.

19 **SEC. 1023. SUPERVISION OF NONDEPOSITORY COVERED**
20 **PERSONS.**

21 (a) APPLICABILITY.—

22 (1) COVERED PERSONS.—

23 (A) APPLICABILITY.—

1 (i) IN GENERAL.—Except as provided
2 in paragraph (2), this section shall apply
3 to any person that is—

4 (I) a type or category of mort-
5 gage loan originator that the Division,
6 in consultation with the Federal
7 Trade Commission, determines by rule
8 is subject to the requirements of this
9 section; or

10 (II) a nondepository covered per-
11 son that demonstrates a pattern or
12 practice of violations of the enumer-
13 ated consumer protection statutes,
14 that the Division, in consultation with
15 the Federal Trade Commission, deter-
16 mines by order, after notice and op-
17 portunity for response, is subject to
18 the requirements of this section.

19 (ii) RULE OF CONSTRUCTION.—On
20 and after the effective date of this section,
21 the Division may consider violations which
22 occurred during the previous 3 years in
23 making a determination that a nondeposi-
24 tory covered person shall be subject to this
25 section.

1 (B) FACTORS FOR CONSIDERATION.—In
2 determining whether a mortgage loan originator
3 is subject to the requirements of this section,
4 the Division shall consider the risks to con-
5 sumers created by the provision of such con-
6 sumer financial products or services and the
7 probability that supervision can serve to dimin-
8 ish such risks. In making these determinations,
9 the Division shall consider—

10 (i) the total financial assets of the
11 mortgage loan originator;

12 (ii) the volume of transactions involv-
13 ing consumer financial products or service
14 in which the mortgage loan originator en-
15 gages;

16 (iii) the complexity and nature of the
17 financial products or services offered by
18 the mortgage loan originator; and

19 (iv) the number and nature of any
20 violations of the enumerated consumer pro-
21 tections statutes by the mortgage loan
22 originator.

23 (C) RULE OF CONSTRUCTION.—Nothing in
24 this section may be construed to prohibit the
25 Division from exempting any class of mortgage

1 loan originator or any specific mortgage loan
2 originator from the requirements of this section.

3 (2) CERTAIN PERSONS EXCLUDED.—This sec-
4 tion shall not apply to persons described in section
5 1024.

6 (b) SUPERVISION.—

7 (1) IN GENERAL.—The Division shall require
8 reports and conduct examinations on a periodic basis
9 of persons described in subsection (a) for purposes
10 of—

11 (A) assessing compliance with the require-
12 ments of the enumerated consumer protection
13 statutes;

14 (B) obtaining information about the activi-
15 ties and compliance systems or procedures of
16 such person; and

17 (C) detecting and assessing risks to con-
18 sumers and to markets for consumer financial
19 products and services.

20 (2) RISK-BASED SUPERVISION PROGRAM.—The
21 Division shall exercise its authority under paragraph
22 (1) in a manner designed to ensure that such exer-
23 cise, with respect to persons described in subsection
24 (a), is based on the assessment by the Division of

1 the risks posed to consumers, and taking into con-
2 sideration, as applicable—

3 (A) the volume of transactions involving
4 consumer financial products or services in
5 which the persons described in subsection (a)
6 engage;

7 (B) the number and nature of any viola-
8 tions of the enumerated consumer protection
9 statutes on the part of the persons described in
10 subsection (a); and

11 (C) the extent to which such institutions
12 are subject to oversight by State authorities for
13 consumer protection.

14 (3) COORDINATION.—To minimize regulatory
15 burden, the Division shall coordinate its supervisory
16 activities with the supervisory activities conducted by
17 Federal regulators and the State regulatory authori-
18 ties, including establishing their respective schedules
19 for examining persons described in subsection (a)
20 and requirements regarding reports to be submitted
21 by such persons.

22 (4) USE OF EXISTING REPORTS.—The Division
23 shall, to the fullest extent possible, use—

1 (A) reports pertaining to persons described
2 in subsection (a) that have been provided to a
3 Federal or State agency; and

4 (B) information that has been reported
5 publicly.

6 (5) PRESERVATION OF AUTHORITY.—The au-
7 thority of the Chairperson to require reports from
8 persons described in subsection (a), as permitted
9 under paragraph (1), regarding information under
10 the control of such person, including the authority to
11 require reports when such information is main-
12 tained, stored, or processed by another person.

13 (6) REPORTS OF TAX LAW NONCOMPLIANCE.—
14 The Division shall provide the Commissioner of In-
15 ternal Revenue with any report of examination or re-
16 lated information identifying possible tax law non-
17 compliance.

18 (7) REGISTRATION, RECORDKEEPING AND
19 OTHER REQUIREMENTS FOR CERTAIN PERSONS.—

20 (A) IN GENERAL.—The Division shall pre-
21 scribe rules to facilitate supervision of persons
22 described in subsection (a) and assessment and
23 detection of risks to consumers.

24 (B) REGISTRATION.—

1 (i) IN GENERAL.—The Division shall
2 prescribe rules regarding registration re-
3 quirements for persons described in sub-
4 section (a).

5 (ii) EXCEPTION FOR RELATED PER-
6 SONS.—The Division may not impose re-
7 quirements under this section regarding
8 the registration of a related person.

9 (iii) REGISTRATION INFORMATION.—
10 Subject to rules prescribed by the Division,
11 the Division shall publicly disclose the reg-
12 istration information about persons de-
13 scribed in subsection (a) to facilitate the
14 ability of consumers to identify persons de-
15 scribed in subsection (a) registered with
16 the Division.

17 (C) RECORDKEEPING.—The Division may
18 require a person described in subsection (a), to
19 generate, provide, or retain records for the pur-
20 poses of facilitating supervision of such persons
21 and assessing and detecting risks to consumers.

22 (D) REQUIREMENTS CONCERNING OBLIGA-
23 TIONS.—The Division may prescribe rules re-
24 garding a person described in subsection (a), to
25 ensure that such persons are legitimate entities

1 and are able to perform their obligations to con-
2 sumers.

3 (E) CONSULTATION WITH STATE AGEN-
4 CIES.—In developing and implementing require-
5 ments under this paragraph, the Division shall
6 consult with State regulatory authorities re-
7 garding requirements or systems (including co-
8 ordinated or combined systems for registration),
9 where appropriate.

10 (c) PRIMARY ENFORCEMENT AUTHORITY.—

11 (1) THE DIVISION TO HAVE PRIMARY ENFORCE-
12 MENT AUTHORITY.—To the extent that a Federal
13 law authorizes the Division and another Federal
14 agency, other than the Federal Trade Commission,
15 to enforce an enumerated consumer protection stat-
16 ute, the Division shall have exclusive authority to en-
17 force that enumerated consumer protection statute
18 with respect to any person described in subsection
19 (a)(1)(A).

20 (2) REFERRAL.—Any Federal agency author-
21 ized to enforce an enumerated consumer protection
22 statute may recommend in writing to the Division
23 that the Division initiate an enforcement proceeding,
24 as the Division is authorized by that statute or by
25 this title.

1 (3) COORDINATION WITH THE FEDERAL TRADE
2 COMMISSION.—

3 (A) IN GENERAL.—The Division and the
4 Federal Trade Commission shall coordinate en-
5 forcement actions for violations of Federal law
6 regarding the offering or provision of consumer
7 financial products or services by any person de-
8 scribed in subsection (a)(1)(A), or service pro-
9 viders thereto. In carrying out this subpara-
10 graph, the agencies shall negotiate an agree-
11 ment to establish procedures for such coordina-
12 tion, including procedures for notice to the
13 other agency, where feasible, prior to initiating
14 a civil action to enforce a Federal law regarding
15 the offering or provision of consumer financial
16 products or services.

17 (B) CIVIL ACTIONS.—Whenever a civil ac-
18 tion has been filed by, or on behalf of, the Divi-
19 sion or the Federal Trade Commission for any
20 violation of any provision of Federal law de-
21 scribed in subparagraph (A), or any regulation
22 prescribed under such provision of law—

23 (i) the other agency may not, during
24 the pendency of that action, institute a
25 civil action under such provision of law

1 against any defendant named in the com-
2 plaint in such pending action for any viola-
3 tion alleged in the complaint; and

4 (ii) the Division or the Federal Trade
5 Commission may intervene as a party in
6 any such action brought by the other agen-
7 cy, and, upon intervening—

8 (I) be heard on all matters aris-
9 ing in such enforcement action; and

10 (II) file petitions for appeal in
11 such actions.

12 (C) AGREEMENT TERMS.—The terms of
13 any agreement negotiated under subparagraph
14 (A) may modify or supersede the provisions of
15 subparagraph (B).

16 (D) DEADLINE.—The agencies shall reach
17 the agreement required under subparagraph (A)
18 not later than 6 months after the designated
19 transfer date.

20 (4) SAVINGS PROVISION.—Except as specifically
21 stated in this title regarding the enumerated con-
22 sumer protection statutes, nothing in this title shall
23 be construed as modifying, limiting, or otherwise af-
24 fecting the authority of the Federal Trade Commis-

1 sion under the Federal Trade Commission Act, or
2 any other provision of law.

3 (d) EXCLUSIVE RULEMAKING AND EXAMINATION
4 AUTHORITY.—To the extent that Federal law authorizes
5 the Division and another Federal agency to issue regula-
6 tions or guidance, conduct examinations, or require re-
7 ports from a person described in subsection (a) under that
8 provision of law for purposes of assuring compliance with
9 the enumerated consumer protection statutes and any reg-
10 ulations thereunder, the Division shall have the exclusive
11 authority to prescribe rules, issue guidance, conduct ex-
12 aminations, require reports, or issue exemptions with re-
13 gard to a person described in subsection (a), subject to
14 those provisions of law.

15 (e) SERVICE PROVIDERS.—A service provider to a
16 person described in subsection (a) shall be subject to the
17 authority of the Division under this section, to the same
18 extent as if such service provider were engaged in a service
19 relationship with a bank, and the Division were an appro-
20 priate Federal banking agency under section 7(e) of the
21 Bank Service Company Act (12 U.S.C. 1867(c)). For pur-
22 poses of this subsection, a service provider shall not in-
23 clude persons described in section 1024.

24 (f) ENFORCEMENT AUTHORITY.—The Division may
25 enforce the requirements of this title with respect to per-

1 sons described in subsection (a) pursuant to section 8 of
2 the Federal Deposit Insurance Act (12 U.S.C. 1818), as
3 if such person were an insured depository institution.

4 **SEC. 1024. SUPERVISION AND ENFORCEMENT ON CON-**
5 **SUMER PROTECTION.**

6 The Division shall have no authority to require re-
7 ports from, conduct examinations of, or take enforcement
8 action against an insured depository institution or any af-
9 filiate thereof. The authorities of the Division and the Di-
10 rector under this title do not alter or affect the authority
11 of the prudential regulators to require reports from, con-
12 duct examinations of, or take enforcement action against
13 an insured depository institution or any affiliate thereof
14 for purposes of assessing and enforcing compliance by
15 such person with the requirements of the enumerated con-
16 sumer protection statutes and obtaining information about
17 the activities subject to such law and the associated com-
18 pliance systems or procedures of such institution or affil-
19 iate.

20 **SEC. 1025. DISCLOSURES.**

21 (a) IN GENERAL.—To the extent that the enumer-
22 ated consumer protection statutes require disclosures to
23 consumers, the Division shall prescribe rules to ensure
24 that such disclosures make timely, appropriate, and effec-

1 tive disclosures to consumers of the costs, benefits, and
2 risks associated with the product or service.

3 (b) MODEL DISCLOSURES.—

4 (1) IN GENERAL.—Any final rule prescribed by
5 the Division under this section requiring disclosures
6 may include a model form that may be used.

7 (2) FORMAT.—A model form issued pursuant to
8 paragraph (1) shall contain a clear and conspicuous
9 disclosure that, at a minimum—

10 (A) uses plain language comprehensible to
11 consumers;

12 (B) contains a clear format and design,
13 such as an easily readable type font; and

14 (C) succinctly explains the information
15 that must be communicated to the consumer.

16 (3) CONSUMER TESTING.—Any model form
17 issued by the Division shall be validated through
18 consumer testing.

19 (c) BASIS FOR RULEMAKING.—In prescribing disclo-
20 sure rules, the Division shall consider available evidence
21 about consumer awareness, understanding of, and re-
22 sponses to disclosures or communications about the risks,
23 costs, and benefits of consumer financial products or serv-
24 ices.

1 (d) SAFE HARBOR.—Any person that uses a model
2 form issued by the Division shall be deemed to be in com-
3 pliance with the disclosure requirements of this section
4 with respect to such model form.

5 (e) TRIAL DISCLOSURE PROGRAMS.—

6 (1) IN GENERAL.—The Division may permit a
7 person to conduct a trial program that is limited in
8 time and scope, subject to specified standards and
9 procedures, for the purpose of providing trial disclo-
10 sures to consumers that are designed to improve
11 upon any model form issued by the Division.

12 (2) SAFE HARBOR.—The standards and proce-
13 dures issued by the Division shall be designed to en-
14 courage persons to conduct trial disclosure pro-
15 grams. For the purposes of administering this sub-
16 section, the Division may establish a limited period
17 during which a person conducting a trial disclosure
18 program shall be deemed to be in compliance with,
19 or may be exempted from, a requirement of a rule
20 or an enumerated consumer protection statute.

21 (3) PUBLIC DISCLOSURE.—The rules of the Di-
22 vision shall provide for public disclosure of trial dis-
23 closure programs, which public disclosure may be
24 limited, to the extent necessary to encourage non-

1 depository covered persons to conduct effective
2 trials.

3 **Subtitle C—Transfer of Functions**
4 **and Personnel; Transitional**
5 **Provisions**

6 **SEC. 1041. TRANSFER OF CONSUMER FINANCIAL PROTEC-**
7 **TION FUNCTIONS.**

8 (a) DEFINED TERMS.—For purposes of this sub-
9 title—

10 (1) the term “consumer financial protection
11 functions” means—

12 (A) the functions and authorities of the
13 Board of Governors under the enumerated con-
14 sumer protection statutes, except those func-
15 tions retained by the prudential regulators
16 under section 1024; and

17 (B) the functions and authorities of the
18 Federal Trade Commission under the enumer-
19 ated consumer laws with respect to persons sub-
20 ject to the jurisdiction of the Division under
21 section 1023, except that the Federal Trade
22 Commission shall retain concurrent enforcement
23 jurisdiction under the enumerated consumer
24 protection statutes over such persons, con-
25 sistent with subsection 1023(c); and

1 (2) the terms “transferor agency” and “trans-
2 feror agencies” mean, respectively the Board of Gov-
3 ernors and the Federal Trade Commission.

4 (b) IN GENERAL.—Except as provided in subsection
5 (c), consumer financial protection functions are trans-
6 ferred as follows:

7 (1) BOARD OF GOVERNORS.—

8 (A) TRANSFER OF FUNCTIONS.—All con-
9 sumer financial protection functions of the
10 Board of Governors are transferred to the Divi-
11 sion.

12 (B) BOARD OF GOVERNORS AUTHORITY.—
13 The Division shall have all powers and duties
14 that were vested in the Board of Governors, re-
15 lating to consumer financial protection func-
16 tions, on the day before the designated transfer
17 date.

18 (2) FEDERAL TRADE COMMISSION.—

19 (A) TRANSFER OF FUNCTIONS.—All con-
20 sumer financial protection functions of the Fed-
21 eral Trade Commission are transferred to the
22 Division. Nothing in this title shall be construed
23 to require a mandatory transfer of any em-
24 ployee of the Federal Trade Commission to the
25 Division.

1 (B) COMMISSION AUTHORITY.—The Divi-
2 sion shall have all powers and duties that were
3 vested in the Federal Trade Commission relat-
4 ing to consumer financial protection functions
5 on the day before the designated transfer date.

6 (c) TRANSFERS OF FUNCTIONS SUBJECT TO EXAM-
7 INATION AND ENFORCEMENT AUTHORITY REMAINING
8 WITH TRANSFEROR AGENCIES.—The transfers of func-
9 tions in subsection (b) do not affect the authority of the
10 prudential regulators from conducting examinations or ini-
11 tiating and maintaining enforcement proceedings in ac-
12 cordance with section 1023.

13 (d) EFFECTIVE DATE.—Subsections (b) and (c) shall
14 become effective on the designated transfer date.

15 **SEC. 1042. DESIGNATED TRANSFER DATE.**

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

18 (1) in consultation with the Chairman of the
19 Board of Governors, the Chairperson of the Cor-
20 poration, the Chairman of the Federal Trade Com-
21 mission, the Chairman of the National Credit Union
22 Administration Board, the Comptroller of the Cur-
23 rency, the Director of the Office of Thrift Super-
24 vision, the Secretary of the Department of Housing
25 and Urban Development, and the Director of the Of-

1 fice of Management and Budget, designate a single
2 calendar date for the transfer of functions to the Di-
3 vision under section 1041; and

4 (2) publish notice of that designated date in the
5 Federal Register.

6 (b) CHANGING DESIGNATION.—The Secretary—

7 (1) may, in consultation with the Chairman of
8 the Board of Governors, the Chairperson of the Fed-
9 eral Deposit Insurance Corporation, the Chairman
10 of the Federal Trade Commission, the Chairman of
11 the National Credit Union Administration Board,
12 the Comptroller of the Currency, the Director of the
13 Office of Thrift Supervision, the Secretary of the
14 Department of Housing and Urban Development,
15 and the Director of the Office of Management and
16 Budget, change the date designated under sub-
17 section (a); and

18 (2) shall publish notice of any changed des-
19 ignated date in the Federal Register.

20 (c) PERMISSIBLE DATES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), any date designated under this section
23 shall be not earlier than 180 days, nor later than 18
24 months, after the date of enactment of this Act.

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

5 (A) a written determination that orderly
6 implementation of this title is not feasible be-
7 fore the date that is 18 months after the date
8 of enactment of this Act;

9 (B) an explanation of why an extension is
10 necessary for the orderly implementation of this
11 title; and

12 (C) a description of the steps that will be
13 taken to effect an orderly and timely implemen-
14 tation of this title within the extended time pe-
15 riod.

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

19 **SEC. 1043. SAVINGS PROVISIONS.**

20 (a) BOARD OF GOVERNORS.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
22 TIONS NOT AFFECTED.—Section 1041(b)(1) does
23 not affect the validity of any right, duty, or obliga-
24 tion of the United States, the Board of Governors

1 (or any Federal reserve bank), or any other person
2 that—

3 (A) arises under any provision of law relat-
4 ing to any consumer financial protection func-
5 tion of the Board of Governors transferred to
6 the Division by this title; and

7 (B) existed on the day before the des-
8 igned transfer date.

9 (2) CONTINUATION OF SUITS.—No provision of
10 this title shall abate any proceeding commenced by
11 or against the Board of Governors (or any Federal
12 reserve bank) before the designated transfer date
13 with respect to any consumer financial protection
14 function of the Board of Governors (or any Federal
15 reserve bank) transferred to the Division by this
16 title, except that the Division, subject to section
17 1023, shall be substituted for the Board of Gov-
18 ernors (or Federal reserve bank) as a party to any
19 such proceeding as of the designated transfer date.

20 (b) FEDERAL TRADE COMMISSION.—

21 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
22 TIONS NOT AFFECTED.—Section 1041(b)(5) does
23 not affect the validity of any right, duty, or obliga-
24 tion of the United States, the Federal Trade Com-
25 mission, or any other person, that—

1 (A) arises under any provision of law relat-
2 ing to any consumer financial protection func-
3 tion of the Federal Trade Commission trans-
4 ferred to the Division by this title; and

5 (B) existed on the day before the des-
6 ignated transfer date.

7 (2) CONTINUATION OF SUITS.—No provision of
8 this title shall abate any proceeding commenced by
9 or against the Federal Trade Commission before the
10 designated transfer date with respect to any con-
11 sumer financial protection function of the Federal
12 Trade Commission transferred to the Division by
13 this title, except that the Division, subject to section
14 1023, shall be substituted for the Federal Trade
15 Commission as a party to any such proceeding as of
16 the designated transfer date.

17 (c) CONTINUATION OF EXISTING ORDERS, RULES,
18 DETERMINATIONS, AGREEMENTS, AND RESOLUTIONS.—
19 All orders, resolutions, determinations, agreements, and
20 rules that have been issued, made, prescribed, or allowed
21 to become effective by any transferor agency or by a court
22 of competent jurisdiction, in the performance of consumer
23 financial protection functions that are transferred by this
24 title and that are in effect on the day before the designated
25 transfer date, shall continue in effect according to the

1 terms of those orders, resolutions, determinations, agree-
2 ments, and rules, and shall not be enforceable by or
3 against the Division.

4 (d) IDENTIFICATION OF RULES CONTINUED.—Not
5 later than the designated transfer date, the Division—

6 (1) shall, after consultation with the head of
7 each transferor agency, identify the rules continued
8 under subsection (g) that will be enforced by the Di-
9 vision; and

10 (2) shall publish a list of such rules in the Fed-
11 eral Register.

12 (e) STATUS OF RULES PROPOSED OR NOT YET EF-
13 FECTIVE.—

14 (1) PROPOSED RULES.—Any proposed rule of a
15 transferor agency which that agency, in performing
16 consumer financial protection functions transferred
17 by this title, has proposed before the designated
18 transfer date, but has not been published as a final
19 rule before that date, shall be deemed to be a pro-
20 posed rule of the Division.

21 (2) RULES NOT YET EFFECTIVE.—Any interim
22 or final rule of a transferor agency which that agen-
23 cy, in performing consumer financial protection
24 functions transferred by this title, has published be-
25 fore the designated transfer date, but which has not

1 become effective before that date, shall become effective
2 as a rule of the Division according to its terms.

3 **SEC. 1044. TRANSFER OF CERTAIN PERSONNEL.**

4 (a) IN GENERAL.—

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

6 (A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Division and the Board of Governors shall—

7 (i) jointly determine the number of
8 employees of the Board of Governors necessary to perform or support the consumer
9 financial protection functions of the Board
10 of Governors that are transferred to the
11 Division by this title; and

12 (ii) consistent with the number determined under clause (i), jointly identify employees of the Board of Governors for
13 transfer to the Division, in a manner that
14 the Division and the Board of Governors,
15 in their sole discretion, determine equitable.

16 (B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Board of Governors identified under subparagraph (A)(ii)

1 shall be transferred to the Division for employ-
2 ment.

3 (C) FEDERAL RESERVE BANK EMPLOY-
4 EES.—Employees of any Federal reserve bank
5 who, on the day before the designated transfer
6 date, are performing consumer financial protec-
7 tion functions on behalf of the Board of Gov-
8 ernors shall be treated as employees of the
9 Board of Governors for purposes of subpara-
10 graphs (A) and (B).

11 (2) APPOINTMENT AUTHORITY FOR EXCEPTED
12 SERVICE AND SENIOR EXECUTIVE SERVICE TRANS-
13 FERRED.—

14 (A) IN GENERAL.—In the case of employee
15 occupying a position in the excepted service or
16 the Senior Executive Service, any appointment
17 authority established pursuant to law or regula-
18 tions of the Office of Personnel Management
19 for filling such positions shall be transferred,
20 subject to subparagraph (B).

21 (B) DECLINING TRANSFERS ALLOWED.—
22 An agency or entity may decline to make a
23 transfer of authority under subparagraph (A)
24 (and the employees appointed pursuant thereto)
25 to the extent that such authority relates to posi-

1 tions excepted from the competitive service be-
2 cause of their confidential, policy-making, pol-
3 icy-determining, or policy-advocating character,
4 and non-career positions in the Senior Execu-
5 tive Service (within the meaning of section
6 3132(a)(7) of title 5, United States Code).

7 (b) **TIMING OF TRANSFERS AND POSITION ASSIGN-**
8 **MENTS.**—Each employee to be transferred under this sec-
9 tion shall—

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

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

15 (c) **TRANSFER OF FUNCTION.**—

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

20 (2) **PRIORITY OF THIS TITLE.**—If any provi-
21 sions of this title conflict with any protection pro-
22 vided to transferred employees under section 3503 of
23 title 5, United States Code, the provisions of this
24 title shall control.

25 (d) **EQUAL STATUS AND TENURE POSITIONS.**—

1 (1) EMPLOYEES TRANSFERRED FROM BOARD,
2 FTC.—Each employee transferred under this title
3 from the Board of Governors or the Federal Trade
4 Commission shall be placed in a position at the Divi-
5 sion with the same status and tenure as that em-
6 ployee held on the day before the designated transfer
7 date.

8 (2) EMPLOYEES TRANSFERRED FROM THE
9 FEDERAL RESERVE BANKS.—

10 (A) COMPARABILITY.—Each employee
11 transferred under this title from a Federal re-
12 serve bank shall be placed in a position with the
13 same status and tenure as that of an employee
14 transferring to the Division from the Board of
15 Governors who perform similar functions and
16 have similar periods of service.

17 (B) SERVICE PERIODS CREDITED.—For
18 purposes of this paragraph, periods of service
19 with the Board of Governors or a Federal re-
20 serve bank shall be credited as periods of serv-
21 ice with a Federal agency.

22 (e) ADDITIONAL CERTIFICATION REQUIREMENTS
23 LIMITED.—Examiners transferred to the Division are not
24 subject to any additional certification requirements before
25 being placed in a comparable examiner position at the Di-

1 vision examining the same types of institutions as they
2 examined before they were transferred.

3 (f) PERSONNEL ACTIONS LIMITED.—

4 (1) 2-YEAR PROTECTION.—Except as provided
5 in paragraph (2), each transferred employee holding
6 a permanent position on the day before the des-
7 ignated transfer date may not, during the 2-year pe-
8 riod beginning on the designated transfer date, be
9 involuntarily separated, or involuntarily reassigned
10 outside his or her locality pay area, as defined by
11 the Office of Personnel Management.

12 (2) EXCEPTIONS.—Paragraph (1) does not
13 limit the right of the Division—

14 (A) to separate an employee for cause or
15 for unacceptable performance;

16 (B) to terminate an appointment to a posi-
17 tion excepted from the competitive service be-
18 cause of its confidential policy-making, policy-
19 determining, or policy-advocating character; or

20 (C) to reassign a supervisory employee out-
21 side his or her locality pay area, as defined by
22 the Office of Personnel Management, when the
23 Division determines that the reassignment is
24 necessary for the efficient operation of the Divi-
25 sion.

1 (g) PAY.—

2 (1) 2-YEAR PROTECTION.—Except as provided
3 in paragraph (2), each transferred employee shall,
4 during the 2-year period beginning on the des-
5 ignated transfer date, receive pay at a rate equal to
6 not less than the basic rate of pay (including any ge-
7 ographic differential) that the employee received
8 during the pay period immediately preceding the
9 date of transfer.

10 (2) EXCEPTIONS.—Paragraph (1) does not
11 limit the right of the Division to reduce the rate of
12 basic pay of a transferred employee—

13 (A) for cause;

14 (B) for unacceptable performance; or

15 (C) with the consent of the employee.

16 (3) PROTECTION ONLY WHILE EMPLOYED.—
17 Paragraph (1) applies to a transferred employee
18 only while that employee remains employed by the
19 Division.

20 (4) PAY INCREASES PERMITTED.—Paragraph
21 (1) does not limit the authority of the Division to in-
22 crease the pay of a transferred employee.

23 (h) REORGANIZATION.—

24 (1) BETWEEN 1ST AND 3RD YEAR.—

1 (A) IN GENERAL.—If the Division deter-
2 mines, during the 2-year period beginning 1
3 year after the designated transfer date, that a
4 reorganization of the staff of the Division is re-
5 quired—

6 (i) that reorganization shall be
7 deemed a “major reorganization” for pur-
8 poses of affording affected employees re-
9 tirement under section 8336(d)(2) or
10 8414(b)(1)(B) of title 5, United States
11 Code;

12 (ii) before the reorganization occurs,
13 all employees in the same locality pay area
14 as defined by the Office of Personnel Man-
15 agement shall be placed in a uniform posi-
16 tion classification system; and

17 (iii) any resulting reduction in force
18 shall be governed by the provisions of
19 chapter 35 of title 5, United States Code,
20 except that the Division shall—

21 (I) establish competitive areas
22 (as that term is defined in regulations
23 issued by the Office of Personnel
24 Management) to include at a min-
25 imum all employees in the same local-

1 ity pay area as defined by the Office
2 of Personnel Management;

3 (II) establish competitive levels
4 (as that term is defined in regulations
5 issued by the Office of Personnel
6 Management) without regard to
7 whether the particular employees have
8 been appointed to positions in the
9 competitive service or the excepted
10 service; and

11 (III) afford employees appointed
12 to positions in the excepted service
13 (other than to a position excepted
14 from the competitive service because
15 of its confidential policy-making, pol-
16 icy-determining, or policy-advocating
17 character) the same assignment rights
18 to positions within the Division as em-
19 ployees appointed to positions in the
20 competitive service.

21 (B) SERVICE CREDIT FOR REDUCTIONS IN
22 FORCE.—For purposes of this paragraph, peri-
23 ods of service with a Federal home loan bank,
24 a joint office of the Federal home loan banks,
25 the Board of Governors, a Federal reserve

1 bank, the Federal Deposit Insurance Corpora-
2 tion, or the National Credit Union Administra-
3 tion shall be credited as periods of service with
4 a Federal agency.

5 (2) AFTER 3RD YEAR.—

6 (A) IN GENERAL.—If the Division deter-
7 mines, at any time after the 3-year period be-
8 ginning on the designated transfer date, that a
9 reorganization of the staff of the Division is re-
10 quired, any resulting reduction in force shall be
11 governed by the provisions of chapter 35 of title
12 5, United States Code, except that the Division
13 shall establish competitive levels (as that term
14 is defined in regulations issued by the Office of
15 Personnel Management) without regard to
16 types of appointment held by particular employ-
17 ees transferred under this section.

18 (B) SERVICE CREDIT FOR REDUCTIONS IN
19 FORCE.—For purposes of this paragraph, peri-
20 ods of service with a Federal home loan bank,
21 a joint office of the Federal home loan banks,
22 the Board of Governors, a Federal reserve
23 bank, the Federal Deposit Insurance Corpora-
24 tion, or the National Credit Union Administra-

1 tion shall be credited as periods of service with
2 a Federal agency.

3 (i) BENEFITS.—

4 (1) RETIREMENT BENEFITS FOR TRANSFERRED
5 EMPLOYEES.—

6 (A) IN GENERAL.—

7 (i) CONTINUATION OF EXISTING RE-
8 TIREMENT PLAN.—Except as provided in
9 subparagraph (B), each transferred em-
10 ployee shall remain enrolled in his or her
11 existing retirement plan, through any pe-
12 riod of continuous employment with the
13 Division.

14 (ii) EMPLOYER CONTRIBUTION.—The
15 Division shall pay any employer contribu-
16 tions to the existing retirement plan of
17 each transferred employee, as required
18 under that plan.

19 (B) OPTION FOR EMPLOYEES TRANS-
20 FERRED FROM FEDERAL RESERVE SYSTEM TO
21 BE SUBJECT TO FEDERAL EMPLOYEE RETIRE-
22 MENT PROGRAM.—

23 (i) ELECTION.—Any transferred em-
24 ployee who was enrolled in a Federal Re-
25 serve System retirement plan on the day

1 before his or her transfer to the Division
2 may, during the 1-year period beginning 6
3 months after the designated transfer date,
4 elect to be subject to the Federal employee
5 retirement program.

6 (ii) EFFECTIVE DATE OF COV-
7 ERAGE.—For any employee making an
8 election under clause (i), coverage by the
9 Federal employee retirement program shall
10 begin 1 year after the designated transfer
11 date.

12 (C) DIVISION PARTICIPATION IN FEDERAL
13 RESERVE SYSTEM RETIREMENT PLAN.—

14 (i) SEPARATE ACCOUNT IN FEDERAL
15 RESERVE SYSTEM RETIREMENT PLAN ES-
16 TABLISHED.—Notwithstanding any other
17 provision of law, and subject to the terms
18 and conditions of this section, a separate
19 account in the Federal Reserve System re-
20 tirement plan shall be established for Divi-
21 sion employees who do not make the elec-
22 tion under subparagraph (B).

23 (ii) FUNDS ATTRIBUTABLE TO TRANS-
24 FERRED EMPLOYEES REMAINING IN FED-
25 ERAL RESERVE SYSTEM RETIREMENT

1 PLAN TRANSFERRED.—The proportionate
2 share of funds in the Federal Reserve Sys-
3 tem retirement plan, including the propor-
4 tionate share of any funding surplus in
5 that plan, attributable to a transferred em-
6 ployee who does not make the election
7 under subparagraph (B), shall be trans-
8 ferred to the account established under
9 clause (i).

10 (iii) EMPLOYER CONTRIBUTIONS DE-
11 POSITED.—The Division shall deposit into
12 the account established under clause (i)
13 the employer contributions that the Divi-
14 sion makes on behalf of employees who do
15 not make the election under subparagraph
16 (B).

17 (iv) ACCOUNT ADMINISTRATION.—The
18 Division shall administer the account es-
19 tablished under clause (i) as a partici-
20 pating employer in the Federal Reserve
21 System retirement plan.

22 (D) DEFINITIONS.—For purposes of this
23 paragraph—

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

1 transferred under this section, the par-
2 ticular retirement plan (including the Fi-
3 nancial Institutions Retirement Fund) and
4 any associated thrift savings plan of the
5 agency or Federal reserve bank from which
6 the employee was transferred, which the
7 employee was enrolled in on the day before
8 the designated transfer date; and

9 (ii) the term “Federal employee re-
10 tirement program” means the retirement
11 program for Federal employees established
12 by chapter 84 of title 5, United States
13 Code.

14 (2) BENEFITS OTHER THAN RETIREMENT BEN-
15 EFITS FOR TRANSFERRED EMPLOYEES.—

16 (A) DURING 1ST YEAR.—

17 (i) EXISTING PLANS CONTINUE.—

18 Each transferred employee may, for 1 year
19 after the designated transfer date, retain
20 membership in any other employee benefit
21 program of the agency or bank from which
22 the employee transferred, including a den-
23 tal, vision, long term care, or life insurance
24 program, to which the employee belonged

1 on the day before the designated transfer
2 date.

3 (ii) EMPLOYER CONTRIBUTION.—The
4 Division shall reimburse the agency or
5 bank from which an employee was trans-
6 ferred for any cost incurred by that agency
7 or bank in continuing to extend coverage
8 in the benefit program to the employee, as
9 required under that program or negotiated
10 agreements.

11 (B) DENTAL, VISION, OR LIFE INSURANCE
12 AFTER 1ST YEAR.—If, after the 1-year period
13 beginning on the designated transfer date, the
14 Division decides not to continue participation in
15 any dental, vision, or life insurance program of
16 an agency or bank from which an employee
17 transferred, a transferred employee who is a
18 member of such a program may, before the de-
19 cision of the Division takes effect, elect to en-
20 roll, without regard to any regularly scheduled
21 open season, in—

22 (i) the enhanced dental benefits estab-
23 lished by chapter 89A of title 5, United
24 States Code;

1 (ii) the enhanced vision benefits estab-
2 lished by chapter 89B of title 5, United
3 States Code; or

4 (iii) the Federal Employees Group
5 Life Insurance Program established by
6 chapter 87 of title 5, United States Code,
7 without regard to any requirement of in-
8 surability.

9 (C) LONG TERM CARE INSURANCE AFTER
10 1ST YEAR.—If, after the 1-year period begin-
11 ning on the designated transfer date, the Divi-
12 sion decides not to continue participation in any
13 long term care insurance program of an agency
14 or bank from which an employee transferred, a
15 transferred employee who is a member of such
16 a program may, before the decision of the Divi-
17 sion takes effect, elect to apply for coverage
18 under the Federal Long Term Care Insurance
19 Program established by chapter 90 of title 5,
20 United States Code, under the underwriting re-
21 quirements applicable to a new active workforce
22 member (as defined in part 875, title 5, Code
23 of Federal Regulations).

24 (D) EMPLOYEE CONTRIBUTION.—An indi-
25 vidual enrolled in the Federal Employees

1 Health Benefits program shall pay any em-
2 ployee contribution required by the plan.

3 (E) ADDITIONAL FUNDING.—The Division
4 shall transfer to the Federal Employees Health
5 Benefits Fund established under section 8909
6 of title 5, United States Code, an amount deter-
7 mined by the Director of the Office of Per-
8 sonnel Management, after consultation with the
9 Division and the Office of Management and
10 Budget, to be necessary to reimburse the Fund
11 for the cost to the Fund of providing benefits
12 under this paragraph.

13 (F) CREDIT FOR TIME ENROLLED IN
14 OTHER PLANS.—For employees transferred
15 under this title, enrollment in a health benefits
16 plan administered by a transferor agency or a
17 Federal reserve bank, as the case may be, im-
18 mediately before enrollment in a health benefits
19 plan under chapter 89 of title 5, United States
20 Code, shall be considered as enrollment in a
21 health benefits plan under that chapter for pur-
22 poses of section 8905(b)(1)(A) of title 5, United
23 States Code.

24 (G) SPECIAL PROVISIONS TO ENSURE CON-
25 TINUATION OF LIFE INSURANCE BENEFITS.—

1 (i) IN GENERAL.—An annuitant (as
2 defined in section 8901(3) of title 5,
3 United States Code) who is enrolled in a
4 life insurance plan administered by a
5 transferor agency on the day before the
6 designated transfer date shall be eligible
7 for coverage by a life insurance plan under
8 sections 8706(b), 8714a, 8714b, and
9 8714c of title 5, United States Code, or in
10 a life insurance plan established by the Di-
11 vision, without regard to any regularly
12 scheduled open season and requirement of
13 insurability.

14 (ii) EMPLOYEE CONTRIBUTION.—An
15 individual enrolled in a life insurance plan
16 under this subparagraph shall pay any em-
17 ployee contribution required by the plan.

18 (iii) ADDITIONAL FUNDING.—The Di-
19 vision shall transfer to the Employees' Life
20 Insurance Fund established under section
21 8714 of title 5, United States Code, an
22 amount determined by the Director of the
23 Office of Personnel Management, after
24 consultation with the Division and the Of-
25 fice of Management and Budget, to be nec-

1 essary to reimburse the Fund for the cost
2 to the Fund of providing benefits under
3 this subparagraph not otherwise paid for
4 by the employee under clause (ii).

5 (iv) CREDIT FOR TIME ENROLLED IN
6 OTHER PLANS.—For employees transferred
7 under this title, enrollment in a life insur-
8 ance plan administered by a transferor
9 agency immediately before enrollment in a
10 life insurance plan under chapter 87 of
11 title 5, United States Code, shall be con-
12 sidered as enrollment in a life insurance
13 plan under that chapter for purposes of
14 section 8706(b)(1)(A) of title 5, United
15 States Code.

16 (3) OPM RULES.—The Office of Personnel
17 Management shall issue such rules as are necessary
18 to carry out this subsection.

19 (j) IMPLEMENTATION OF UNIFORM PAY AND CLASSI-
20 FICATION SYSTEM.—Not later than 2 years after the des-
21 ignated transfer date, the Division shall implement a uni-
22 form pay and classification system for all employees trans-
23 ferred under this title.

24 (k) EQUITABLE TREATMENT.—In administering the
25 provisions of this section, the Division—

1 (1) shall take no action that would unfairly dis-
2 advantage transferred employees relative to each
3 other based on their prior employment by the Board
4 of Governors, the Federal Deposit Insurance Cor-
5 poration, the Federal Trade Commission, the Na-
6 tional Credit Union Administration, the Office of the
7 Comptroller of the Currency, the Office of Thrift
8 Supervision, a Federal reserve bank, a Federal home
9 loan bank, or a joint office of the Federal home loan
10 banks; and

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

1 (l) IMPLEMENTATION.—In implementing the provi-
2 sions of this section, the Division shall coordinate with the
3 Office of Personnel Management and other entities having
4 expertise in matters related to employment to ensure a
5 fair and orderly transition for affected employees.

6 **Subtitle D—Amendment to the**
7 **Federal Deposit Insurance Act**

8 **SEC. 1051. CORPORATION BOARD MEMBERSHIP.**

9 Section 2(a)(1)(B) of the Federal Deposit Insurance
10 Act (12 U.S.C. 1812(a)(1)(B)) is amended to read as fol-
11 lows:

12 “(B) the Head of Supervision for the
13 Board of Governors of the Federal Reserve Sys-
14 tem; and”.