

**AMENDMENT TO AMENDMENT IN THE NATURE OF  
A SUBSTITUTE TO H.R. 2798  
OFFERED BY MR. GREEN OF TEXAS**

Strike title VII and insert the following:

1 **TITLE VII—FINANCIAL COM-**  
2 **PENSATION FOR CFPB WHIS-**  
3 **TLEBLOWERS**

4 **SEC. 701. SHORT TITLE.**

5 This Act may be cited as the “Financial Compensa-  
6 tion for CFPB Whistleblowers Act”.

7 **SEC. 702. BUREAU WHISTLEBLOWER INCENTIVES AND PRO-**  
8 **TECTION.**

9 (a) **IN GENERAL.**—The Consumer Financial Protec-  
10 tion Act of 2010 (12 U.S.C. 5481 et seq.) is amended by  
11 inserting after section 1017 the following:

12 **“SEC. 1017A. WHISTLEBLOWER INCENTIVES AND PROTEC-**  
13 **TION.**

14 “(a) **DEFINITIONS.**—In this section:

15 “(1) **ADMINISTRATIVE PROCEEDING OR COURT**  
16 **ACTION.**—The term ‘administrative proceeding or  
17 court action’ means any judicial or administrative  
18 action brought by the Bureau that results in mone-  
19 tary sanctions exceeding \$1,000,000.

1           “(2) FUND.—The term ‘Fund’ means the Con-  
2           sumer Financial Civil Penalty Fund established  
3           under section 1017(d)(1).

4           “(3) MONETARY SANCTIONS.—The term ‘mone-  
5           etary sanctions’ means, with respect to any adminis-  
6           trative proceeding or court action, any monies, in-  
7           cluding penalties, disgorgement, restitution, interest,  
8           ordered to be paid or other amounts of relief ob-  
9           tained under section 1055(a)(2).

10           “(4) ORIGINAL INFORMATION.— The term  
11           ‘original information’ means information that—

12                   “(A) is derived from the independent  
13                   knowledge or analysis of a whistleblower;

14                   “(B) is not known to the Bureau from any  
15                   other source, unless the whistleblower is the  
16                   original source of the information;

17                   “(C) is not exclusively derived from an al-  
18                   legation made in a judicial or administrative  
19                   hearing, in a governmental report, hearing, or  
20                   from the news media, unless the whistleblower  
21                   is a source of the information; and

22                   “(D) is not exclusively derived from an al-  
23                   legation made in an audit, examination, or in-  
24                   vestigation.

1           “(5) SUCCESSFUL ENFORCEMENT.—The term  
2 ‘successful enforcement’ includes, with respect to  
3 any administrative proceeding or court action  
4 brought by the Bureau, any settlement of such pro-  
5 ceeding or action.

6           “(6) WHISTLEBLOWER.—The term ‘whistle-  
7 blower’ means any individual who provides, or 2 or  
8 more individuals acting jointly who provide, original  
9 information relating to a violation of Federal con-  
10 sumer financial law, consistent with any rule or reg-  
11 ulation issued by the Bureau under this section.

12          “(b) AWARDS.—

13           “(1) IN GENERAL.—In any administrative pro-  
14 ceeding or court action the Bureau, subject to regu-  
15 lations prescribed by the Bureau and subject to sub-  
16 section (c), shall pay an award or awards to 1 or  
17 more whistleblowers who voluntarily provided origi-  
18 nal information that led to the successful enforce-  
19 ment of the covered administrative proceeding or  
20 court action in an aggregate amount equal to—

21           “(A) not less than 10 percent, in total, of  
22 the civil money penalties collected by the Bu-  
23 reau in the action; and

1           “(B) not more than 30 percent, in total, of  
2           the civil money penalties collected by the Bu-  
3           reau in the action.

4           “(2) PAYMENT OF AWARDS.—Any amount paid  
5           under paragraph (1) shall be paid from the Fund.

6           “(3) AWARD MINIMUM.—If the Bureau collects  
7           less than \$1,000,000 in civil money penalties in the  
8           action, the Bureau shall provide for an award to any  
9           single whistleblower equal to the greater of—

10           “(A) 10 percent of the civil money pen-  
11           alties collected; or

12           “(B) \$50,000.

13           “(c) DETERMINATION OF AMOUNT OF AWARD; DE-  
14           TERMINATION OF AWARD.—

15           “(1) DETERMINATION OF AMOUNT OF  
16           AWARD.—

17           “(A) DISCRETION.—The determination of  
18           the percentage amount of an award made under  
19           subsection (b) shall be in the discretion of the  
20           Bureau.

21           “(B) CRITERIA.—In determining the per-  
22           centage amount of an award made under sub-  
23           section (b), the Bureau shall take into consider-  
24           ation—

1           “(i) the significance of the informa-  
2           tion provided by the whistleblower to the  
3           successful enforcement of the administra-  
4           tive proceeding or court action;

5           “(ii) the degree of assistance provided  
6           by the whistleblower and any legal rep-  
7           resentative of the whistleblower in an ad-  
8           ministrative proceeding or court action;

9           “(iii) the programmatic interest of the  
10          Bureau in deterring violations of Federal  
11          consumer financial law (including applica-  
12          ble regulations) by making awards to whis-  
13          tlers who provide information that  
14          leads to the successful enforcement of such  
15          laws; and

16          “(iv) such additional relevant factors  
17          as the Bureau may establish by rule or  
18          regulation, including the amount available  
19          in the Fund.

20          “(2) DENIAL OF AWARD.—No award under  
21          subsection (b) shall be made—

22                 “(A) to any whistleblower who is, or was at  
23                 the time the whistleblower acquired the original  
24                 information submitted to the Bureau, a mem-  
25                 ber, officer, or employee of an entity described

1 in subclauses (I) through (V) of subsection  
2 (h)(1)(C)(i);

3 “(B) to any whistleblower who is convicted  
4 of a criminal violation related to the adminis-  
5 trative proceeding or court action for which the  
6 whistleblower otherwise could receive an award  
7 under this section;

8 “(C) to any whistleblower who is found to  
9 be liable for the conduct in the administrative  
10 proceeding or court action, or a related action,  
11 for which the whistleblower otherwise could re-  
12 ceive an award under this section;

13 “(D) to any whistleblower who planned  
14 and initiated the conduct at issue in the admin-  
15 istrative proceeding or court action for which  
16 the whistleblower otherwise could receive an  
17 award under this section;

18 “(E) to any whistleblower who submits in-  
19 formation to the Bureau that is based on the  
20 facts underlying the administrative proceeding  
21 or court action previously submitted by another  
22 whistleblower; and

23 “(F) to any whistleblower who fails to sub-  
24 mit information to the Bureau in such form as  
25 the Bureau may, by rule or regulation, require.

1       “(d) REPRESENTATION.—

2           “(1) PERMITTED REPRESENTATION.—Any  
3 whistleblower who makes a claim for an award under  
4 subsection (b) may be represented by counsel.

5           “(2) REQUIRED REPRESENTATION.—

6           “(A) IN GENERAL.—Any whistleblower  
7 who anonymously makes a claim for an award  
8 under subsection (b) shall be represented by  
9 counsel if the whistleblower submits the infor-  
10 mation upon which the claim is based.

11           “(B) DISCLOSURE OF IDENTITY.—Prior to  
12 the payment of an award, a whistleblower shall  
13 disclose the identity of the whistleblower and  
14 provide such other information as the Bureau  
15 may require, directly or through counsel of the  
16 whistleblower.

17           “(e) NO CONTRACT NECESSARY.—No contract or  
18 other agreement with the Bureau is necessary for any  
19 whistleblower to receive an award under subsection (b),  
20 unless otherwise required by the Bureau by rule or regula-  
21 tion.

22           “(f) APPEALS.—

23           “(1) IN GENERAL.—Any determination made  
24 under this section, including whether, to whom, or in  
25 what amount to make awards, shall be in the discre-

1       tion of the Bureau. Any such determination, except  
2       the determination of the amount of an award if the  
3       award was made in accordance with subsection (b),  
4       may be appealed to the appropriate court of appeals  
5       of the United States not more than 30 days after  
6       the determination is issued by the Bureau.

7           “(2) SCOPE OF REVIEW.—The court shall re-  
8       view the determination made by the Bureau in ac-  
9       cordance with section 706 of title 5, United States  
10      Code.

11          “(g) REPORTS TO CONGRESS.—Not later than De-  
12      cember 31 of each year, the Bureau shall transmit to the  
13      House Committee on Financial Services and the Senate  
14      Committee on Banking, Housing, and Urban Affairs a re-  
15      port on the Bureau’s whistleblower award program under  
16      this section, including a description of the number of  
17      awards granted and the types of cases in which awards  
18      were granted during the preceding fiscal year.

19          “(h) PROTECTION OF WHISTLEBLOWERS.—

20           “(1) CONFIDENTIALITY.—

21           “(A) IN GENERAL.—Except as provided in  
22      subparagraphs (B) and (C), the Bureau and  
23      any officer or employee of the Bureau, shall not  
24      disclose any information, including information  
25      provided by a whistleblower to the Bureau,



1           which could reasonably be expected to reveal  
2           the identity of a whistleblower, except in ac-  
3           cordance with the provisions of section 552a of  
4           title 5, United States Code, unless and until re-  
5           quired to be disclosed to a defendant or re-  
6           spondent in connection with a public proceeding  
7           instituted by the Bureau or any entity described  
8           in subparagraph (C). For purposes of section  
9           552 of title 5, United States Code, this para-  
10          graph shall be considered a statute described in  
11          subsection (b)(3)(B) of such section 552.

12                 “(B) EFFECT.—Nothing in this paragraph  
13           is intended to limit the ability of the Attorney  
14           General to present such evidence to a grand  
15           jury or to share such evidence with potential  
16           witnesses or defendants in the course of an on-  
17           going criminal investigation.

18                 “(C) AVAILABILITY TO GOVERNMENT  
19           AGENCIES.—

20                         “(i) IN GENERAL.—Without the loss  
21           of its status as confidential in the hands of  
22           the Bureau, all information referred to in  
23           subparagraph (A) may, in the discretion of  
24           the Bureau, when determined by the Bu-

1           reau to be necessary or appropriate, be  
2           made available to—

3                   “(I) the Department of Justice;

4                   “(II) an appropriate department  
5                   or agency of the Federal Government,  
6                   acting within the scope of its jurisdic-  
7                   tion;

8                   “(III) a State attorney general in  
9                   connection with any criminal inves-  
10                  tigation;

11                  “(IV) an appropriate department  
12                  or agency of any State, acting within  
13                  the scope of its jurisdiction; and

14                  “(V) a foreign regulatory author-  
15                  ity.

16                  “(ii) MAINTENANCE OF INFORMA-  
17                  TION.—Each of the entities, agencies, or  
18                  persons described in clause (i) shall main-  
19                  tain information described in that clause  
20                  as confidential, in accordance with the re-  
21                  quirements in subparagraph (A).

22                  “(2) RIGHTS RETAINED.—Nothing in this sec-  
23                  tion shall be deemed to diminish the rights, privi-  
24                  leges, or remedies of any whistleblower under section

1       1057, any other Federal or State law, or under any  
2       collective bargaining agreement.

3       “(i) RULEMAKING AUTHORITY.—The Bureau shall  
4       have the authority to issue such rules and regulations as  
5       may be necessary or appropriate to implement the provi-  
6       sions of this section consistent with the purposes of this  
7       section.

8       “(j) ORIGINAL INFORMATION.—Information sub-  
9       mitted to the Bureau by a whistleblower in accordance  
10      with rules or regulations implementing this section shall  
11      not lose its status as original information solely because  
12      the whistleblower submitted such information prior to the  
13      effective date of such rules or regulations, provided such  
14      information was submitted after the date of enactment of  
15      this section.

16      “(k) PROVISION OF FALSE INFORMATION.—A whis-  
17      tleblower who knowingly and willfully makes any false, fic-  
18      titious, or fraudulent statement or representation, or who  
19      makes or uses any false writing or document knowing the  
20      same to contain any false, fictitious, or fraudulent state-  
21      ment or entry, shall not be entitled to an award under  
22      this section and shall be subject to prosecution under sec-  
23      tion 1001 of title 18, United States Code.

24      “(l) UNENFORCEABILITY OF CERTAIN AGREE-  
25      MENTS.—

1           “(1) NO WAIVER OF RIGHTS AND REMEDIES.—  
2       Except as provided under paragraph (3), and not-  
3       withstanding any other provision of law, the rights  
4       and remedies provided for in this section may not be  
5       waived by any agreement, policy, form, or condition  
6       of employment, including by any predispute arbitra-  
7       tion agreement.

8           “(2) NO PREDISPUTE ARBITRATION AGREE-  
9       MENTS.—Except as provided under paragraph (3),  
10      and notwithstanding any other provision of law, no  
11      predispute arbitration agreement shall be valid or  
12      enforceable to the extent that the agreement re-  
13      quires arbitration of a dispute arising under this  
14      section.

15          “(3) EXCEPTION.—Notwithstanding paragraphs  
16      (1) and (2), an arbitration provision in a collective  
17      bargaining agreement shall be enforceable as to dis-  
18      putes arising under subsection (a)(4), unless the Bu-  
19      reau determines, by rule, that such provision is in-  
20      consistent with the purposes of this title.”.

21          (b) CONSUMER FINANCIAL CIVIL PENALTY FUND.—  
22      Section 1017(d)(2) of the Consumer Financial Protection  
23      Act of 2010 (12 U.S.C. 5497(d)(2)) is amended, in the

- 1 first sentence, by inserting “and for awards authorized
- 2 under section 1017A” before the period at the end.

