

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To amend the Consumer Financial Protection Act of 2010 to authorize grants to States and other eligible entities to protect seniors and vulnerable adults from misleading and fraudulent marketing or sales practices related to the COVID–19 pandemic and other unlawful scams, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Consumer Financial Protection Act of 2010 to authorize grants to States and other eligible entities to protect seniors and vulnerable adults from misleading and fraudulent marketing or sales practices related to the COVID–19 pandemic and other unlawful scams, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Senior Investor Pan-
3 demic and Fraud Protection Act” or the “Empowering
4 States to Protect Seniors from Bad Actors Act”.

5 **SEC. 2. PROTECTING SENIORS AND VULNERABLE ADULTS**
6 **FROM MISLEADING AND FRAUDULENT MAR-**
7 **KETING OR SALES PRACTICES RELATED TO**
8 **THE PANDEMIC AND OTHER UNLAWFUL**
9 **SCAMS.**

10 (a) IN GENERAL.—The Consumer Financial Protec-
11 tion Act of 2010 (12 U.S.C. 5481 et seq.) is amended by
12 inserting after section 1037 the following:

13 **“SEC. 1038. PROTECTING SENIORS AND VULNERABLE**
14 **ADULTS FROM MISLEADING AND FRAUDU-**
15 **LENT MARKETING OR SALES PRACTICES RE-**
16 **LATED TO THE PANDEMIC AND OTHER UN-**
17 **LAWFUL SCAMS.**

18 “(a) DEFINITIONS.—As used in this section—

19 “(1) the term ‘eligible entity’ means—

20 “(A) a securities commission (or any agen-
21 cy or office performing like functions) of a
22 State that the Division determines has adopted
23 rules or implemented standards on the appro-
24 priate use of designations in the offer or sale of
25 securities or the provision of investment advice
26 that meet or exceed the minimum requirements

1 of the NASAA Model Rule on the Use of Sen-
2ior-Specific Certifications and Professional Des-
3ignations (or any successor thereto);

4 “(B) an insurance commission (or any
5 agency or office performing like functions) of
6 any State that the Division determines has
7 adopted rules or implemented standards on the
8 appropriate use of designations in the sale of
9 insurance products that, to the extent prac-
10 ticable, conform to the minimum requirements
11 of the National Association of Insurance Com-
12 missioners’ Model Regulation on the Use of
13 Senior-Specific Certifications and Professional
14 Designations in the Sale of Life Insurance and
15 Annuities (or any successor thereto); and

16 “(C) a consumer protection agency of a
17 State—

18 “(i) if—

19 “(I) a securities commission (or
20 any agency or office performing like
21 functions) of the State is described
22 under subparagraph (A); or

23 “(II) is an insurance commission
24 (or any agency or office performing

1 like functions) of the State is de-
2 scribed under subparagraph (B); and

3 “(ii) such agency coordinates with a
4 securities commission described under sub-
5 paragraph (A) or an insurance commission
6 described under subparagraph (B) on the
7 application described in subsection (c);

8 “(2) the term ‘financial product’ means a secu-
9 rity, an insurance product (including an insurance
10 product that pays a return, whether fixed or vari-
11 able), a bank product, and a loan product;

12 “(3) the term ‘misleading designation’—

13 “(A) means a certification, professional
14 designation, or other purported credential that
15 indicates or implies that a salesperson or ad-
16 viser has special certification or training in ad-
17 vising or servicing seniors; and

18 “(B) does not include a certification, pro-
19 fessional designation, license, or other creden-
20 tial that—

21 “(i) was issued by or obtained from
22 an academic institution having regional ac-
23 creditation;

24 “(ii) meets the standards for certifi-
25 cations and professional designations out-

1 lined by the NASAA Model Rule on the
2 Use of Senior-Specific Certifications and
3 Professional Designations (or any suc-
4 cessor thereto) or by the Model Regula-
5 tions on the Use of Senior-Specific Certifi-
6 cations and Professional Designations in
7 the Sale of Life Insurance and Annuities,
8 adopted by the National Association of In-
9 surance Commissioners (or any successor
10 thereto); or

11 “(iii) was issued by or obtained from
12 a State;

13 “(4) the term ‘misleading or fraudulent mar-
14 keting’ means—

15 “(A) the use of a misleading designation or
16 other sales or marketing practice illegal under
17 State securities or insurance laws by a person
18 that sells to or advises a senior or other vulner-
19 able adult in connection with the sale of a fi-
20 nancial product; or

21 “(B) fraud or an attempt to defraud, as
22 those terms are defined under applicable State
23 and Federal law;

24 “(5) the term ‘Pandemic’ means the Covid-19
25 pandemic;

1 “(6) the term ‘NASAA’ means the North Amer-
2 ican Securities Administrators Association;

3 “(7) the term ‘Division’ means the Consumer
4 Education and Engagement Division of the Bureau;

5 “(8) the term ‘senior’ means any individual who
6 has attained the age of 62 years or older;

7 “(9) the term ‘State’ has the same meaning as
8 in section 3 of the Securities Exchange Act of 1934
9 (15 U.S.C. 78c(a)); and

10 “(10) the term ‘vulnerable adult’ means any in-
11 dividual that an eligible entity judges to be at ele-
12 vated risk to Pandemic-related frauds.

13 “(b) GRANTS TO STATES FOR ENHANCED PROTEC-
14 TION OF SENIORS AND VULNERABLE ADULTS.—The Divi-
15 sion shall establish a program under which the Division
16 shall make grants to States or eligible entities—

17 “(1) to hire staff to identify, investigate, and
18 prosecute (through civil, administrative, or criminal
19 enforcement actions), cases involving misleading or
20 fraudulent marketing, including those relating to the
21 Pandemic;

22 “(2) to fund technology, equipment, and train-
23 ing for regulators, prosecutors, and law enforcement
24 officers, in order to identify salespersons and advis-
25 ers who target seniors or vulnerable adults with mis-

1 leading or fraudulent marketing, including those re-
2 lating to the Pandemic;

3 “(3) to fund technology, equipment, and train-
4 ing for prosecutors to increase the successful pros-
5 ecution of persons engaging in misleading or fraudu-
6 lent marketing, including those relating to the Pan-
7 demic;

8 “(4) to provide educational materials and train-
9 ing to regulators on the Pandemic and misleading or
10 fraudulent marketing, including relating to the Pan-
11 demic;

12 “(5) to provide educational materials and train-
13 ing to seniors and vulnerable adults to increase
14 awareness and understanding of misleading or
15 fraudulent marketing, particularly relating to the
16 Pandemic;

17 “(6) to develop comprehensive plans to combat
18 misleading or fraudulent marketing of financial
19 products to seniors and vulnerable adults, including
20 relating to the Pandemic; and

21 “(7) to make referrals to the Bureau, State
22 consumer protection agencies, and other appropriate
23 State and Federal law enforcement and regulatory
24 agencies, as appropriate.

1 “(c) APPLICATION.—A State or eligible entity desir-
2 ing a grant under this section shall submit an application
3 to the Division, in such form and in such a manner as
4 the Division may determine, that includes—

5 “(1) a proposal for activities to protect seniors
6 and vulnerable adults from misleading or fraudulent
7 marketing that are proposed to be funded using a
8 grant under this section, including—

9 “(A) an identification of the scope of the
10 problem of misleading or fraudulent marketing
11 in the State;

12 “(B) a description of how the proposed ac-
13 tivities would—

14 “(i) protect seniors or vulnerable
15 adults from misleading or fraudulent mar-
16 keting in the sale of financial products, in-
17 cluding those relating to the Pandemic;

18 “(ii) assist in the investigation and
19 prosecution of those engaged in misleading
20 or fraudulent marketing of financial prod-
21 ucts, including those relating to the Pan-
22 demic; and

23 “(iii) deter, discourage, or reduce
24 cases of misleading or fraudulent mar-

1 keting, including those relating to the Pan-
2 demic; and

3 “(C) a description of how the proposed ac-
4 tivities would be coordinated with other State
5 efforts; and

6 “(2) any other information, as the Division de-
7 termines is appropriate.

8 “(d) PERFORMANCE OBJECTIVES AND REPORTING
9 REQUIREMENTS.—The Division may establish such per-
10 formance objectives and reporting requirements for States
11 and eligible entities receiving a grant under this section
12 as the Division determines are necessary to carry out and
13 assess the effectiveness of the program under this section.

14 “(e) GRANT AMOUNTS.—

15 “(1) MAXIMUM AMOUNT FOR RECIPIENTS
16 ADOPTING CERTAIN RULES.—The amount of a grant
17 under this section may not exceed \$500,000 for each
18 of 2 consecutive fiscal years, if the recipient is a
19 State, or an eligible entity of a State, that—

20 “(A) was or is currently the subject of a
21 declared state of emergency by a State or Fed-
22 eral authority on the basis of the Pandemic;

23 “(B) has adopted rules or implemented
24 standards on the appropriate use of designa-
25 tions in the offer or sale of securities or invest-

1 ment advice that meet or exceed the minimum
2 requirements of the NASAA Model Rule on the
3 Use of Senior-Specific Certifications and Pro-
4 fessional Designations (or any successor there-
5 to); and

6 “(C) has adopted rules or implemented
7 standards on the appropriate use of designa-
8 tions in the sale of insurance products that, to
9 the extent practicable, conform to the minimum
10 requirements of the National Association of In-
11 surance Commissioners’ Model Regulation on
12 the Use of Senior-Specific Certifications and
13 Professional Designations in the Sale of Life
14 Insurance and Annuities (or any successor
15 thereto).

16 “(2) MAXIMUM AMOUNT FOR OTHER RECIPI-
17 ENTS.—

18 “(A) IN GENERAL.—The amount of a
19 grant under this section may not exceed
20 \$100,000 for each of 2 consecutive fiscal years,
21 if the recipient is a State, or an eligible entity
22 of a State that is not described under para-
23 graph (1).

24 “(B) OPPORTUNITY TO ADOPT RULES.—
25 Notwithstanding subparagraph (A), if a grant

1 recipient described under subparagraph (A)
2 meets the criteria described under subpara-
3 graphs (A) through (C) of paragraph (1) before
4 the end of the 180-day period beginning on the
5 date the recipient receives the grant, the recipi-
6 ent may apply for an increase in the grant
7 amount, up to the maximum amount described
8 under paragraph (1).

9 “(f) SUBGRANTS.—A State or eligible entity that re-
10 ceives a grant under this section may make a subgrant,
11 as the State or eligible entity determines is necessary, to
12 carry out the activities funded using a grant under this
13 section.

14 “(g) ADMINISTRATIVE AND TECHNICAL ASSISTANCE
15 FOR GRANTMAKING.—

16 “(1) IN GENERAL.—At the request of the Di-
17 rector, any Executive agency (as defined in section
18 105 of title 5, United States Code) may detail 1 or
19 more employees to the Bureau on a temporary basis
20 for the purpose of providing technical and other as-
21 sistance, expertise, or support to the Bureau for ad-
22 ministering grants made under this section.

23 “(2) TERMS OF DETAIL.—With respect to any
24 Federal employee detailed to the Bureau under
25 paragraph (1)—

1 “(A) the detail shall be without interrup-
2 tion or loss of civil service status or privilege;
3 and

4 “(B) the Bureau shall reimburse the Exec-
5 utive agency for any costs incurred by the Exec-
6 utive agency relating to the detail described in
7 paragraph (1).

8 “(h) APPLICATION DATE.—The Bureau shall begin
9 accepting applications under subsection (c) as soon as
10 practicable, but in no case later than 6 months after the
11 date of enactment of this section.”.

12 (b) FUNDING.—

13 (1) NON-APPLICABILITY OF FUNDING CAP.—
14 Section 1017(a)(2) of the Consumer Financial Pro-
15 tection Act of 2010 (12 U.S.C. 5497(a)(2)(A)) is
16 amended by adding at the end the following:

17 “(D) TREATMENT OF SENIOR PROTECTION
18 GRANTS.—In calculating an amount transferred
19 under subparagraph (A), such amount shall not
20 include amounts transferred for purposes of
21 making grants under section 1038.”.

22 (2) RULE OF CONSTRUCTION.—Nothing in this
23 Act shall be construed to prohibit the Consumer
24 Education and Engagement Division of the Bureau
25 of Consumer Financial Protection from using funds

1 transferred pursuant to section 1017(a)(1) of the
2 Consumer Financial Protection Act of 2010 (12
3 U.S.C. 5497(a)(1)) to carry out the requirements of
4 section 1038 of such Act (as added by this Act).

5 (c) CLERICAL AMENDMENT.—The table of contents
6 under section 1(b) of the Dodd-Frank Wall Street Reform
7 and Consumer Protection Act is amended by inserting
8 after the item relating to section 1037 the following:

“Sec. 1038. Protecting seniors and vulnerable adults from misleading and
fraudulent marketing or sales practices related to the pandemic
and other unlawful scams.”.