

118TH CONGRESS
1ST SESSION

S. 1362

To amend the Consumer Financial Protection Act of 2010 to enhance rule-making requirements for the Bureau of Consumer Financial Protection, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2023

Mr. KENNEDY (for himself, Mr. HAGERTY, and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Consumer Financial Protection Act of 2010 to enhance rulemaking requirements for 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 “Transparency in
5 CFPB Cost-Benefit Analysis Act”.

6 **SEC. 2. TRANSPARENCY IN COST-BENEFIT ANALYSIS.**

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

1 “(5) ADDITIONAL RULEMAKING REQUIRE-
2 MENTS.—

3 “(A) IN GENERAL.—Each notice of pro-
4 posed rulemaking issued by the Bureau shall be
5 published in its entirety in the Federal Register
6 and shall include—

7 “(i) a statement of the need for the
8 proposed regulation;

9 “(ii) an examination of why the Bu-
10 reau must undertake the proposed regula-
11 tion and why the private market, State,
12 local, or tribal authorities cannot ade-
13 quately address the problem;

14 “(iii) an examination of whether the
15 proposed regulation is duplicative, incon-
16 sistent, or incompatible with other Federal
17 regulations and orders;

18 “(iv) if the proposed regulation is
19 found to be duplicative, inconsistent, or in-
20 compatible with other Federal regulations
21 and orders, a discussion of—

22 “(I) why the proposed regulation
23 is justified;

1 “(II) how the proposed regulation
2 can coexist with the existing regula-
3 tions; and

4 “(III) how the Bureau plans to
5 reduce the regulatory burden associ-
6 ated with the duplicative, inconsistent,
7 or incompatible proposed regulation;

8 “(v) a quantitative and qualitative as-
9 sessment of all anticipated direct and indi-
10 rect costs and benefits of the proposed reg-
11 ulation, including—

12 “(I) compliance costs for all reg-
13 ulated entities, including small busi-
14 nesses;

15 “(II) effects on economic activity,
16 efficiency, competition and capital for-
17 mation;

18 “(III) regulatory and administra-
19 tive costs of implementation; and

20 “(IV) costs imposed on State,
21 local and tribal entities;

22 “(vi) an identification of reasonable
23 alternatives to the regulation, including
24 modification of an existing regulation;

1 “(vii) an analysis of the costs and
2 benefits, both quantitative and qualitative,
3 of any alternative identified pursuant to
4 clause (v);

5 “(viii) if the Bureau determines the
6 proposed regulation would increase costs
7 for small businesses, then the Bureau shall
8 consult the Office of Advocacy within the
9 Small Business Administration to deter-
10 mine ways to minimize the effect of direct
11 and indirect costs imposed on small busi-
12 nesses by the proposed regulation;

13 “(ix) if quantified net benefits of the
14 proposed action do not outweigh the quan-
15 tified net benefits of the alternatives, a jus-
16 tification of the regulation;

17 “(x) if quantified benefits identified
18 pursuant to clause (iv) do not outweigh the
19 quantified costs of the regulation, a jus-
20 tification of the regulation;

21 “(xi) an assessment of how the bur-
22 den imposed by the regulation will be dis-
23 tributed; including whether consumers, or
24 small businesses will be disproportionately
25 burdened; and

1 “(xii) when feasible, and using appro-
2 priate statistical techniques, a probability
3 distribution of the relevant outcomes of the
4 proposed regulation.

5 “(B) ASSUMPTIONS AND STUDIES USED.—
6 With respect to the information required to be
7 included under subparagraph (A), the Bureau
8 will include—

9 “(i) a discussion of underlying as-
10 sumptions used as a basis for such infor-
11 mation; and

12 “(ii) a description of any studies or
13 data used in preparing such information,
14 and whether such studies were peer-re-
15 viewed.”.

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