

**AMENDMENT TO H.R. 4664, AS REPORTED**  
**OFFERED BY MR. GREEN OF TEXAS**

At the end of the bill (before the short title), insert  
the following:

1       SEC. \_\_\_\_\_. (a) The Consumer Financial Protection  
2 Act of 2010 (12 U.S.C. 5481 et seq.) is amended by in-  
3 serting after section 1017 the following:

4       **“SEC. 1017A. WHISTLEBLOWER INCENTIVES AND PROTEC-**  
5                               **TION.**

6       “(a) DEFINITIONS.—In this section:

7               “(1) ADMINISTRATIVE PROCEEDING OR COURT  
8 ACTION.—The term ‘administrative proceeding or  
9 court action’ means any judicial or administrative  
10 action brought by the Bureau that results in mone-  
11 tary sanctions exceeding \$1,000,000.

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

15               “(3) MONETARY SANCTIONS.—The term ‘mone-  
16 tary sanctions’ means, with respect to any adminis-  
17 trative proceeding or court action, any monies, in-  
18 cluding penalties, disgorgement, restitution, interest,

1 ordered to be paid or other amounts of relief ob-  
2 tained under section 1055(a)(2).

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

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

7 “(B) is not known to the Bureau from any  
8 other source, unless the whistleblower is the  
9 original source of the information;

10 “(C) is not exclusively derived from an al-  
11 legation made in a judicial or administrative  
12 hearing, in a governmental report, hearing, or  
13 from the news media, unless the whistleblower  
14 is a source of the information; and

15 “(D) is not exclusively derived from an al-  
16 legation made in an audit, examination, or in-  
17 vestigation.

18 “(5) SUCCESSFUL ENFORCEMENT.—The term  
19 ‘successful enforcement’ includes, with respect to  
20 any administrative proceeding or court action  
21 brought by the Bureau, any settlement of such pro-  
22 ceeding or action.

23 “(6) WHISTLEBLOWER.—The term ‘whistle-  
24 blower’ means any individual who provides, or 2 or  
25 more individuals acting jointly who provide, original

1 information relating to a violation of Federal con-  
2 sumer financial law, consistent with any rule or reg-  
3 ulation issued by the Bureau under this section.

4 “(b) AWARDS.—

5 “(1) IN GENERAL.—In any administrative pro-  
6 ceeding or court action the Bureau, subject to regu-  
7 lations prescribed by the Bureau and subject to sub-  
8 section (c), shall pay an award or awards to 1 or  
9 more whistleblowers who voluntarily provided origi-  
10 nal information that led to the successful enforce-  
11 ment of the covered administrative proceeding or  
12 court action in an aggregate amount equal to—

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

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

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

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

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

3           “(B) \$50,000.

4           “(c) DETERMINATION OF AMOUNT OF AWARD; DE-  
5 NIAL OF AWARD.—

6           “(1) DETERMINATION OF AMOUNT OF  
7 AWARD.—

8           “(A) DISCRETION.—The determination of  
9 the percentage amount of an award made under  
10 subsection (b) shall be in the discretion of the  
11 Bureau.

12           “(B) CRITERIA.—In determining the per-  
13 centage amount of an award made under sub-  
14 section (b), the Bureau shall take into consider-  
15 ation—

16           “(i) the significance of the informa-  
17 tion provided by the whistleblower to the  
18 successful enforcement of the administra-  
19 tive proceeding or court action;

20           “(ii) the degree of assistance provided  
21 by the whistleblower and any legal rep-  
22 resentative of the whistleblower in an ad-  
23 ministrative proceeding or court action;

24           “(iii) the programmatic interest of the  
25 Bureau in deterring violations of Federal

1 consumer financial law (including applica-  
2 ble regulations) by making awards to whis-  
3 tleblowers who provide information that  
4 leads to the successful enforcement of such  
5 laws; and

6 “(iv) such additional relevant factors  
7 as the Bureau may establish by rule or  
8 regulation, including the amount available  
9 in the Fund.

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

12 “(A) to any whistleblower who is, or was at  
13 the time the whistleblower acquired the original  
14 information submitted to the Bureau, a mem-  
15 ber, officer, or employee of an entity described  
16 in subclauses (I) through (V) of subsection  
17 (h)(1)(C)(i);

18 “(B) to any whistleblower who is convicted  
19 of a criminal violation related to the adminis-  
20 trative proceeding or court action for which the  
21 whistleblower otherwise could receive an award  
22 under this section;

23 “(C) to any whistleblower who is found to  
24 be liable for the conduct in the administrative  
25 proceeding or court action, or a related action,

1 for which the whistleblower otherwise could re-  
2 ceive an award under this section;

3 “(D) to any whistleblower who planned  
4 and initiated the conduct at issue in the admin-  
5 istrative proceeding or court action for which  
6 the whistleblower otherwise could receive an  
7 award under this section;

8 “(E) to any whistleblower who submits in-  
9 formation to the Bureau that is based on the  
10 facts underlying the administrative proceeding  
11 or court action previously submitted by another  
12 whistleblower; and

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

16 “(d) REPRESENTATION.—

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

20 “(2) REQUIRED REPRESENTATION.—

21 “(A) IN GENERAL.—Any whistleblower  
22 who anonymously makes a claim for an award  
23 under subsection (b) shall be represented by  
24 counsel if the whistleblower submits the infor-  
25 mation upon which the claim is based.

1           “(B) DISCLOSURE OF IDENTITY.—Prior to  
2           the payment of an award, a whistleblower shall  
3           disclose the identity of the whistleblower and  
4           provide such other information as the Bureau  
5           may require, directly or through counsel of the  
6           whistleblower.

7           “(e) NO CONTRACT NECESSARY.—No contract or  
8           other agreement with the Bureau is necessary for any  
9           whistleblower to receive an award under subsection (b),  
10          unless otherwise required by the Bureau by rule or regula-  
11          tion.

12          “(f) APPEALS.—

13                 “(1) IN GENERAL.—Any determination made  
14                 under this section, including whether, to whom, or in  
15                 what amount to make awards, shall be in the discre-  
16                 tion of the Bureau. Any such determination, except  
17                 the determination of the amount of an award if the  
18                 award was made in accordance with subsection (b),  
19                 may be appealed to the appropriate court of appeals  
20                 of the United States not more than 30 days after  
21                 the determination is issued by the Bureau.

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

1           “(g) REPORTS TO CONGRESS.—Not later than De-  
2 cember 31 of each year, the Bureau shall transmit to the  
3 House Committee on Financial Services and the Senate  
4 Committee on Banking, Housing, and Urban Affairs a re-  
5 port on the Bureau’s whistleblower award program under  
6 this section, including a description of the number of  
7 awards granted and the types of cases in which awards  
8 were granted during the preceding fiscal year.

9           “(h) PROTECTION OF WHISTLEBLOWERS.—

10           “(1) CONFIDENTIALITY.—

11           “(A) IN GENERAL.—Except as provided in  
12 subparagraphs (B) and (C), the Bureau and  
13 any officer or employee of the Bureau, shall not  
14 disclose any information, including information  
15 provided by a whistleblower to the Bureau,  
16 which could reasonably be expected to reveal  
17 the identity of a whistleblower, except in ac-  
18 cordance with the provisions of section 552a of  
19 title 5, United States Code, unless and until re-  
20 quired to be disclosed to a defendant or re-  
21 spondent in connection with a public proceeding  
22 instituted by the Bureau or any entity described  
23 in subparagraph (C). For purposes of section  
24 552 of title 5, United States Code, this para-



1 graph shall be considered a statute described in  
2 subsection (b)(3)(B) of such section 552.

3 “(B) EFFECT.—Nothing in this paragraph  
4 is intended to limit the ability of the Attorney  
5 General to present such evidence to a grand  
6 jury or to share such evidence with potential  
7 witnesses or defendants in the course of an on-  
8 going criminal investigation.

9 “(C) AVAILABILITY TO GOVERNMENT  
10 AGENCIES.—

11 “(i) IN GENERAL.—Without the loss  
12 of its status as confidential in the hands of  
13 the Bureau, all information referred to in  
14 subparagraph (A) may, in the discretion of  
15 the Bureau, when determined by the Bu-  
16 reau to be necessary or appropriate, be  
17 made available to—

18 “(I) the Department of Justice;

19 “(II) an appropriate department  
20 or agency of the Federal Government,  
21 acting within the scope of its jurisdic-  
22 tion;

23 “(III) a State attorney general in  
24 connection with any criminal inves-  
25 tigation;

1                   “(IV) an appropriate department  
2                   or agency of any State, acting within  
3                   the scope of its jurisdiction; and

4                   “(V) a foreign regulatory author-  
5                   ity.

6                   “(ii) MAINTENANCE OF INFORMA-  
7                   TION.—Each of the entities, agencies, or  
8                   persons described in clause (i) shall main-  
9                   tain information described in that clause  
10                  as confidential, in accordance with the re-  
11                  quirements in subparagraph (A).

12                  “(2) RIGHTS RETAINED.—Nothing in this sec-  
13                  tion shall be deemed to diminish the rights, privi-  
14                  leges, or remedies of any whistleblower under section  
15                  1057, any other Federal or State law, or under any  
16                  collective bargaining agreement.

17                  “(i) RULEMAKING AUTHORITY.—The Bureau shall  
18                  have the authority to issue such rules and regulations as  
19                  may be necessary or appropriate to implement the provi-  
20                  sions of this section consistent with the purposes of this  
21                  section.

22                  “(j) ORIGINAL INFORMATION.—Information sub-  
23                  mitted to the Bureau by a whistleblower in accordance  
24                  with rules or regulations implementing this section shall  
25                  not lose its status as original information solely because

1 the whistleblower submitted such information prior to the  
2 effective date of such rules or regulations, provided such  
3 information was submitted after the date of enactment of  
4 this section.

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

13 “(l) UNENFORCEABILITY OF CERTAIN AGREE-  
14 MENTS.—

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

22 “(2) NO PREDISPUTE ARBITRATION AGREE-  
23 MENTS.—Except as provided under paragraph (3),  
24 and notwithstanding any other provision of law, no  
25 predispute arbitration agreement shall be valid or

1 enforceable to the extent that the agreement re-  
2 quires arbitration of a dispute arising under this  
3 section.

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

10 (b) Section 1017(d)(2) of the Consumer Financial  
11 Protection Act of 2010 (12 U.S.C. 5497(d)(2)) is amend-  
12 ed, in the first sentence, by inserting “and for awards au-  
13 thorized under section 1017A” before the period at the  
14 end.

