

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

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

M____. _____ introduced the following bill; which was referred to the
Committee on _____

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. PROCEDURES FOR BUREAU GUIDANCE.**

4 Section 1022(b) of the Consumer Financial Protec-
5 tion Act of 2010 (12 U.S.C. 5512(b)) is amended by add-
6 ing at the end the following:

7 “(5) PROCEDURES FOR BUREAU GUIDANCE.—

1 “(A) DEFINITIONS.—In this paragraph—
2 “(i) the term ‘Bureau’ means—
3 “(I) the Director of the Bureau;
4 “(II) the Deputy Director of the
5 Bureau; and
6 “(III) any employee of the Bu-
7 reau described in section
8 1013(a)(1)(B); and
9 “(ii) the term ‘guidance’—
10 “(I) means—
11 “(aa) an agency statement
12 of general applicability and fu-
13 ture effect, other than a regu-
14 latory action, that sets forth a
15 policy on a statutory, regulatory,
16 or technical issue or an interpre-
17 tation of a statutory or regu-
18 latory issue; and
19 “(bb) any written interpre-
20 tive rule, bulletin, statement of
21 policy, letter, examination man-
22 ual, frequently asked question,
23 notice, directive, news release,
24 blog post, small entity compliance
25 guide, or other authoritative doc-

1 ument issued by the Bureau re-
2 garding compliance with a Fed-
3 eral consumer financial law; and
4 “(II) does not include—

5 “(aa) a purely internal Bu-
6 reau policy;

7 “(bb) a law enforcement
8 communication such as a com-
9 plaint, consent order, judgment,
10 legal opinion, warning letter, in-
11 vestigatory letter, notice of hear-
12 ing, civil investigative demand,
13 subpoena, no-action letter, advi-
14 sory opinion, or any request in
15 lieu of the foregoing;

16 “(cc) an individualized su-
17 pervisory communication such as
18 a supervisory letter, report of ex-
19 amination, memorandum of un-
20 derstanding, board resolution,
21 matter requiring attention, or in-
22 dividualized communication or
23 agreement pursuant to the super-
24 visory authority of the Bureau;
25 or

1 “(dd) a decision issued
2 under subtitle E.

3 “(B) GUIDANCE REQUIREMENTS.—The Di-
4 rector shall issue guidance that is necessary or
5 appropriate to enable the Bureau to carry out
6 Federal consumer financial law, including facili-
7 tating compliance with such law.

8 “(C) RULEMAKING.—

9 “(i) PROPOSED RULE.—Not later
10 than 18 months after the date of enact-
11 ment of this paragraph, the Bureau shall
12 publish in the Federal Register and on the
13 website of the Bureau a proposed rule de-
14 fining—

15 “(I) each type of guidance the
16 Bureau shall provide;

17 “(II) the criteria the Bureau
18 shall use for selecting each type of
19 guidance;

20 “(III) the process and timelines
21 for requests for guidance;

22 “(IV) the time periods for the re-
23 sponse of the Bureau to a request for
24 each type of guidance; and

1 “(V) a process for amending or
2 revoking guidance issued under the
3 rule, including a process for public
4 input on any proposal to amend or re-
5 voke guidance, unless the Bureau de-
6 termines public input is not required
7 due to public exigency.

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.

13 “(D) RELIANCE ON BUREAU GUIDANCE.—
14 No person shall be held liable for any act done
15 or omitted in good faith in conformity with any
16 applicable guidance from the Bureau or any
17 predecessor agency that was in effect at the
18 time of the act or omission, even if the guidance
19 is later revoked, amended, or rendered incon-
20 sistent by guidance or action by the Bureau or
21 a determination by a court of competent juris-
22 diction.

23 “(E) DEVELOPMENT OF A PENALTY MA-
24 TRIX.—

1 “(i) PROPOSED RULE.—Not later
2 than 18 months after the date of the en-
3 actment of this subparagraph, the Bureau
4 shall publish in the Federal Register and
5 on the website of the Bureau a proposed
6 rule establishing guidelines for determining
7 the size of any civil monetary penalties
8 issued by the Bureau based on the severity
9 of the actionable conduct in violation of a
10 Federal consumer financial law and the
11 level of culpability. The regulations pre-
12 scribed under this paragraph shall, to the
13 extent possible, align with any chart, ma-
14 trix, rule, or guideline published by the Of-
15 fice of the Comptroller of the Currency,
16 the Corporation, or the Board of Gov-
17 ernors.

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