

the citizenship of the parties, to enforce such order.

**(C) Award of costs authorized**

The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

**(D) Mandamus proceedings**

Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

**(d) Unenforceability of certain agreements**

**(1) No waiver of rights and remedies**

Except as provided under paragraph (3), and notwithstanding any other provision of law, the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

**(2) No predispute arbitration agreements**

Except as provided under paragraph (3), and notwithstanding any other provision of law, no predispute arbitration agreement shall be valid or enforceable to the extent that it requires arbitration of a dispute arising under this section.

**(3) Exception**

Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under subsection (a)(4), unless the Bureau determines, by rule, that such provision is inconsistent with the purposes of this title.<sup>1</sup>

(Pub. L. 111-203, title X, §1057, July 21, 2010, 124 Stat. 2031.)

REFERENCES IN TEXT

This title, referred to in subsecs. (a)(1), (2), and (d)(3), 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1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code.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.

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1058 of Pub. L. 111-203, set out as a note under section 5561 of this title.

PART F—TRANSFER OF FUNCTIONS AND PERSONNEL; TRANSITIONAL PROVISIONS

**§ 5581. Transfer of consumer financial protection functions**

**(a) Defined terms**

For purposes of this part—

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

(A) all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and

review such rules, orders, and guidelines; and

(B) the examination authority described in subsection (c)(1), with respect to a person described in section 5515(a) of this title; and

(2) the terms “transferor agency” and “transferor agencies” mean, respectively—

(A) the Board of Governors (and any Federal reserve bank, as the context requires), the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Department of Housing and Urban Development, and the heads of those agencies; and

(B) the agencies listed in subparagraph (A), collectively.

**(b) In general**

Except as provided in subsection (c), consumer financial protection functions are transferred as follows:

**(1) Board of Governors**

**(A) Transfer of functions**

All consumer financial protection functions of the Board of Governors are transferred to the Bureau.

**(B) Board of Governors authority**

The Bureau shall have all powers and duties that were vested in the Board of Governors, relating to consumer financial protection functions, on the day before the designated transfer date.

**(2) Comptroller of the Currency**

**(A) Transfer of functions**

All consumer financial protection functions of the Comptroller of the Currency are transferred to the Bureau.

**(B) Comptroller authority**

The Bureau shall have all powers and duties that were vested in the Comptroller of the Currency, relating to consumer financial protection functions, on the day before the designated transfer date.

**(3) Director of the Office of Thrift Supervision**

**(A) Transfer of functions**

All consumer financial protection functions of the Director of the Office of Thrift Supervision are transferred to the Bureau.

**(B) Director authority**

The Bureau shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision, relating to consumer financial protection functions, on the day before the designated transfer date.

**(4) Federal Deposit Insurance Corporation**

**(A) Transfer of functions**

All consumer financial protection functions of the Federal Deposit Insurance Corporation are transferred to the Bureau.

**(B) Corporation authority**

The Bureau shall have all powers and duties that were vested in the Federal Deposit

Insurance Corporation, relating to consumer financial protection functions, on the day before the designated transfer date.

**(5) Federal Trade Commission**

**(A) Transfer of functions**

The authority of the Federal Trade Commission under an enumerated consumer law to prescribe rules, issue guidelines, or conduct a study or issue a report mandated under such law shall be transferred to the Bureau on the designated transfer date. Nothing in this title<sup>1</sup> shall be construed to require a mandatory transfer of any employee of the Federal Trade Commission.

**(B) Bureau authority**

**(i) In general**

The Bureau shall have all powers and duties under the enumerated consumer laws to prescribe rules, issue guidelines, or to conduct studies or issue reports mandated by such laws, that were vested in the Federal Trade Commission on the day before the designated transfer date.

**(ii) Federal Trade Commission Act**

Subject to part B, the Bureau may enforce a rule prescribed under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] by the Federal Trade Commission with respect to an unfair or deceptive act or practice to the extent that such rule applies to a covered person or service provider with respect to the offering or provision of a consumer financial product or service as if it were a rule prescribed under section 5531 of this title.

**(C) Authority of the Federal Trade Commission**

**(i) In general**

No provision of this title<sup>1</sup> shall be construed as modifying, limiting, or otherwise affecting the authority of the Federal Trade Commission (including its authority with respect to affiliates described in section 5515(a)(1) of this title) under the Federal Trade Commission Act or any other law, other than the authority under an enumerated consumer law to prescribe rules, issue official guidelines, or conduct a study or issue a report mandated under such law.

**(ii) Commission authority relating to rules prescribed by the Bureau**

Subject to part B, the Federal Trade Commission shall have authority to enforce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) a rule prescribed by the Bureau under this title<sup>1</sup> with respect to a covered person subject to the jurisdiction of the Federal Trade Commission under that Act, and a violation of such a rule by such a person shall be treated as a violation of a rule issued under section 18 of that Act (15 U.S.C. 57a) with respect to unfair or deceptive acts or practices.

**(D) Coordination**

To avoid duplication of or conflict between rules prescribed by the Bureau under section 5531 of this title and the Federal Trade Commission under section 18(a)(1)(B) of the Federal Trade Commission Act [15 U.S.C. 57a(a)(1)(B)] that apply to a covered person or service provider with respect to the offering or provision of consumer financial products or services, the agencies shall negotiate an agreement with respect to rulemaking by each agency, including consultation with the other agency prior to proposing a rule and during the comment period.

**(E) Deference**

No provision of this title<sup>1</sup> shall be construed as altering, limiting, expanding, or otherwise affecting the deference that a court affords to the—

(i) Federal Trade Commission in making determinations regarding the meaning or interpretation of any provision of the Federal Trade Commission Act, or of any other Federal law for which the Commission has authority to prescribe rules; or

(ii) Bureau in making determinations regarding the meaning or interpretation of any provision of a Federal consumer financial law (other than any law described in clause (i)).

**(6) National Credit Union Administration**

**(A) Transfer of functions**

All consumer financial protection functions of the National Credit Union Administration are transferred to the Bureau.

**(B) National Credit Union Administration authority**

The Bureau shall have all powers and duties that were vested in the National Credit Union Administration, relating to consumer financial protection functions, on the day before the designated transfer date.

**(7) Department of Housing and Urban Development**

**(A) Transfer of functions**

All consumer protection functions of the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.), the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102 [5101] et seq.), and the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) are transferred to the Bureau.

**(B) Authority of the Department of Housing and Urban Development**

The Bureau shall have all powers and duties that were vested in the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.), the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.), and the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.), on the day before the designated transfer date.

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

**(c) Authorities of the prudential regulators****(1) Examination**

A transferor agency that is a prudential regulator shall have—

(A) authority to require reports from and conduct examinations for compliance with Federal consumer financial laws with respect to a person described in section 5515(a) of this title, that is incidental to the backup and enforcement procedures provided to the regulator under section 5515(c) of this title; and

(B) exclusive authority (relative to the Bureau) to require reports from and conduct examinations for compliance with Federal consumer financial laws with respect to a person described in section 5516(a) of this title, except as provided to the Bureau under subsections (b) and (c) of section 5516 of this title.

**(2) Enforcement****(A) Limitation**

The authority of a transferor agency that is a prudential regulator to enforce compliance with Federal consumer financial laws with respect to a person described in section 5515(a) of this title, shall be limited to the backup and enforcement procedures in<sup>2</sup> described in section 5515(c) of this title.

**(B) Exclusive authority**

A transferor agency that is a prudential regulator shall have exclusive authority (relative to the Bureau) to enforce compliance with Federal consumer financial laws with respect to a person described in section 5516(a) of this title, except as provided to the Bureau under subsections (b) and (c) of section 5516 of this title.

**(C) Statutory enforcement**

For purposes of carrying out the authorities under, and subject to the limitations of, part B, each prudential regulator may enforce compliance with the requirements imposed under this title,<sup>1</sup> and any rule or order prescribed by the Bureau under this title,<sup>1</sup> under—

(i) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the National Credit Union Administration Board with respect to any covered person or service provider that is an insured credit union, or service provider thereto, or any affiliate of an insured credit union, who is subject to the jurisdiction of the Board under that Act; and

(ii) section 1818 of this title, by the appropriate Federal banking agency, as defined in section 1813(q) of this title, with respect to a covered person or service provider that is a person described in section 1813(q) of this title and who is subject to the jurisdiction of that agency, as set forth in sections 1813(q) and 1818 of this title; or

(iii) the Bank Service Company Act (12 U.S.C. 1861 et seq.).

<sup>2</sup> So in original. The word “in” probably should not appear.

**(d) Effective date**

Subsections (b) and (c) shall become effective on the designated transfer date.

(Pub. L. 111-203, title X, §1061, July 21, 2010, 124 Stat. 2035.)

## REFERENCES IN TEXT

This title, where footnoted in subsecs. (b)(5)(A), (C), (E) and (c)(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.

The Federal Trade Commission Act, referred to in subsec. (b)(5)(B)(ii), (C), (E)(i), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Real Estate Settlement Procedures Act of 1974, referred to in subsec. (b)(7), is Pub. L. 93-533, Dec. 22, 1974, 88 Stat. 1724, which is classified principally to chapter 27 (§2601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008, referred to in subsec. (b)(7), is title V of div. A of Pub. L. 110-289, July 30, 2008, 122 Stat. 2810, also known as the S.A.F.E. Mortgage Licensing Act of 2008, which is classified generally to chapter 51 (§5101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

The Interstate Land Sales Full Disclosure Act, referred to in subsec. (b)(7), is title XIV of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 590, which is classified generally to chapter 42 (§1701 et seq.) of Title 15, Commerce and Trade. For complete classification of this title to the Code, see Short Title note set out under section 1701 of Title 15 and Tables.

The Federal Credit Union Act, referred to in subsec. (c)(2)(C)(i), 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 Bank Service Company Act, referred to in subsec. (c)(2)(C)(iii), is Pub. L. 87-856, Oct. 23, 1962, 76 Stat. 1132, which is classified generally to chapter 18 (§1861 et seq.) of this title. For complete classification of this Act to the Code, see section 1861 of this title and Tables.

## EFFECTIVE DATE

Part effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

**§ 5582. Designated transfer date****(a) In general**

Not later than 60 days after July 21, 2010, the Secretary shall—

(1) in consultation with the Chairman of the Board of Governors, the Chairperson of the Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Secretary of the Department of Housing and Urban Development, and the Director of the Office of Management and Budget, designate a single