

Union Calendar No. 847

115TH CONGRESS
2D SESSION

H. R. 5534

[Report No. 115–1095]

To amend the Consumer Financial Protection Act of 2010 to provide procedures for guidance issued by the Bureau of Consumer Financial Protection, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2018

Mr. DUFFY (for himself and Mr. PERLMUTTER) introduced the following bill;
which was referred to the Committee on Financial Services

DECEMBER 21, 2018

Additional sponsors: Mr. RATCLIFFE, Mr. ROYCE of California, Mr. MARCHANT, Ms. SINEMA, Mr. YOUNG of Iowa, Mr. BROOKS of Alabama, Mr. TIPTON, Mr. BARR, Mr. COFFMAN, and Mr. DAVID SCOTT of Georgia

DECEMBER 21, 2018

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 17, 2018]

A BILL

To amend the Consumer Financial Protection Act of 2010 to provide procedures for guidance issued by the Bureau of Consumer Financial Protection, 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 “Give Useful Information*
 5 *to Define Effective Compliance Act” or the “GUIDE Com-*
 6 *pliance Act”.*

7 **SEC. 2. PROCEDURES FOR BUREAU GUIDANCE.**

8 *Section 1022(b) of the Consumer Financial Protection*
 9 *Act of 2010 (12 U.S.C. 5512(b)) is amended by adding at*
 10 *the end the following:*

11 “(5) *PROCEDURES FOR BUREAU GUIDANCE.*—

12 “(A) *DEFINITIONS.*—*In this paragraph—*

13 “(i) *the term ‘Bureau’ means—*

14 “(I) *the Director of the Bureau;*

15 “(II) *the Deputy Director of the*
 16 *Bureau; and*

17 “(III) *any employee of the Bureau*
 18 *described in section 1013(a)(1)(B); and*

19 “(ii) *the term ‘guidance’—*

20 “(I) *means—*

21 “(aa) *an agency statement of*
 22 *general applicability and future*
 23 *effect, other than a regulatory ac-*
 24 *tion, that sets forth a policy on a*
 25 *statutory, regulatory, or technical*

1 *issue or an interpretation of a*
2 *statutory or regulatory issue; and*

3 *“(bb) any written interpre-*
4 *tive rule, bulletin, statement of*
5 *policy, letter, examination man-*
6 *ual, frequently asked question, no-*
7 *tice, directive, news release, blog*
8 *post, small entity compliance*
9 *guide, or other authoritative docu-*
10 *ment issued by the Bureau re-*
11 *garding compliance with a Fed-*
12 *eral consumer financial law; and*
13 *“(II) does not include—*

14 *“(aa) a purely internal Bu-*
15 *reau policy;*

16 *“(bb) a law enforcement com-*
17 *munication such as a complaint,*
18 *consent order, judgment, legal*
19 *opinion, warning letter, investiga-*
20 *tory letter, notice of hearing, civil*
21 *investigative demand, subpoena,*
22 *no-action letter, advisory opinion,*
23 *or any request in lieu of the fore-*
24 *going;*

1 “(cc) *an individualized su-*
2 *pervisory communication such as*
3 *a supervisory letter, report of ex-*
4 *amination, memorandum of un-*
5 *derstanding, board resolution,*
6 *matter requiring attention, or in-*
7 *dividualized communication or*
8 *agreement pursuant to the super-*
9 *visory authority of the Bureau; or*
10 “(dd) *a decision issued under*
11 *subtitle E.*

12 “(B) *GUIDANCE REQUIREMENTS.—The Di-*
13 *rector shall issue guidance that is necessary or*
14 *appropriate to enable the Bureau to carry out*
15 *Federal consumer financial law, including facili-*
16 *tating compliance with such law.*

17 “(C) *RULEMAKING.—*

18 “(i) *PROPOSED RULE.—Not later than*
19 *18 months after the date of enactment of*
20 *this paragraph, the Bureau shall publish in*
21 *the Federal Register and on the website of*
22 *the Bureau a proposed rule defining—*

23 “(I) *each type of guidance the Bu-*
24 *reau shall provide;*

1 “(II) the criteria the Bureau shall
2 use for selecting each type of guidance;

3 “(III) the process and timelines
4 for requests for guidance;

5 “(IV) the time periods for the re-
6 sponse of the Bureau to a request for
7 each type of guidance; and

8 “(V) a process for amending or re-
9 voking guidance issued under the rule,
10 including a process for public input on
11 any proposal to amend or revoke guid-
12 ance, unless the Bureau determines
13 public input is not required due to
14 public exigency.

15 “(ii) *FINAL RULE*.—Not later than 1
16 year after the date on which the proposed
17 rule described in clause (i) is published, the
18 Bureau shall publish a final rule based on
19 the proposed rule.

20 “(D) *RELIANCE ON BUREAU GUIDANCE*.—
21 No person shall be held liable for any act done
22 or omitted in good faith in conformity with any
23 applicable guidance from the Bureau or any
24 predecessor agency that was in effect at the time
25 of the act or omission, even if the guidance is

1 *later revoked, amended, or rendered inconsistent*
2 *by guidance or action by the Bureau or a deter-*
3 *mination by a court of competent jurisdiction.*

4 “(E) *DEVELOPMENT OF A PENALTY MA-*
5 *TRIX.*—

6 “(i) *PROPOSED RULE.*—Not later than
7 *18 months after the date of the enactment of*
8 *this subparagraph, the Bureau shall publish*
9 *in the Federal Register and on the website*
10 *of the Bureau a proposed rule establishing*
11 *guidelines for determining the size of any*
12 *civil monetary penalties issued by the Bu-*
13 *reau based on the severity of the actionable*
14 *conduct in violation of a Federal consumer*
15 *financial law and the level of culpability.*
16 *The regulations prescribed under this para-*
17 *graph shall, to the extent possible, align*
18 *with any chart, matrix, rule, or guideline*
19 *published by the Office of the Comptroller of*
20 *the Currency, the Corporation, or the Board*
21 *of Governors.*

22 “(ii) *FINAL RULE.*—Not later than 1
23 *year after the date on which the proposed*
24 *rule described in clause (i) is published, the*

1 *Bureau shall publish a final rule based on*
2 *the proposed rule.”.*

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