

1 the proceeding, and may be deducted from any sums
2 owing by the United States to the person charged.

3 (5) NOTICE AND HEARING.—No civil penalty
4 may be assessed under this subsection with respect
5 to a violation of any Federal consumer financial law,
6 unless—

7 (A) the Bureau gives notice and an oppor-
8 tunity for a hearing to the person accused of
9 the violation; or

10 (B) the appropriate court has ordered such
11 assessment and entered judgment in favor of
12 the Bureau.

13 **SEC. 1056. REFERRALS FOR CRIMINAL PROCEEDINGS.**

14 If the Bureau obtains evidence that any person, do-
15 mestic or foreign, has engaged in conduct that may con-
16 stitute a violation of Federal criminal law, the Bureau
17 shall transmit such evidence to the Attorney General of
18 the United States, who may institute criminal proceedings
19 under appropriate law. Nothing in this section affects any
20 other authority of the Bureau to disclose information.

21 **SEC. 1057. EMPLOYEE PROTECTION.**

22 (a) IN GENERAL.—No covered person or service pro-
23 vider shall terminate or in any other way discriminate
24 against, or cause to be terminated or discriminated
25 against, any covered employee or any authorized rep-

1 representative of covered employees by reason of the fact that
2 such employee or representative, whether at the initiative
3 of the employee or in the ordinary course of the duties
4 of the employee (or any person acting pursuant to a re-
5 quest of the employee), has—

6 (1) provided, caused to be provided, or is about
7 to provide or cause to be provided, information to
8 the employer, the Bureau, or any other State, local,
9 or Federal, government authority or law enforce-
10 ment agency relating to any violation of, or any act
11 or omission that the employee reasonably believes to
12 be a violation of, any provision of this title or any
13 other provision of law that is subject to the jurisdic-
14 tion of the Bureau, or any rule, order, standard, or
15 prohibition prescribed by the Bureau;

16 (2) testified or will testify in any proceeding re-
17 sulting from the administration or enforcement of
18 any provision of this title or any other provision of
19 law that is subject to the jurisdiction of the Bureau,
20 or any rule, order, standard, or prohibition pre-
21 scribed by the Bureau;

22 (3) filed, instituted, or caused to be filed or in-
23 stituted any proceeding under any Federal consumer
24 financial law; or

1 (4) objected to, or refused to participate in, any
2 activity, policy, practice, or assigned task that the
3 employee (or other such person) reasonably believed
4 to be in violation of any law, rule, order, standard,
5 or prohibition, subject to the jurisdiction of, or en-
6 forceable by, the Bureau.

7 (b) DEFINITION OF COVERED EMPLOYEE.—For the
8 purposes of this section, the term “covered employee”
9 means any individual performing tasks related to the of-
10 fering or provision of a consumer financial product or
11 service.

12 (c) PROCEDURES AND TIMETABLES.—

13 (1) COMPLAINT.—

14 (A) IN GENERAL.—A person who believes
15 that he or she has been discharged or otherwise
16 discriminated against by any person in violation
17 of subsection (a) may, not later than 180 days
18 after the date on which such alleged violation
19 occurs, file (or have any person file on his or
20 her behalf) a complaint with the Secretary of
21 Labor alleging such discharge or discrimination
22 and identifying the person responsible for such
23 act.

24 (B) ACTIONS OF SECRETARY OF LABOR.—

25 Upon receipt of such a complaint, the Secretary

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1 of Labor shall notify, in writing, the person
2 named in the complaint who is alleged to have
3 committed the violation, of—

4 (i) the filing of the complaint;

5 (ii) the allegations contained in the
6 complaint;

7 (iii) the substance of evidence sup-
8 porting the complaint; and

9 (iv) opportunities that will be afforded
10 to such person under paragraph (2).

11 (2) INVESTIGATION BY SECRETARY OF
12 LABOR.—

13 (A) IN GENERAL.—Not later than 60 days
14 after the date of receipt of a complaint filed
15 under paragraph (1), and after affording the
16 complainant and the person named in the com-
17 plaint who is alleged to have committed the vio-
18 lation that is the basis for the complaint an op-
19 portunity to submit to the Secretary of Labor
20 a written response to the complaint and an op-
21 portunity to meet with a representative of the
22 Secretary of Labor to present statements from
23 witnesses, the Secretary of Labor shall—

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1 (i) initiate an investigation and deter-
2 mine whether there is reasonable cause to
3 believe that the complaint has merit; and

4 (ii) notify the complainant and the
5 person alleged to have committed the viola-
6 tion of subsection (a), in writing, of such
7 determination.

8 (B) NOTICE OF RELIEF AVAILABLE.—If
9 the Secretary of Labor concludes that there is
10 reasonable cause to believe that a violation of
11 subsection (a) has occurred, the Secretary of
12 Labor shall, together with the notice under sub-
13 paragraph (A)(ii), issue a preliminary order
14 providing the relief prescribed by paragraph
15 (4)(B).

16 (C) REQUEST FOR HEARING.—Not later
17 than 30 days after the date of receipt of notifi-
18 cation of a determination of the Secretary of
19 Labor under this paragraph, either the person
20 alleged to have committed the violation or the
21 complainant may file objections to the findings
22 or preliminary order, or both, and request a
23 hearing on the record. The filing of such objec-
24 tions shall not operate to stay any reinstatement
25 remedy contained in the preliminary

1 order. Any such hearing shall be conducted ex-
2 peditiously, and if a hearing is not requested in
3 such 30-day period, the preliminary order shall
4 be deemed a final order that is not subject to
5 judicial review.

6 (3) GROUNDS FOR DETERMINATION OF COM-
7 PLAINTS.—

8 (A) IN GENERAL.—The Secretary of Labor
9 shall dismiss a complaint filed under this sub-
10 section, and shall not conduct an investigation
11 otherwise required under paragraph (2), unless
12 the complainant makes a prima facie showing
13 that any behavior described in paragraphs (1)
14 through (4) of subsection (a) was a contrib-
15 uting factor in the unfavorable personnel action
16 alleged in the complaint.

17 (B) REBUTTAL EVIDENCE.—Notwith-
18 standing a finding by the Secretary of Labor
19 that the complainant has made the showing re-
20 quired under subparagraph (A), no investiga-
21 tion otherwise required under paragraph (2)
22 shall be conducted, if the employer dem-
23 onstrates, by clear and convincing evidence,
24 that the employer would have taken the same

1 unfavorable personnel action in the absence of
2 that behavior.

3 (C) EVIDENTIARY STANDARDS.—The Sec-
4 retary of Labor may determine that a violation
5 of subsection (a) has occurred only if the com-
6 plainant demonstrates that any behavior de-
7 scribed in paragraphs (1) through (4) of sub-
8 section (a) was a contributing factor in the un-
9 favorable personnel action alleged in the com-
10 plaint. Relief may not be ordered under sub-
11 paragraph (A) if the employer demonstrates by
12 clear and convincing evidence that the employer
13 would have taken the same unfavorable per-
14 sonnel action in the absence of that behavior.

15 (4) ISSUANCE OF FINAL ORDERS; REVIEW PRO-
16 CEDURES.—

17 (A) TIMING.—Not later than 120 days
18 after the date of conclusion of any hearing
19 under paragraph (2), the Secretary of Labor
20 shall issue a final order providing the relief pre-
21 scribed by this paragraph or denying the com-
22 plaint. At any time before issuance of a final
23 order, a proceeding under this subsection may
24 be terminated on the basis of a settlement
25 agreement entered into by the Secretary of

1 Labor, the complainant, and the person alleged
2 to have committed the violation.

3 (B) PENALTIES.—

4 (i) ORDER OF SECRETARY OF
5 LABOR.—If, in response to a complaint
6 filed under paragraph (1), the Secretary of
7 Labor determines that a violation of sub-
8 section (a) has occurred, the Secretary of
9 Labor shall order the person who com-
10 mitted such violation—

11 (I) to take affirmative action to
12 abate the violation;

13 (II) to reinstate the complainant
14 to his or her former position, together
15 with compensation (including back
16 pay) and restore the terms, condi-
17 tions, and privileges associated with
18 his or her employment; and

19 (III) to provide compensatory
20 damages to the complainant.

21 (ii) PENALTY.—If an order is issued
22 under clause (i), the Secretary of Labor, at
23 the request of the complainant, shall assess
24 against the person against whom the order
25 is issued, a sum equal to the aggregate

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1 amount of all costs and expenses (includ-
2 ing attorney fees and expert witness fees)
3 reasonably incurred, as determined by the
4 Secretary of Labor, by the complainant
5 for, or in connection with, the bringing of
6 the complaint upon which the order was
7 issued.

8 (C) PENALTY FOR FRIVOLOUS CLAIMS.—If
9 the Secretary of Labor finds that a complaint
10 under paragraph (1) is frivolous or has been
11 brought in bad faith, the Secretary of Labor
12 may award to the prevailing employer a reason-
13 able attorney fee, not exceeding \$1,000, to be
14 paid by the complainant.

15 (D) DE NOVO REVIEW.—

16 (i) FAILURE OF THE SECRETARY TO
17 ACT.—If the Secretary of Labor has not
18 issued a final order within 210 days after
19 the date of filing of a complaint under this
20 subsection, or within 90 days after the
21 date of receipt of a written determination,
22 the complainant may bring an action at
23 law or equity for de novo review in the ap-
24 propriate district court of the United
25 States having jurisdiction, which shall have

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1 jurisdiction over such an action without re-
2 gard to the amount in controversy, and
3 which action shall, at the request of either
4 party to such action, be tried by the court
5 with a jury.

6 (ii) PROCEDURES.—A proceeding
7 under clause (i) shall be governed by the
8 same legal burdens of proof specified in
9 paragraph (3). The court shall have juris-
10 diction to grant all relief necessary to
11 make the employee whole, including injunc-
12 tive relief and compensatory damages, in-
13 cluding—

14 (I) reinstatement with the same
15 seniority status that the employee
16 would have had, but for the discharge
17 or discrimination;

18 (II) the amount of back pay, with
19 interest; and

20 (III) compensation for any spe-
21 cial damages sustained as a result of
22 the discharge or discrimination, in-
23 cluding litigation costs, expert witness
24 fees, and reasonable attorney fees.

1 (E) OTHER APPEALS.—Unless the com-
2 plainant brings an action under subparagraph
3 (D), any person adversely affected or aggrieved
4 by a final order issued under subparagraph (A)
5 may file a petition for review of the order in the
6 United States Court of Appeals for the circuit
7 in which the violation with respect to which the
8 order was issued, allegedly occurred or the cir-
9 cuit in which the complainant resided on the
10 date of such violation, not later than 60 days
11 after the date of the issuance of the final order
12 of the Secretary of Labor under subparagraph
13 (A). Review shall conform to chapter 7 of title
14 5, United States Code. The commencement of
15 proceedings under this subparagraph shall not,
16 unless ordered by the court, operate as a stay
17 of the order. An order of the Secretary of
18 Labor with respect to which review could have
19 been obtained under this subparagraph shall
20 not be subject to judicial review in any criminal
21 or other civil proceeding.

22 (5) FAILURE TO COMPLY WITH ORDER.—

23 (A) ACTIONS BY THE SECRETARY.—If any
24 person has failed to comply with a final order
25 issued under paragraph (4), the Secretary of

1 Labor may file a civil action in the United
2 States district court for the district in which
3 the violation was found to have occurred, or in
4 the United States district court for the District
5 of Columbia, to enforce such order. In actions
6 brought under this paragraph, the district
7 courts shall have jurisdiction to grant all appro-
8 priate relief including injunctive relief and com-
9 pensatory damages.

10 (B) CIVIL ACTIONS TO COMPEL COMPLI-
11 ANCE.—A person on whose behalf an order was
12 issued under paragraph (4) may commence a
13 civil action against the person to whom such
14 order was issued to require compliance with
15 such order. The appropriate United States dis-
16 trict court shall have jurisdiction, without re-
17 gard to the amount in controversy or the citi-
18 zenship of the parties, to enforce such order.

19 (C) AWARD OF COSTS AUTHORIZED.—The
20 court, in issuing any final order under this
21 paragraph, may award costs of litigation (in-
22 cluding reasonable attorney and expert witness
23 fees) to any party, whenever the court deter-
24 mines such award is appropriate.

1 (D) MANDAMUS PROCEEDINGS.—Any non-
2 discretionary duty imposed by this section shall
3 be enforceable in a mandamus proceeding
4 brought under section 1361 of title 28, United
5 States Code.

6 (d) UNENFORCEABILITY OF CERTAIN AGREE-
7 MENTS.—

8 (1) NO WAIVER OF RIGHTS AND REMEDIES.—
9 Except as provided under paragraph (3), and not-
10 withstanding any other provision of law, the rights
11 and remedies provided for in this section may not be
12 waived by any agreement, policy, form, or condition
13 of employment, including by any predispute arbitra-
14 tion agreement.

15 (2) NO PREDISPUTE ARBITRATION AGREE-
16 MENTS.—Except as provided under paragraph (3),
17 and notwithstanding any other provision of law, no
18 predispute arbitration agreement shall be valid or
19 enforceable to the extent that it requires arbitration
20 of a dispute arising under this section.

21 (3) EXCEPTION.—Notwithstanding paragraphs
22 (1) and (2), an arbitration provision in a collective
23 bargaining agreement shall be enforceable as to dis-
24 putes arising under subsection (a)(4), unless the Bu-

1 reau determines, by rule, that such provision is in-
2 consistent with the purposes of this title.

3 **SEC. 1058. EFFECTIVE DATE.**

4 This subtitle shall become effective on the designated
5 transfer date.

6 **Subtitle F—Transfer of Functions**
7 **and Personnel; Transitional**
8 **Provisions**

9 **SEC. 1061. TRANSFER OF CONSUMER FINANCIAL PROTEC-**
10 **TION FUNCTIONS.**

11 (a) **DEFINED TERMS.**—For purposes of this sub-
12 title—

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

15 (A) all authority to prescribe rules or issue
16 orders or guidelines pursuant to any Federal
17 consumer financial law, including performing
18 appropriate functions to promulgate and review
19 such rules, orders, and guidelines; and

20 (B) the examination authority described in
21 subsection (c)(1), with respect to a person de-
22 scribed in subsection 1025(a); and

23 (2) the terms “transferor agency” and “trans-
24 feror agencies” mean, respectively—