

**Section-by-Section Analysis of Title X**  
**The Consumer Financial Protection Agency Act of 2009**

Section 1001. Short title.

Section 1002. Definitions.

**Subtitle A - Administration**

Section 1011. This section establishes the Consumer Financial Protection Agency (CFPA or the Agency) as an independent agency in the executive branch to regulate the provision of financial products and services to consumers.

Section 1012. This section sets forth the composition of the CFPA's Board and the terms of its 5 members, 4 appointed by the President and confirmed by the Senate, and 1 the Director of the National Bank Supervisor.

Section 1013. This section authorizes the Board to exercise executive and administrative functions of the CFPA and establishes a quorum and majority vote requirements for the transaction of business.

Section 1014. This section authorizes the CFPA to appoint and employ officials and professional staff, and requires the CFPA to establish research, community affairs, and consumer complaint units.

Section 1015. This section provides for the establishment of a Consumer Advisory Board to advise and consult with the Agency on the exercise of its functions.

Section 1016. This section requires the CFPA to coordinate with other Federal agencies and State regulators to promote consistent regulatory treatment of consumer and investor products and services. This section also requires the CFPA to coordinate consumer education initiatives with each agency that is a member of the Financial Literacy and Education Commission.

Section 1017. This section requires the CFPA to prepare and submit reports to the President and the Congress concerning the Agency's regulation, supervision, and enforcement activities.

Section 1018. This section appropriates to the CFPA such sums as are necessary for the purpose of carrying out the authorities granted in this title, provides authority for the Agency to collect annual fees or assessments to recover funds expended, and establishes a victims' relief fund for civil penalties obtained by the Agency.

Section 1019. This section provides that this subtitle shall become effective on the date of enactment of this Act.

## **Subtitle B – General Powers**

Section 1021. This section mandates the CFPA to promote transparency, simplicity, fairness, accountability, and access in the market for consumer financial products and services. This section also establishes the objectives of the Agency, which include ensuring that consumers have and understand information to make decisions about consumer financial products and services; that consumers are protected from abuse; that markets for consumer products and services operate fairly and efficiently with growth and innovation; and that all consumers have access to financial services.

Section 1022. This section authorizes the CFPA to administer, enforce and otherwise implement this title, and to administer and enforce rules with respect to a number of consumer protection laws. This section: permits the Agency to prescribe rules; sets standards for rulemaking; and permits the Agency to provide exemptions from rules. This section also gives the Agency supervisory and examination authority for consumer compliance; this authority is exclusive as to banking institutions. This section gives the Agency principal authority to enforce this title, and provides for other federal agencies to make referrals of violations to the Agency and to have backstop authority to enforce the laws.

Section 1023. This section gives the CFPA authority to gather information for research purposes regarding business conduct and to prescribe rules regarding the confidential treatment of information it obtains under this title.

Section 1024. This section requires the CFPA to monitor for risks to consumers in the market for consumer financial products and services and publish a report of significant findings of its monitoring activities at least once each year. This section also requires the Agency to assess each significant rule it adopts under this title three years after it is effective, but no later than five years afterwards.

Section 1025. This section permits the CFPA, by rule, to prohibit or impose conditions on mandatory pre-dispute arbitration agreements between consumers and covered persons if doing so is in the public interest and for the protection of consumers.

Section 1026. This section provides that this subtitle becomes effective on the designated transfer date determined by section 1062.

## **Subtitle C – Specific Authorities**

Section 1031. This section authorizes the CFPA to make rules and take actions to prevent a covered person from committing or engaging in unfair, deceptive or abusive acts or practices under Federal law in connection with any transaction with a consumer for a financial product or service.

Section 1032. This section authorizes the CFPA to prescribe rules to ensure appropriate and effective disclosure to consumers of the costs, benefits, and risks associated with any

consumer financial product or service. This section also requires the Agency to propose model disclosures that integrate TILA and RESPA disclosures within one year after the transfer date.

Section 1033. This section authorizes the CFPA to adopt rules regarding the manner, settings, and circumstances for the provision of consumer financial products or services.

Section 1034. This section requires the CFPA to establish standards and procedures for the approval of pilot disclosures to be provided to consumers by covered persons.

Section 1035. This section authorizes the CFPA to prescribe operational standards applicable to covered persons, other than insured depository institutions and credit unions, to deter and detect unfair, deceptive, abusive, fraudulent or illegal transactions in the provision of consumer financial products or services.

Section 1036. This section authorizes the CFPA to adopt rules regarding standard consumer financial products and services.

Section 1037. This section authorizes the CFPA to prescribe rules imposing duties on a covered person, or an employee of a covered person, or agent or independent contractor for a covered person, who deals directly with consumers. The rules prescribed under this section are enforceable only by the CFPA in an administrative proceeding or by a state regulator in an appropriate administrative proceeding.

Section 1038. This section authorizes the CFPA to prescribe rules requiring a covered person to make available to consumers certain information in an electronic form usable by consumers, with certain exceptions.

Section 1039. This section makes it unlawful for any person to offer or sell financial products or services in violation of this title or rule or order adopted by the CFPA.

Section 1039A. This section provides that this subtitle becomes effective on the designated transfer date as determined by section 1062.

#### **Subtitle D – Preservation of State Law**

Section 1041. This section confirms that this title, and any rule adopted by the CFPA will not preempt State law if State law provides greater protection for consumers.

Section 1042. This section authorizes any State attorney general to bring civil actions for violations of this title. Before initiating any action, a State attorney general or appropriate State regulator must provide prior notice to the CFPA where practicable.

Section 1043. This section amends the National Bank Act to establish the State law preemption standards for national banks and their subsidiaries.

Section 1044. This section establishes the visitorial powers provisions of State attorneys general under the National Bank Act.

Section 1045. This section clarifies the State law applicable to State-chartered nondepository institution subsidiaries and affiliates of national banks.

Section 1046. This section amends the Home Owners' Loan Act to establish State law preemption standards for Federal savings associations and their subsidiaries.

Section 1047. This section establishes the visitorial powers of State attorneys general under the Home Owners' Loan Act.

Section 1048. This section clarifies the State law applicable to State-chartered nondepository institution subsidiaries and affiliates of Federal savings associations.

#### **Subtitle E – Enforcement Powers**

Section 1051. Definitions for this subtitle.

Section 1052. This section authorizes the CFPA to issue subpoenas for documents and testimony. It authorizes demands of materials, provides for confidential treatment of demanded material, provides for the CFPA to petition a Federal district court for enforcement, provides for petition to modify or set aside a demand, and provides for custodial control and district court jurisdiction.

Section 1053. This section authorizes the CFPA to conduct hearings and adjudication proceedings, with special rules for cease-and-desist proceedings, temporary cease-and-desist proceedings, and for enforcement of orders in a United States district court.

Section 1054. This section authorizes the CFPA to commence a civil action against a person who violates a provision of this title or any rule or order.

Section 1055. This section provides for available relief through administrative proceedings and court actions.

Section 1056. This section authorizes the CFPA to transmit evidence of conduct that may constitute a violation of Federal criminal law to the Attorney General.

Section 1058. This section provides protection against firings of or discrimination against employees who provide information or testimony to the CFPA.

#### **Subtitle F – Transfer of Functions and Personnel and Transitional Provisions**

Section 1061. This section transfers functions relating to consumer financial protection from the Federal banking agencies and the Federal Trade Commission to the CFPA subject to backstop enforcement authority detailed in section 1022.

Section 1062. This section identifies the date of transfer of functions to the CFPA as between 6 and 18 months, subject to extension, after the date of enactment of this Act.

Section 1063. This section clarifies that existing rights, duties, obligations, orders and rules of the Federal banking agencies are not affected by the transfers.

Section 1064. This section provides for the transfer of personnel from various agencies to the CFPA and establishes their protections and benefits.

Section 1065. This section authorizes the Director of the Office of Management and Budget to make additional incidental transfers of assets and liabilities of the various agencies.

Section 1066. This section provides the Secretary of the Treasury authority to perform the functions of the CFPA under this Title until three of the appointed Board members hold office in accordance with section 1012. The Secretary also is provided an appropriation for the cost of such services.

#### **Subtitle G – Regulatory Improvements**

Section 1071. This section authorizes collection of deposit account data.

Section 1072. This section authorizes data collection.

#### **Subtitle H – Conforming Amendments**

Section 1073. This section amends the Inspector General Act.

Section 1074. This section makes conforming amendments to the Privacy Act.

Section 1075. This section makes conforming amendments to the Alternative Mortgage Transaction Parity Act.

Section 1076. This section makes conforming amendments to the Community Reinvestment Act.

Section 1077. This section makes conforming amendments to the Consumer Leasing Act.

Section 1078. This section makes conforming amendments to the Electronic Fund Transfer Act.

Section 1079. This section makes conforming amendments to the Equal Credit Opportunity Act.

Section 1080. This section makes conforming amendments to the Expedited Funds Availability Act.

Section 1081. This section makes conforming amendments to the Fair Credit Billing Act.

Section 1082. This section makes conforming amendments to the Fair Credit Reporting Act and the Fair and Accurate Credit Transactions Act.

Section 1083. This section makes conforming amendments to the Fair Debt Collection Practices Act.

Section 1084. This section makes conforming amendments to the Federal Deposit Insurance Act.

Section 1085. This section makes conforming amendments to the Gramm-Leach-Bliley Act.

Section 1086. This section makes conforming amendments and further amendments to the Home Mortgage Disclosure Act.

Section 1087. This section makes conforming amendments to the Home Owner Equity Protection Act.

Section 1088. This section makes conforming amendments to the Omnibus Appropriations Act of 2009 (as amended by the Credit Card Accountability Responsibility and Disclosure Act of 2009).

Section 1089. This section makes conforming amendments to the Real Estate Settlement Procedures Act.

Section 1090. This section makes conforming amendments to the Right to Financial Privacy Act of 1978.

Section 1091. This section makes conforming amendments to the Secure and Fair Enforcement for Mortgage Licensing Act.

Section 1092. This section makes conforming amendments to the Truth in Lending Act.

Section 1093. This section makes conforming amendments to the Truth in Savings Act.

Section 1094. This section provides that sections 1076 through 1093 become effective on the designated transfer date.