

Amendments to the Consumer Financial Protection Act of 2010

- I. *To limit the Bureau’s ability to utilize for regulatory purposes (a) a cost of credit calculation inconsistent with the Truth in Lending Act and its implementing Regulation Z, or (b) a rate or amount of interest or finance charge accrual inconsistent with the rate authority applicable to a financial product or service under applicable State law.***

Section 1027(o) (12. U.S.C. § 5517(o)) is amended by adding at the end the following:

“For purposes of this title, “usury limit” includes, without limitation, any direct or indirect limit, restriction or cap on interest or finance charge rates permitted under applicable State law, or any requirements directly or indirectly applicable to a financial product or service based on (i) any calculation or other evaluation of a consumer’s cost of credit that is inconsistent with the provisions of 15 U.S.C. § 1605, 15 U.S.C. § 1606, and 12 C.F.R. Parts 226 and 1026, as all were in effect on January 1, 2017, or (ii) any rate or amount of interest or finance charges that is lower than the highest rate or amount permitted to accrue or be collected under applicable State law with respect to such financial product or service.

- II. *To protect non-financial products and services from Bureau regulation.***

Section 1002(15)(C) (12. U.S.C. § 5481(15)(C)) is amended:

- (a) By striking the word “The” after the word “Exclusions.” and replacing it with the following:

“Notwithstanding anything to the contrary in this title, the”

- (b) In subclause (ii), by adding at the end “; or”

- (c) By adding a new subclause (iii), as follows:

“except for products or services defined in subclauses (A)(i) through (x) above, any tangible or intangible products or services sold or otherwise provided in connection with a credit transaction, including, without limitation, products or services indemnifying against loss or other event, to the extent the sale or provision of such products or services are not prohibited under the laws of the State or States in which such products or services are sold or otherwise provided.”

Section 1021 (15 U.S.C. § 5511) is amended by adding a new subsection (d) as follows:

“Restriction on Bureau Authority - Nothing in this title authorizes the Bureau, either directly or indirectly through the Bureau’s regulation of a covered person or service provider, to exercise any rulemaking, supervisory, enforcement or any other authority, including any authority to order assessments, over any person with respect to any products or services that are not financial products or services.

III. To protect providers of nonfinancial products or services from Bureau regulation

Section 1002(6) (12. U.S.C. § 5481(6)) is amended:

- (a) In subparagraph (A), by adding “directly to a consumer” after the word “service”
- (b) In subparagraph (B), by deleting the word “if” after the phrase “subparagraph (A)” and replacing it with the phrase “only to the extent”;
- (c) By adding a new subparagraph (C), as follows:
 - “Exclusions. – The term “covered person” does not include:
 - (i) a person regulated by a state insurance regulator; or
 - (ii) a supplier, issuer, administrator, distributor, servicer or the like of products or services, other than financial products or services.

Section 1002(26) (12. U.S.C. § 5481(26)) is amended:

- (a) In subparagraph (B), by striking the phrase “a person solely by virtue of such person offering or providing to a covered person”;
- (b) In subparagraph (B)(i), by adding to the beginning the phrase, “a person providing to a covered person”;
- (c) In subparagraph (B)(ii):
 - a. by adding to the beginning the phrase, “a person providing to a covered person”; and
 - b. by deleting the period at the end and replacing it with “; or”;
- (d) By adding a new subparagraph (B)(iii) as follows:
 - “a supplier, issuer, administrator, distributor, servicer or the like of products or services that are not financial products or services.”