

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5534
OFFERED BY MR. DUFFY OF WISCONSIN**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Give Useful Informa-
3 tion to Define Effective Compliance Act” or the “GUIDE
4 Compliance Act”.

5 SEC. 2. PROCEDURES FOR BUREAU GUIDANCE.

6 Section 1022(b) of the Consumer Financial Protec-
7 tion Act of 2010 is amended by adding at the end the
8 following:

9 “(5) PROCEDURES FOR BUREAU GUIDANCE.—

10 “(A) DEFINITIONS.—In this paragraph—

11 “(i) the term ‘Bureau’ means—

12 “(I) the Director of the Bureau;

13 “(II) the Deputy Director of the
14 Bureau; and

15 “(III) any employee of the Bu-
16 reau described in section
17 1013(a)(1)(B); and

18 “(ii) the term ‘guidance’—

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“(I) means—

“(aa) an agency statement of general applicability and future effect, other than a regulatory action, that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue; and

“(bb) any written interpretive rule, bulletin, statement of policy, letter, examination manual, frequently asked question, notice, directive, news release, blog post, small entity compliance guide, or other authoritative document issued by the Bureau regarding compliance with a Federal consumer financial law; and

“(II) does not include—

“(aa) a purely internal Bureau policy;

“(bb) a law enforcement communication such as a complaint, consent order, judgment,

1 legal opinion, warning letter, in-
2 vestigatory letter, notice of hear-
3 ing, civil investigative demand,
4 subpoena, no-action letter, advi-
5 sory opinion, or any request in
6 lieu of the foregoing;

7 “(cc) an individualized su-
8 pervisory communication such as
9 a supervisory letter, report of ex-
10 amination, memorandum of un-
11 derstanding, board resolution,
12 matter requiring attention, or in-
13 dividualized communication or
14 agreement pursuant to the super-
15 visory authority of the Bureau;
16 or

17 “(dd) a decision issued
18 under subtitle E.

19 “(B) GUIDANCE REQUIREMENTS.—The Di-
20 rector shall issue guidance that is necessary or
21 appropriate to enable the Bureau to carry out
22 Federal consumer financial law, including facili-
23 tating compliance with such law.

24 “(C) RULEMAKING.—

1 “(i) PROPOSED RULE.—Not later
2 than 18 months after the date of enact-
3 ment of this paragraph, the Bureau shall
4 publish in the Federal Register and on the
5 website of the Bureau a proposed rule de-
6 fining—

7 “(I) each type of guidance the
8 Bureau shall provide;

9 “(II) the criteria the Bureau
10 shall use for selecting each type of
11 guidance;

12 “(III) the process and timelines
13 for requests for guidance;

14 “(IV) the time periods for the re-
15 sponse of the Bureau to a request for
16 each type of guidance;

17 “(V) a process for amending or
18 revoking guidance issued under the
19 rule, including a process for public
20 input on any proposal to amend or re-
21 voke guidance, unless the Bureau de-
22 termines public input is not required
23 due to public exigency.

24 “(ii) FINAL RULE.—Not later than 1
25 year after the date on which the proposed

1 rule described in clause (i) is published,
2 the Bureau shall publish a final rule based
3 on the proposed rule.

4 “(D) RELIANCE ON BUREAU GUIDANCE.—

5 No person shall be held liable for any act done
6 or omitted in good faith in conformity with any
7 applicable guidance from the Bureau or any
8 predecessor agency that was in effect at the
9 time of the act or omission, even if the guidance
10 is later revoked, amended, or rendered incon-
11 sistent by guidance or action by the Bureau or
12 a determination by a court of competent juris-
13 diction.

14 “(E) DEVELOPMENT OF A PENALTY MA-
15 TRIX.—

16 “(i) PROPOSED RULE.—Not later
17 than 18 months after the date of the en-
18 actment of this subparagraph, the Bureau
19 shall publish in the Federal Register and
20 on the website of the Bureau a proposed
21 rule establishing guidelines for determining
22 the size of any civil monetary penalties
23 issued by the Bureau based on the severity
24 of the actionable conduct in violation of a
25 Federal consumer financial law and the

1 level of culpability. The regulations pre-
2 scribed under this paragraph shall, to the
3 extent possible, align with any chart, ma-
4 trix, rule, or guideline published by the Of-
5 fice of the Comptroller of the Currency,
6 the Corporation, or the Board of Gov-
7 ernors.

8 “(ii) FINAL RULE.—Not later than 1
9 year after the date on which the proposed
10 rule described in clause (i) is published,
11 the Bureau shall publish a final rule based
12 on the proposed rule.”

