113TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 113–349
Part 1

CFPB PAY FAIRNESS ACT OF 2013

FEBRUARY 10, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 2385]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2385) to amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to set the rate of pay for employees of the Bureau of Consumer Financial Protection in accordance with the General Schedule, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

H.R. 2385, the CFPB Pay Fairness Act of 2013, amends the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") to require the Consumer Financial Protection Bureau (CFPB) to pay its employees according to the General Schedule set forth in section 5332 of title 5 of the United States Code.

BACKGROUND AND NEED FOR LEGISLATION

Under current law, the rates of basic pay for CFPB employees are set and adjusted by the Director of the CFPB. Compensation (including benefits) for classes of employees must be comparable to the compensation and benefits being provided by the Board of Governors of the Federal Reserve System for corresponding classes of employees.

39–006

As of September 30, 2013, the CFPB had 1,335 employees and spent $190.2 million on employee salaries and benefits, according to the Fiscal Year 2013 Financial Report of the Consumer Financial Protection Bureau.[1]

Based on the foregoing numbers and report, the CFPB pays its employees an average of $142,000 per employee, or 3.3 times the mean per capita personal income in the United States ($43,000). According to a July 2013 article in the Washington Examiner:

"Six-figure salaries go to 741 employees . . .

Fifty-six CFPB officers earn more than all presidential cabinet secretaries who earn $199,500.

There are 173 agency staff who earn more than all elected Members of Congress and 209 employees who earn more than all 50 U.S. governors. . . .

Fourteen agency staffers are paid more than Vice President Biden who earns $227,000.

Nineteen CPFB staffers earn more than Speaker of the House John Boehner, who is third in line for succession to the presidency and is paid $223,500.

Thirty-seven CFPB employees get more than eight Supreme Court justices, who are paid $213,500. Nineteen CFPB staffers make more than Chief Justice John Roberts who gets $223,500.

Top White House salaries are capped at $172,200, but 181 employees are paid more than the president's chief of staff, senior counsel and press secretary."[2]

H.R. 2385 curbs these excessive salaries by requiring CFPB to follow the salary schedule used by most agencies in the Federal government.

HEARINGS

The Committee on Financial Services' Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 2385 on October 29, 2013. The Subcommittee on Oversight and Investigations held a hearing on the CFPB's budget generally on June 18, 2013.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 20, 2013, and ordered H.R. 2385 to be reported favorably to the House without amendment by a recorded vote of 31 yeas to 23 nays (recorded vote no. FC–41), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto.

1. A motion by Chairman Hensarling to report the bill (H.R. 2385) without amendment to the House with a favorable rec-

[1] Fiscal Year 2013 Financial Report of the Consumer Financial Protection Bureau (Dec. 11, 2013) http://files.consumerfinance.gov/f/201312_cfpb_report_financial-report.pdf.

[2] Richard Pollock, "Fat paychecks for CFPB officials, hundreds paid more than Fed Chairman, congressmen, Supreme Court justices," Washington Examiner (July 18, 2013), available at http://washingtonexaminer.com/fat-paychecks-for-cfpb-officials-hundreds-paid-more-than-fed-chairman-congressmen-supreme-court-justices/article/2533189.

ommendation was agreed to by a record vote of 31 yeas to 23 nays (recorded vote no. FC–41).

RECORD VOTE NO. FC–41

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters		X	
Mr. Bachus	X			Mrs. Maloney (NY)		X	
Mr. King (NY)	X			Ms. Velázquez		X	
Mr. Royce	X			Mr. Watt		X	
Mr. Lucas	X			Mr. Sherman		X	
Mr. Gary G. Miller (CA)	X			Mr. Meeks		X	
Mrs. Capito	X			Mr. Capuano		X	
Mr. Garrett	X			Mr. Hinojosa		X	
Mr. Neugebauer	X			Mr. Clay			
Mr. McHenry	X			Mrs. McCarthy (NY)			
Mr. Campbell				Mr. Lynch		X	
Mrs. Bachmann	X			Mr. David Scott (GA)		X	
Mr. McCarthy (CA)	X			Mr. Al Green (TX)		X	
Mr. Pearce	X			Mr. Cleaver		X	
Mr. Posey				Ms. Moore		X	
Mr. Fitzpatrick	X			Mr. Ellison		X	
Mr. Westmoreland	X			Mr. Perlmutter			
Mr. Luetkemeyer	X			Mr. Himes		X	
Mr. Huizenga (MI)	X			Mr. Peters (MI)		X	
Mr. Duffy	X			Mr. Carney		X	
Mr. Hurt	X			Ms. Sewell (AL)		X	
Mr. Grimm	X			Mr. Foster		X	
Mr. Stivers	X			Mr. Kildee			
Mr. Fincher	X			Mr. Murphy (FL)		X	
Mr. Stutzman	X			Mr. Delaney		X	
Mr. Mulvaney	X			Ms. Sinema		X	
Mr. Hultgren	X			Mrs. Beatty		X	
Mr. Ross	X			Mr. Heck (WA)		X	
Mr. Pittenger	X						
Mrs. Wagner	X						
Mr. Barr	X						
Mr. Cotton	X						
Mr. Rothfus	X						

Committee Oversight Findings

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

Performance Goals and Objectives

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 2385 requires the CFPB to pay its employees according to the General Schedule.

New Budget Authority, Entitlement Authority, and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 7, 2014.

Hon. JEB HENSARLING,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2385, the CFPB Pay Fairness Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 2385—CFPB Pay Fairness Act of 2013

Summary: H.R. 2385 would set basic compensation rates for employees of the Bureau of Consumer Financial Protection (CFPB) according to the General Schedule (GS) for federal employees. Under current law, pay rates at the CFPB are comparable to rates paid to employees of the Federal Reserve System in corresponding job classes.

CBO estimates that enacting H.R. 2385 would reduce direct spending by $280 million over the 2014–2024 period; therefore, pay-as-you-go procedures apply. CBO estimates that enacting H.R. 2385 would not affect revenues, and implementing the bill would not affect spending subject to appropriation.

H.R. 2385 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2385 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–2019	2014–2024
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	0	−25	−26	−27	−27	−28	−29	−30	−30	−31	−32	−133	−285
Estimated Outlays	0	−21	−26	−27	−27	−28	−29	−30	−30	−31	−32	−130	−280

Note: Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the middle of fiscal year 2014, that its provisions will become effective at the start of fiscal year 2015, and that spending will follow historical patterns for the CFPB. The CFPB is permanently authorized to spend amounts transferred from the Federal Reserve; because that activity is not subject to appropriation, CFPB expenditures are recorded in the budget as direct spending. CBO estimates that enacting the provisions of H.R. 2385 would reduce direct spending by installing a new salary schedule at the CFPB with lower rates at every pay grade.

When the CFPB was established in 2010, employee compensation rates were set based on the salary structure then in place at the Federal Reserve System for corresponding classes of employees. The CFPB compensation system is made up of 17 pay bands that can be compared with the General Schedule. At the start of fiscal year 2014, the bureau employed about 1,375 individuals at salaries ranging from an average of about $31,000 in the lowest pay band to an average of almost $250,000 in the highest pay band; the average annual salary for all bureau employees was approximately $116,000. For 2014, average GS salaries range from about $25,000 in the lowest pay band to about $143,000 per year in the highest pay band.

For this estimate, CBO assumes that the bureau would make the necessary changes in the pay structure to ensure that each employee is paid at the appropriate GS rate for the work that employee performs. Without detailed information about the distribution of salaries within each pay band, we compared the average salary in each pay band of the bureau with the average salary for the comparable GS pay band to determine the average difference in annual salary at each level. That calculation shows that there is about a 13 percent difference between the salaries under the two compensation systems.

Based on information provided in annual budget reports of the CFPB, CBO estimates that about 33 percent of the bureau's total obligations represent employee compensation, or almost $200 million per year, on average, over the 2014–2024 period.

CBO estimates that enacting H.R. 2385 would reduce direct spending by about $30 million per year, or $280 million over the 2014–2024 period, reflecting lower salary rates under the General Schedule as well as lower costs for employee retirement benefits that are based on salary levels. Savings in future years would increase as total employee compensation costs for the bureau are expected to grow.

Those savings could be lower depending on, for example, how employees respond to the pay rate differences, whether the agency changes the amount of work performed by employees and private contractors, or whether the agency increases other sources of compensation such as bonuses. CBO has no information indicating whether those or similar actions would be taken by the bureau, and therefore has no basis for determining the magnitude of such effects. We expect that implementing the new pay structure would take several months; therefore, savings would not start until 2015.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 2385, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON NOVEMBER 21, 2013

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–2019	2014–2024
NET DECREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	−21	−26	−27	−27	−28	−29	−30	−30	−31	−32	−130	−280

Note: Components may not sum to totals because of rounding.

Intergovernmental and private-sector impact: H.R. 2385 contains no intergovernmental or private-sector mandates as defined UMRA.

Estimate prepared by: Federal costs: Susan Willie; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Federal Mandates Statement

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

Earmark Identification

H.R. 2385 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

Duplication of Federal Programs

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee states that no provision of H.R. 2385 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee states that H.R. 2385 does not direct any rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 2385 as the "CFPB Pay Fairness Act of 2013."

Section 2. Rate of pay for employees of the Bureau of Consumer Financial Protection

This section requires the CFPB to pay its employees according to the General Schedule set forth in section 5332 of title 5, United States Code. The section states that the pay rate change shall apply to service by an employee of the CFPB following the 90-day period after enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

* * * * * * *

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

* * * * * * *

Subtitle A—Bureau of Consumer Financial Protection

* * * * * * *

SEC. 1013. ADMINISTRATION.

(a) PERSONNEL.—

(1) * * *

⟦(2) COMPENSATION.—Notwithstanding any otherwise applicable provision of title 5, United States Code, concerning compensation, including the provisions of chapter 51 and chapter 53, the following provisions shall apply with respect to employees of the Bureau:

⟦(A) The rates of basic pay for all employees of the Bureau may be set and adjusted by the Director.

⟦(B) The Director shall at all times provide compensation (including benefits) to each class of employees that, at a minimum, are comparable to the compensation and benefits then being provided by the Board of Governors for the corresponding class of employees.

[(C) All such employees shall be compensated (including benefits) on terms and conditions that are consistent with the terms and conditions set forth in section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l)).]

(2) COMPENSATION.—The rates of basic pay for all employees of the Bureau shall be set and adjusted by the Director in accordance with the General Schedule set forth in section 5332 of title 5, United States Code.

* * * * * * *

WAIVER OF CONSIDERATION BY THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
FACSIMILE (202) 225–3974
MINORITY (202) 225–5051

http://oversight.house.gov

February 4, 2014

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing concerning H.R. 2385, the "CFPB Pay Fairness Act of 2013," which your Committee ordered reported on November 21, 2013.

H.R. 2385 contains provisions within the Committee on Oversight and Government Reform's Rule X jurisdiction. As a result of your having consulted with the Committee and in order to expedite this bill for floor consideration, the Committee on Oversight and Government Reform will forego action on the bill. This is being done on the basis of our mutual understanding that doing so will in no way diminish or alter the jurisdiction of the Committee on Oversight and Government Reform with respect to the appointment of conferees, or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation.

I would appreciate your response to this letter confirming this understanding, and would request that you include a copy of this letter and your response in the Committee Report and in the *Congressional Record* during the floor consideration of this bill. Thank you in advance for your cooperation.

Sincerely,

Darrell Issa
Chairman

cc: The Honorable John Boehner, Speaker of the House

The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Maxine Waters, Ranking Minority Member
Committee on Financial Services

Mr. Tom Wickham, Parliamentarian

JEB HENSARLING, TX , CHAIRMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

MAXINE WATERS, CA, RANKING MEMBER

February 6, 2014

HAND-DELIVERED

The Honorable Darrell Issa
Chairman, Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

Thank you for your February 4 letter regarding H.R. 2385, the CFPB Pay Fairness Act.

I am most appreciative of your decision to forego consideration of H.R. 2385 so that it may move expeditiously to the House floor. I acknowledge that although you are waiving formal consideration of the bill, the Committee on Oversight and Government Reform is in no way waiving its jurisdiction over any subject matter contained in the bill that falls within its jurisdiction. In addition, if a conference is necessary on this legislation, I will support any request that your committee be represented therein.

Finally, I shall be pleased to include your letter and this letter in our committee's report on H.R. 2385 and in the *Congressional Record* during floor consideration of the same.

Sincerely,

JEB HENSARLING
Chairman

cc: The Honorable John A. Boehner (via e-mail)
The Honorable Maxine Waters (via e-mail)
The Honorable Elijah E. Cummings (via e-mail)
Mr. Thomas J. Wickham, Jr. (via e-mail)

MINORITY VIEWS

By tying compensation for employees of the Consumer Financial Protection Bureau (CFPB or Bureau) to the General Schedule for federal employees and eliminating the requirement for the Bureau to provide employees with benefits and compensation that are comparable to the corresponding class of Federal Reserve employees, the bill undermines the Bureau's ability to hire and retain qualified staff who may otherwise seek employment at another financial regulator or within the private sector. We note that all other financial regulators, including the Farm Credit Administration (FCA), Federal Housing Finance Agency (FHFA), Federal Deposit Insurance Corporation (FDIC), Federal Reserve (FRB), Commodity Futures Trading Commission (CFTC), Securities and Exchange Commission (SEC), National Credit Union Administration (NCUA) and the Office of the Comptroller of the Currency (OCC), are all able to offer more competitive compensation packages than those provided under the General Schedule.

Consumer protection is a critical element of financial regulation, and we believe the CFPB should have the same flexibility to set employee compensation and benefits as other financial regulators. As a matter of fact, the CFPB is required under the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) to offer compensation that is comparable to and consistent with other financial regulators, which would be impossible under the General Schedule.

In addition to competing with other federal agencies, the Bureau must compete for staff with the financial services industry, which is willing to pay a premium for professionals with the expertise and skills necessary to perform complicated regulatory analysis. Reducing the Bureau's ability to compensate staff appropriately would make it harder for the CFPB to attract and retain the qualified, experienced staff that is needed to ensure the use of CFPB's supervisory, enforcement and rulemaking authority is balanced and appropriate.

MAXINE WATERS.
KEITH ELLISON.
DAVID SCOTT.
STEPHEN F. LYNCH.
MICHAEL E. CAPUANO.
KYRSTEN SINEMA.
CAROLYN B. MALONEY.
BILL FOSTER.
JOYCE BEATTY.
AL GREEN.
DANIEL KILDEE.
DENNY HECK.
JAMES A. HIMES.

JOHN CARNEY.
GREGORY W. MEEKS.
GWEN MOORE.
TERRI SEWELL.
WM. LACY CLAY.
PATRICK MURPHY.
ED PERLMUTTER.
RUBÉN HINOJOSA.
BRAD SHERMAN.
EMANUEL CLEAVER.

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