

116TH CONGRESS
2D SESSION

S. 3990

To amend the Consumer Financial Protection Act of 2010 to make the Bureau of Consumer Financial Protection an independent Financial Product Safety Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2020

Mrs. FISCHER (for herself, Mr. BARRASSO, Mr. CRAMER, Mr. SASSE, and Mr. COTTON) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Consumer Financial Protection Act of 2010 to make the Bureau of Consumer Financial Protection an independent Financial Product Safety Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Product
5 Safety Commission Act of 2020”.

1 **SEC. 2. MAKING THE BUREAU AN INDEPENDENT FINAN-**
 2 **CIAL PRODUCT SAFETY COMMISSION.**

3 The Consumer Financial Protection Act of 2010 (12
 4 U.S.C. 5481 et seq.) is amended—

5 (1) in section 1011—

6 (A) in the heading of such section, by
 7 striking “**BUREAU OF CONSUMER FINAN-**
 8 **CIAL PROTECTION**” and inserting “**FINAN-**
 9 **CIAL PRODUCT SAFETY COMMISSION**”;

10 (B) in subsection (a)—

11 (i) in the heading of such subsection,
 12 by striking “BUREAU” and inserting
 13 “COMMISSION”;

14 (ii) by striking “in the Federal Re-
 15 serve System,”;

16 (iii) by striking “independent bureau”
 17 and inserting “independent commission”;

18 (iv) by striking “Bureau of Consumer
 19 Financial Protection” and inserting “Fi-
 20 nancial Product Safety Commission (here-
 21 inafter in this section referred to as the
 22 ‘Commission’)”; and

23 (v) by striking “Bureau” each place
 24 such term appears and inserting “Commis-
 25 sion”;

1 (C) by striking subsections (b), (c), and
 2 (d);

3 (D) by redesignating subsection (e) as sub-
 4 section (j);

5 (E) in subsection (j), as so redesignated—

6 (i) by striking “, including in cities in
 7 which the Federal reserve banks, or
 8 branches of such banks, are located,”; and

9 (ii) by striking “Bureau” each place
 10 such term appears and inserting “Commis-
 11 sion”; and

12 (F) by inserting after subsection (a) the
 13 following new subsections:

14 “(b) AUTHORITY TO PRESCRIBE REGULATIONS.—

15 The Commission may prescribe such regulations and issue
 16 such orders in accordance with this title as the Commis-
 17 sion may determine to be necessary for carrying out this
 18 title and all other laws within the Commission’s jurisdic-
 19 tion and shall exercise any authorities granted under this
 20 title and all other laws within the Commission’s jurisdic-
 21 tion.

22 “(c) COMPOSITION OF THE COMMISSION.—

23 “(1) IN GENERAL.—The Commission shall be
 24 composed of 5 members who shall be appointed by

1 the President, by and with the advice and consent
 2 of the Senate, from among individuals who—

3 “(A) are citizens of the United States; and

4 “(B) have strong competencies and experi-
 5 ences related to consumer financial products
 6 and services.

7 “(2) STAGGERING.—The members of the Com-
 8 mission shall serve staggered terms, which initially
 9 shall be established by the President for terms of 1,
 10 2, 3, 4, and 5 years, respectively.

11 “(3) TERMS.—

12 “(A) IN GENERAL.—Each member of the
 13 Commission, including the Chair, shall serve for
 14 a term of 5 years.

15 “(B) REMOVAL.—The President may re-
 16 move any member of the Commission for ineffi-
 17 ciency, neglect of duty, or malfeasance in office.

18 “(C) VACANCIES.—Any member of the
 19 Commission appointed to fill a vacancy occur-
 20 ring before the expiration of the term to which
 21 that member’s predecessor was appointed (in-
 22 cluding the Chair) shall be appointed only for
 23 the remainder of the term.

24 “(D) CONTINUATION OF SERVICE.—Each
 25 member of the Commission may continue to

1 serve after the expiration of the term of office
2 to which that member was appointed until a
3 successor has been appointed by the President
4 and confirmed by the Senate, except that a
5 member may not continue to serve more than 1
6 year after the date on which that member's
7 term would otherwise expire.

8 “(E) OTHER EMPLOYMENT PROHIBITED.—

9 No member of the Commission shall engage in
10 any other business, vocation, or employment.

11 “(d) AFFILIATION.—Not more than 3 members of
12 the Commission shall be members of any one political
13 party.

14 “(e) CHAIR OF THE COMMISSION.—

15 “(1) INITIAL CHAIR.—The first member and
16 Chair of the Commission shall be the individual serv-
17 ing as Director of the Bureau of Consumer Finan-
18 cial Protection on the day before the date of the en-
19 actment of this subsection. Such individual shall
20 serve until the President has appointed all 5 mem-
21 bers of the Commission in accordance with sub-
22 section (c).

23 “(2) SUBSEQUENT CHAIR.—Of the 5 members
24 appointed in accordance with subsection (c), the

1 President shall appoint 1 member to serve as the
2 subsequent Chair of the Commission.

3 “(3) AUTHORITY.—The Chair shall be the prin-
4 cipal executive officer of the Commission, and shall
5 exercise all of the executive and administrative func-
6 tions of the Commission, including with respect to—

7 “(A) the appointment and supervision of
8 personnel employed under the Commission
9 (other than personnel employed regularly and
10 full time in the immediate offices of members of
11 the Commission other than the Chair);

12 “(B) the distribution of business among
13 personnel appointed and supervised by the
14 Chair and among administrative units of the
15 Commission; and

16 “(C) the use and expenditure of funds.

17 “(4) LIMITATION.—In carrying out any of the
18 Chair’s functions under the provisions of this sub-
19 section the Chair shall be governed by general poli-
20 cies of the Commission and by such regulatory deci-
21 sions, findings, and determinations as the Commis-
22 sion may by law be authorized to make.

23 “(5) REQUESTS OR ESTIMATES RELATED TO
24 APPROPRIATIONS.—Requests or estimates for reg-
25 ular, supplemental, or deficiency appropriations on

1 behalf of the Commission may not be submitted by
2 the Chair without the prior approval of the Commis-
3 sion.

4 “(f) INITIAL QUORUM ESTABLISHED.—The first
5 member and Chair of the Commission described under
6 subsection (e)(1) shall constitute a quorum for the trans-
7 action of business until the President has appointed all
8 5 members of the Commission in accordance with sub-
9 section (c). Following such appointment of 5 members, the
10 quorum requirements of subsection (g) shall apply.

11 “(g) NO IMPAIRMENT BY REASON OF VACANCIES.—
12 No vacancy in the members of the Commission after the
13 establishment of an initial quorum under subsection (f)
14 shall impair the right of the remaining members of the
15 Commission to exercise all the powers of the Commission.
16 Three members of the Commission shall constitute a
17 quorum for the transaction of business, except that if
18 there are only 3 members serving on the Commission be-
19 cause of vacancies in the Commission, 2 members of the
20 Commission shall constitute a quorum for the transaction
21 of business. If there are only 2 members serving on the
22 Commission because of vacancies in the Commission, 2
23 members shall constitute a quorum for the 6-month period
24 beginning on the date of the vacancy which caused the
25 number of Commission members to decline to 2.

1 “(h) SEAL.—The Commission shall have an official
2 seal.

3 “(i) COMPENSATION.—

4 “(1) CHAIR.—The Chair shall receive com-
5 pensation at the rate prescribed for level I of the
6 Executive Schedule under section 5313 of title 5,
7 United States Code.

8 “(2) OTHER MEMBERS OF THE COMMISSION.—

9 The 4 other members of the Commission shall each
10 receive compensation at the rate prescribed for level
11 II of the Executive Schedule under section 5314 of
12 title 5, United States Code.”;

13 (2) in section 1012(c), by striking paragraphs
14 (2), (3), (4), and (5); and

15 (3) in section 1014(b), by striking “Not fewer
16 than 6 members shall be appointed upon the rec-
17 ommendation of the regional Federal Reserve Bank
18 Presidents, on a rotating basis.”.

19 **SEC. 3. DEEMING OF NAME.**

20 Any reference in a law, regulation, document, paper,
21 or other record of the United States to the Bureau of Con-
22 sumer Financial Protection, except in subsection (e)(1) of
23 section 1011 of the Consumer Financial Protection Act
24 of 2010 (12 U.S.C. 5491), as added by this Act, shall be

1 deemed a reference to the Financial Product Safety Com-
2 mission.

3 **SEC. 4. CONFORMING AMENDMENTS.**

4 (a) CONSUMER FINANCIAL PROTECTION ACT OF
5 2010.—

6 (1) IN GENERAL.—Except as provided under
7 paragraph (2), the Consumer Financial Protection
8 Act of 2010 (12 U.S.C. 5481 et seq.) is amended—

9 (A) by striking “Director of the Bureau”
10 each place such term appears, other than where
11 such term is used to refer to a Director other
12 than the Director of the Bureau of Consumer
13 Financial Protection, and inserting “Financial
14 Product Safety Commission”;

15 (B) by striking “Director” each place such
16 term appears and inserting “Financial Product
17 Safety Commission”, other than where such
18 term is used to refer to a Director other than
19 the Director of the Bureau of Consumer Finan-
20 cial Protection; and

21 (C) in section 1002, by striking paragraph
22 (10).

23 (2) EXCEPTIONS.—The Consumer Financial
24 Protection Act of 2010 (12 U.S.C. 5481 et seq.) is
25 amended—

1 (A) in section 1013(c)(3)—

2 (i) by striking “Assistant Director of
3 the Bureau for” and inserting “Head of
4 the Office of”; and

5 (ii) in subparagraph (B), by striking
6 “Assistant Director” and inserting “Head
7 of the Office”;

8 (B) in section 1013(g)(2)—

9 (i) by striking “ASSISTANT DIREC-
10 TOR” and inserting “HEAD OF THE OF-
11 FICE”; and

12 (ii) by striking “an assistant director”
13 and inserting “a Head of the Office of Fi-
14 nancial Protection for Older Americans”;

15 (C) in section 1016(a), by striking “Direc-
16 tor of the Bureau” and inserting “Chair of the
17 Financial Product Safety Commission”; and

18 (D) in section 1066(a), by striking “Direc-
19 tor of the Bureau is” and inserting “first mem-
20 ber of the Commission is”.

21 (b) DODD-FRANK WALL STREET REFORM AND CON-
22 SUMER PROTECTION ACT.—The Dodd-Frank Wall Street
23 Reform and Consumer Protection Act (12 U.S.C. 5301
24 et seq.) is amended—

1 (1) in section 111(b)(1)(D), by striking “Direc-
2 tor” and inserting “Chair of the Financial Product
3 Safety Commission”; and

4 (2) in section 1447, by striking “Director of the
5 Bureau” each place such term appears and inserting
6 “Financial Product Safety Commission”.

7 (c) ELECTRONIC FUND TRANSFER ACT.—Section
8 920(a)(4)(C) of the Electronic Fund Transfer Act (15
9 U.S.C. 1693o–2(a)(4)(C)), as added by section 1075(a)(2)
10 of the Consumer Financial Protection Act of 2010, is
11 amended by striking “Director of the Bureau of Consumer
12 Financial Protection” and inserting “Financial Product
13 Safety Commission”.

14 (d) EXPEDITED FUNDS AVAILABILITY ACT.—The
15 Expedited Funds Availability Act (12 U.S.C. 4001 et
16 seq.), as amended by section 1086 of the Consumer Finan-
17 cial Protection Act of 2010, is amended by striking “Di-
18 rector of the Bureau” each place such term appears and
19 inserting “Financial Product Safety Commission”.

20 (e) FEDERAL DEPOSIT INSURANCE ACT.—Section 2
21 of the Federal Deposit Insurance Act (12 U.S.C. 1812),
22 as amended by section 336(a) of the Dodd-Frank Wall
23 Street Reform and Consumer Protection Act, is amended
24 by striking “Director of the Consumer Financial Protec-

tion Bureau” each place such term appears and inserting
 “Chair of the Financial Product Safety Commission”.

(f) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978.—Section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)(4)), as amended by section 1091 of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Consumer Financial Protection Bureau” and inserting “Chair of the Financial Product Safety Commission”.

(g) FINANCIAL LITERACY AND EDUCATION IMPROVEMENT ACT.—Section 513 of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702), as amended by section 1013(d)(5) of the Consumer Financial Protection Act of 2010, is amended by striking “Director” each place such term appears and inserting “Chair of the Financial Product Safety Commission”.

(h) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 307 of the Home Mortgage Disclosure Act of 1975, as amended by section 1094(6) of the Consumer Financial Protection Act of 2010, is amended by striking “Director of the Bureau of Consumer Financial Protection” each place such term appears and inserting “Financial Product Safety Commission”.

1 (i) INTERSTATE LAND SALES FULL DISCLOSURE
 2 ACT.—The Interstate Land Sales Full Disclosure Act, as
 3 amended by section 1098A of the Consumer Financial
 4 Protection Act of 2010, is amended—

5 (1) by amending section 1402(1) to read as fol-
 6 lows:

7 “(1) ‘Chair’ means the Chair of the Financial
 8 Product Safety Commission;”; and

9 (2) in section 1416(a), by striking “Director of
 10 the Bureau of Consumer Financial Protection” and
 11 inserting “Chair”.

12 (j) REAL ESTATE SETTLEMENT PROCEDURES ACT
 13 OF 1974.—Section 5 of the Real Estate Settlement Proce-
 14 dures Act of 1974 (12 U.S.C. 2604), as amended by sec-
 15 tion 1450 of the Dodd-Frank Wall Street Reform and
 16 Consumer Protection Act, is amended—

17 (1) by striking “The Director of the Bureau of
 18 Consumer Financial Protection (hereafter in this
 19 section referred to as the ‘Director’)” and inserting
 20 “The Financial Product Safety Commission”; and

21 (2) by striking “Director” each place such term
 22 appears and inserting “Financial Product Safety
 23 Commission”.

24 (k) S.A.F.E. MORTGAGE LICENSING ACT OF 2008.—
 25 The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C.

1 5101 et seq.), as amended by section 1100 of the Con-
2 sumer Financial Protection Act of 2010, is amended—

3 (1) by striking “Director” each place such term
4 appears in headings and text, other than where such
5 term is used in the context of the Director of the Of-
6 fice of Thrift Supervision, and inserting “Financial
7 Product Safety Commission”; and

8 (2) in section 1503, by striking paragraph (10).

9 (l) TITLE 44, UNITED STATES CODE.—Section
10 3513(c) of title 44, United States Code, as amended by
11 section 1100D(b) of the Consumer Financial Protection
12 Act of 2010, is amended by striking “Director of the Bu-
13 reau” and inserting “Financial Product Safety Commis-
14 sion”.

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