

**Editorial Notes**

## REFERENCES IN TEXT

This title, referred to in subsec. (a)(2)(C), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

## CODIFICATION

In subsec. (a)(5)(C), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

**§ 5498. Data standards****(a) Requirement**

The Bureau shall, by rule, adopt data standards for all collections of information that are regularly filed with or submitted to the Bureau.

**(b) Consistency**

The data standards required under subsection (a) shall incorporate, and ensure compatibility with (to the extent feasible), all applicable data standards established in the rules promulgated under section 5334 of this title, including, to the extent practicable, by having the characteristics described in clauses (i) through (vi) of subsection (c)(1)(B) of such section 5334.

(Pub. L. 111–203, title X, §1018, as added Pub. L. 117–263, div. E, title LVIII, §5851(a)(2), Dec. 23, 2022, 136 Stat. 3433.)

**Editorial Notes**

## PRIOR PROVISIONS

A prior section 1018 of Pub. L. 111–203 was renumbered section 1020 and is set out as note under section 5491 of this title.

**Statutory Notes and Related Subsidiaries**

## RULEMAKING

Pub. L. 117–263, div. E, title LVIII, §5852, Dec. 23, 2022, 136 Stat. 3433, provided that:

“(a) IN GENERAL.—The Director of the Bureau of Consumer Financial Protection shall issue rules to carry out the amendments made by section 5851 [enacting this section and section 5499 of this title], which shall take effect not later than 2 years after the date on which final rules are promulgated under section 124(b)(2) of the Financial Stability Act of 2010 [12 U.S.C. 5334(b)(2)], as added by section 5811(a) of this title.

“(b) SCALING OF REGULATORY REQUIREMENTS; MINIMIZING DISRUPTION.—In issuing the rules required under subsection (a), the Director of the Bureau of Consumer Financial Protection—

“(1) may scale data reporting requirements in order to reduce any unjustified burden on smaller regulated entities; and

“(2) shall seek to minimize disruptive changes to the persons affected by those regulations.”

## RULE OF CONSTRUCTION REGARDING NO NEW DISCLOSURE REQUIREMENTS

Pub. L. 117–263, div. E, title LVIII, §5853, Dec. 23, 2022, 136 Stat. 3433, provided that: “Nothing in this subtitle [subtitle E (§§5851–5853) of title LVIII of div. E of Pub. L. 117–263, enacting this section, section 5499 of this title, and provisions set out as a note under this sec-

tion], or the amendments made by this subtitle, shall be construed to require the Bureau of Consumer Financial Protection to collect or make publicly available additional information under the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481 et seq.), beyond information that was collected or made publicly available under that Act, as of the day before the date of enactment of this Act [Dec. 23, 2022].”

**§ 5499. Open data publication**

All public data assets published by the Bureau shall be—

(1) made available as an open Government data asset (as defined in section 3502 of title 44);

(2) freely available for download;

(3) rendered in a human-readable format; and

(4) accessible via application programming interface where appropriate.

(Pub. L. 111–203, title X, §1019, as added Pub. L. 117–263, div. E, title LVIII, §5851(a)(2), Dec. 23, 2022, 136 Stat. 3433.)

**Statutory Notes and Related Subsidiaries**

## RULE OF CONSTRUCTION REGARDING NO NEW DISCLOSURE REQUIREMENTS

Enactment of section not to be construed to require certain additional information to be collected or disclosed, see section 5853 of Pub. L. 117–263, set out as a note under section 5498 of this title.

## PART B—GENERAL POWERS OF THE BUREAU

**§ 5511. 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 5514 through 5516 of this title, 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.

(Pub. L. 111-203, title X, §1021, July 21, 2010, 124 Stat. 1979.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Pub. L. 111-203, title X, §1029A, July 21, 2010, 124 Stat. 2005, provided that: “This subtitle [subtitle B (§§1021–1029A), enacting this part] shall become effective on the designated transfer date, except that sections 1022, 1024, and 1025(e) [12 U.S.C. 5512, 5514, and 5515(e)] shall become effective on the date of enactment of this Act [July 21, 2010].”

[The term “designated transfer date” is defined in section 5481(9) of this title as the date established under section 5582 of this title.]

#### § 5512. 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 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 5516 of this title, 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 sys-

temic 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 5513 of this title 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,<sup>1</sup> or from any rule issued under this title,<sup>1</sup> as the Bureau determines necessary or appropriate to carry out the purposes and objectives of this title,<sup>1</sup> 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 5581(b)(5) of this title, 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,<sup>1</sup> and subject to section 5581(b)(5)(E) of this title, 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

<sup>1</sup> See References in Text note below.

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 examina-

tion 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 5481 of this title, 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 coordinated 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 or any other provision of law, is not made public under this title.<sup>1</sup>

**(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,<sup>2</sup> 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<sup>1</sup> 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.

(Pub. L. 111–203, title X, §1022, July 21, 2010, 124 Stat. 1980.)

**Editorial Notes**

REFERENCES IN TEXT

This title, where footnoted in subsecs. (b)(3)(A), (4)(B), (c)(8), and (d)(1), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Right to Financial Privacy Act of 1978, referred to in subsec. (c)(9)(A)(ii), (B), is title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§3401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective July 21, 2010, see section 1029A of Pub. L. 111–203, set out as a note under section 5511 of this title.

<sup>2</sup> So in original. The comma probably should not appear.

## DESIGNATION OF RURAL AREA

Pub. L. 114-94, div. G, title LXXXIX, §89002, Dec. 4, 2015, 129 Stat. 1799, provided that:

“(a) APPLICATION.—Not later than 90 days after the date of the enactment of this Act [Dec. 4, 2015], the Bureau of Consumer Financial Protection shall establish an application process under which a person who lives or does business in a State may, with respect to an area identified by the person in such State that has not been designated by the Bureau as a rural area for purposes of a Federal consumer financial law (as defined under section 1002 of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5481]), apply for such area to be so designated.

“(b) EVALUATION CRITERIA.—When evaluating an application submitted under subsection (a), the Bureau shall take into consideration the following factors:

“(1) Criteria used by the Director of the Bureau of the Census for classifying geographical areas as rural or urban.

“(2) Criteria used by the Director of the Office of Management and Budget to designate counties as metropolitan or micropolitan or neither.

“(3) Criteria used by the Secretary of Agriculture to determine property eligibility for rural development programs.

“(4) The Department of Agriculture rural-urban commuting area codes.

“(5) A written opinion provided by the State's bank supervisor, as defined under section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)).

“(6) Population density.

“(c) RULE OF CONSTRUCTION.—If, at any time prior to the submission of an application under subsection (a), the area subject to review has been designated as nonrural by any Federal agency described under subsection (b) using any of the criteria described under subsection (b), the Bureau shall not be required to consider such designation in its evaluation.

“(d) PUBLIC COMMENT PERIOD.—

“(1) IN GENERAL.—Not later than 60 days after receiving an application submitted under subsection (a), the Bureau shall—

“(A) publish such application in the Federal Register; and

“(B) make such application available for public comment for not fewer than 90 days.

“(2) LIMITATION ON ADDITIONAL APPLICATIONS.—Nothing in this section shall be construed to require the Bureau, during the public comment period with respect to an application submitted under subsection (a), to accept an additional application with respect to the area that is the subject of the initial application.

“(e) DECISION ON DESIGNATION.—Not later than 90 days after the end of the public comment period under subsection (d)(1) for an application, the Bureau shall—

“(1) grant or deny such application, in whole or in part; and

“(2) publish such grant or denial in the Federal Register, along with an explanation of what factors the Bureau relied on in making such determination.

“(f) SUBSEQUENT APPLICATIONS.—A decision by the Bureau under subsection (e) to deny an application for an area to be designated as a rural area shall not preclude the Bureau from accepting a subsequent application submitted under subsection (a) for such area to be so designated, so long as such subsequent application is made after the end of the 90-day period beginning on the date that the Bureau denies the application under subsection (e).

“(g) SUNSET.—This section shall cease to have any force or effect after the end of the 2-year period beginning on the date of the enactment of this Act.”

### § 5513. 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 regu-

lation 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 stability 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 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.

**(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, 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 engag-

ing in a rulemaking in accordance with applicable law.

**(f) Implementing rules**

The Council shall prescribe procedural rules to implement this section.

(Pub. L. 111-203, title X, § 1023, July 21, 2010, 124 Stat. 1985.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1029A of Pub. L. 111-203, set out as a note under section 5511 of this title.

**§ 5514. Supervision of nondepository covered persons**

**(a) Scope of coverage**

**(1) Applicability**

Notwithstanding any other provision of this title,<sup>1</sup> 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 5493(b)(3) of this title 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 1650 of title 15, notwithstanding section 5517(a)(2)(A) of this title and subject to section 5517(a)(2)(C) of this title; 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 5515(a) or 5516(a) of this title.

**(B) Activity levels**

For purposes of computing activity levels under paragraph (1) or rules issued there-

<sup>1</sup> See References in Text note below.

under, 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<sup>1</sup> may be construed as limiting the authority of the Director 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 regarding 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 5581 of this title, 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.<sup>1</sup>

**(3) Coordination with the Federal Trade Commission**

**(A) In general**

The Bureau and the Federal Trade Commission shall negotiate an agreement for co-

ordinating 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 5581 of this title, 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 1867(c) of this title. 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<sup>1</sup> may be construed as modifying, limiting, or otherwise affecting the authority of the Farm Credit Administration.

(Pub. L. 111–203, title X, § 1024, July 21, 2010, 124 Stat. 1987; Pub. L. 113–173, § 2, Sept. 26, 2014, 128 Stat. 1899.)

**Editorial Notes**

**REFERENCES IN TEXT**

This title, where footnoted in subsecs. (a)(1), (b)(5), (c)(2), and (f), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

**AMENDMENTS**

2014—Subsec. (b)(3). Pub. L. 113–173 substituted “regulators, the State bank regulatory authorities, and the State agencies that licence, supervise, or examine the offering of consumer financial products or services” for “regulators and the State bank regulatory authorities” and inserted at end “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.”

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective July 21, 2010, see section 1029A of Pub. L. 111–203, set out as a note under section 5511 of this title.

**§ 5515. 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<sup>1</sup> may be construed as limiting the authority of the Director 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 Fed-

eral banking agency under section 1867(c) of this title. 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

<sup>1</sup> See References in Text note below.

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.

**(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 1831o of this title or section 1790a of this title, 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.

(Pub. L. 111–203, title X, §1025, July 21, 2010, 124 Stat. 1990.)

**Editorial Notes**

REFERENCES IN TEXT

This title, referred to in subsec. (b)(4), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective on the designated transfer date, except that subsec. (e) of this section is effective July 21, 2010, see section 1029A of Pub. L. 111–203, set out as a note under section 5511 of this title.

**§ 5516. 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 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 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 sub-

ject to the authority of the Bureau under section 5515 of this title to the same extent as if the Bureau were an appropriate Federal bank agency under section 1867(c) of this title. 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.

(Pub. L. 111–203, title X, §1026, July 21, 2010, 124 Stat. 1993.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1029A of Pub. L. 111–203, set out as a note under section 5511 of this title.

**§ 5517. 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<sup>1</sup> 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<sup>1</sup> 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,

<sup>1</sup> See References in Text note below.

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;<sup>1</sup> 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<sup>1</sup> 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 a 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 [15 U.S.C. 631 et seq.].

### **(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<sup>1</sup> may be brought under subsection 5552(a) of this title, 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<sup>1</sup> 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<sup>1</sup> 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 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 5402 of title 42.

**(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, su-

pervisory, 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)<sup>2</sup> 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

<sup>2</sup> So in original. Probably should be followed by a comma.

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 offering or provision of a consumer financial product or service described in any subparagraph of section 5481(5) of this title—

(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<sup>1</sup> 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<sup>1</sup> 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 6805(a)(6) of title 15 with respect to a person regulated by a State insurance authority.

**(g) Exclusion for employee benefit and compensation plans and certain other arrangements under title 26**

**(1) Preservation of authority of other agencies**

No provision of this title<sup>1</sup> 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,<sup>1</sup> 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 title 26 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 rulemaking 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<sup>1</sup> 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<sup>1</sup> 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.<sup>1</sup> 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<sup>1</sup> 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 title 26, 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 [29 U.S.C. 1001 et seq.], 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<sup>1</sup> 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<sup>1</sup> 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<sup>1</sup> 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<sup>1</sup> 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<sup>1</sup> 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<sup>1</sup> 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<sup>1</sup> 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 product or service that is subject to the jurisdiction of the Bureau under this title<sup>1</sup> or under any other law.

**(k) Exclusion for persons regulated by the Farm Credit Administration**

**(1) In general**

No provision of this title<sup>1</sup> 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<sup>1</sup> 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 and the Bureau may not exercise any rulemaking, supervisory, enforce-

ment, 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 5512, 5562, or 5563 of this title.

**(o) No authority to impose usury limit**

No provision of this title<sup>1</sup> 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,<sup>1</sup> including section 5514(c)(1) of this title, shall affect the authorities of the Attorney General under otherwise applicable provisions of law.

**(q) Secretary of the Treasury**

No provision of this title<sup>1</sup> 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<sup>1</sup> shall affect the authority of the Corporation under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] or the National Credit Union Administration Board under the Federal Credit Union Act [12 U.S.C. 1751 et seq.] as to matters related to deposit insurance and share insurance, respectively.

**(s) Fair Housing Act**

No provision of this title<sup>1</sup> shall be construed as affecting any authority arising under the Fair Housing Act [42 U.S.C. 3601 et seq.].

(Pub. L. 111-203, title X, §1027, July 21, 2010, 124 Stat. 1995; Pub. L. 113-295, div. B, title I, §102(e)(7), Dec. 19, 2014, 128 Stat. 4062.)

**Editorial Notes**

**REFERENCES IN TEXT**

This title, where footnoted in text, is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

Subtitle F, referred to in text, is subtitle F (§§1061-1067) of title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 2035, which is classified generally to part F (§5581 et seq.) of this subchapter. For complete classification of subtitle F to the Code, see Tables.

Subtitle H, referred to text, is subtitle H (§§1081-1100H) of title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 2080. For complete classification of subtitle H to the Code, see Tables.

The Small Business Act, referred to in subsec. (a)(2)(D)(iv), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (g)(4), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829. Title I of the Act is classified generally to subchapter I (§1001 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Farm Credit Act of 1971, referred to in subsec. (k)(2), is Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 583, which is classified principally to chapter 23 (§2001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of this title and Tables.

The Federal Deposit Insurance Act, referred to in subsec. (r), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

The Federal Credit Union Act, referred to in subsec. (r), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified principally to chapter 14 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see section 1751 of this title and Tables.

The Fair Housing Act, referred to in subsec. (s), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

**AMENDMENTS**

2014—Subsec. (g)(4). Pub. L. 113-295 inserted “, 529A” after “529”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2014 AMENDMENT**

Amendment by Pub. L. 113-295 applicable to taxable years beginning after Dec. 31, 2014, see section 102(f)(1) of Pub. L. 113-295, set out as a note under section 552a of Title 5, Government Organization and Employees.

**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1029A of Pub. L. 111-203, set out as a note under section 5511 of this title.



**§ 5518. 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.

(Pub. L. 111-203, title X, § 1028, July 21, 2010, 124 Stat. 2003.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1029A of Pub. L. 111-203, set out as a note under section 5511 of this title.

**§ 5519. 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,<sup>1</sup> 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 57a of title 15, the Federal Trade Commission is authorized to prescribe rules under sections 45 and 57a(a)(1)(B) of title 15,<sup>2</sup> in accordance with section 553 of title 5, 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.

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The period probably should be a comma.

**(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.

(Pub. L. 111–203, title X, §1029, July 21, 2010, 124 Stat. 2004.)

**Editorial Notes****REFERENCES IN TEXT**

This title, referred to in subsec. (c), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

Subtitle F, referred to in subsec. (c), is subtitle F (§§1061–1067) of title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 2035, which is classified generally to part F (§5581 et seq.) of this subchapter. For complete classification of subtitle F to the Code, see Tables.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1029A of Pub. L. 111–203, set out as a note under section 5511 of this title.

**PART C—SPECIFIC BUREAU AUTHORITIES****§ 5531. Prohibiting unfair, deceptive, or abusive acts or practices****(a) In general**

The Bureau may take any action authorized under part 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.

(Pub. L. 111–203, title X, §1031, July 21, 2010, 124 Stat. 2005.)

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Pub. L. 111–203, title X, §1037, July 21, 2010, 124 Stat. 2011, provided that: “This subtitle [subtitle C (§§1031–1037), enacting this part] shall take effect on the designated transfer date.”

[The term “designated transfer date” is defined in section 5481(9) of this title as the date established under section 5582 of this title.]

**§ 5532. Disclosures****(a) In general**

The Bureau may prescribe rules to ensure that the features of any consumer financial product