To establish a sustainable Federal Secondary Market Facility for Residential Mortgages that is financed by private capital, to terminate the conservatorships of Fannie Mae and Freddie Mac and repeal the charter Acts of such enterprises, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 6, 2011

Mr. GARY G. MILLER of California (for himself and Mrs. McCARTHY of New York) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a sustainable Federal Secondary Market Facility for Residential Mortgages that is financed by private capital, to terminate the conservatorships of Fannie Mae and Freddie Mac and repeal the charter Acts of such enterprises, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Secondary Market Facility for Residential Mortgages Act of 2011”.

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(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.

**TITLE I—SECONDARY MARKET FACILITY FOR RESIDENTIAL MORTGAGES**

Sec. 102. Limitations on mortgage purchases.
Sec. 103. Reduction of market share.
Sec. 104. Capital standards.
Sec. 105. Guarantee fees.
Sec. 106. Federal insurance backstop.
Sec. 107. Deficit reduction.
Sec. 108. Portfolio reduction.
Sec. 109. Initial standards.

**TITLE II—ENDING THE CONSERVATORSHIPS OF FANNIE MAE AND FREDDIE MAC**

Sec. 201. Treasury plan.
Sec. 203. Repeal of charter Acts.

**TITLE III—FEDERAL HOUSING FINANCE AGENCY**

Sec. 301. Establishment of Federal Housing Finance Agency Board.
Sec. 302. Supervision and regulation of Facility by FHFA.
Sec. 303. Conforming amendments.

**SEC. 2. PURPOSE.**

The purpose of this Act is to establish a Federal secondary market facility for residential mortgages, to provide that the operations thereof shall be financed by private capital, and to authorize such facility to—

1. provide stability in the secondary market for residential mortgages;
2. respond appropriately to the private capital market;
(3) maintain the secondary market for residential mortgages, including the “TBA” (to-be-announced) market;

(4) improve the distribution of investment capital available for residential mortgage financing and as a result facilitate access to mortgage credit to qualified borrowers throughout the United States (including in central cities, rural areas, high-cost areas, and underserved areas); and

(5) manage and liquidate the mortgage portfolios of Fannie Mae and Freddie Mac in an orderly manner, in a way that contributes to the stability of the housing market and with minimum loss and maximum profit to the Federal Government.

SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) Approved seller.—The term “approved seller” means a seller of a mortgage who has been approved by the Facility in accordance with the standards established by the FHFA Board pursuant to section 102(j).

(2) Conservatorship.—The term “conservatorship” means, with respect to an enterprise, the conservatorship of the enterprise established
pursuant to section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) and in effect on the date of the enactment of this Act.

(3) ENTERPRISE.—The term “enterprise” means—

(A) the Federal National Mortgage Association; and

(B) the Federal Home Loan Mortgage Corporation.

(4) FACILITY.—The term “Facility” means the Secondary Market Facility for Residential Mortgages established under section 101 of this Act.

(5) FACILITY-AFFILIATED PARTY.—The term “Facility-affiliated party” means—

(A) any director, officer, or employee of, or agent for, the Facility;

(B) any affiliate, consultant, or joint venture partner of the Facility, and any other person, as determined by the FHFA Board (by regulation or on a case-by-case basis) that participates in the conduct of the affairs of the Facility; and
(C) any independent contractor for the Facility (including any attorney, appraiser, or accountant), if—

(i) the independent contractor knowingly or recklessly participates in—

(I) any violation of any law or regulation;

(II) any breach of fiduciary duty;

or

(III) any unsafe or unsound practice; and

(ii) such violation, breach, or practice caused, or is likely to cause, more than a minimal financial loss to, or a significant adverse effect on, the Facility.

(6) FACILITY BOARD.—The term “Facility Board” means the Board of Directors of the Secondary Market Facility for Residential Mortgages, established under section 101.

(7) FHFA BOARD.—The term “FHFA Board” means the Federal Housing Finance Agency Board established under section 1312 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by section 301 of this Act.
(8) Residential mortgage.—The term “residential mortgage” means a mortgage on single-family housing or multifamily housing.

(9) Secretary.—The term “Secretary” means the Secretary of the Treasury.

(10) Single-family housing.—The term “single-family housing” means a residence consisting of 1 to 4 dwelling units.

(11) Multifamily housing.—The term “multifamily housing” means a residence consisting of more than 4 dwelling units.

TITLE I—SECONDARY MARKET FACILITY FOR RESIDENTIAL MORTGAGES

SEC. 101. ESTABLISHMENT OF SECONDARY MARKET FACILITY FOR RESIDENTIAL MORTGAGES.

(a) Establishment.—There is hereby established a Secondary Market Facility for Residential Mortgages, which shall be a body corporate without capital stock.

(b) Purpose.—The purpose of the Facility shall be to ensure that capital for residential mortgages is available to qualified homebuyers throughout the United States, without regard to region, area, or other geographic location.
(c) **FEDERAL STATUS.**—The Facility shall be an instrumentality of the Federal Government.

(d) **BOARD OF DIRECTORS.**—

(1) **ESTABLISHMENT; APPOINTMENT.**—The Facility shall be under the direction of a Board of Directors, which shall consist of 5 members who shall be appointed by the President, and shall not be officers or employees of the Federal Government. The initial members of the Facility Board shall be appointed not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

(2) **QUALIFICATIONS.**—Of the members appointed to the Facility Board—

(A) 3 members shall possess extensive experience and expertise in financial management or oversight, capital markets (including debt markets), the secondary mortgage market, and mortgage-backed securities; and

(B) 2 members shall possess extensive experience and expertise in mortgage finance (including single-family and multifamily housing mortgage finance and with credit unions and small institutions).
(3) **Political Affiliation.**—Not more than three members of the Facility Board may be members of the same political party.

(4) **Term; Removal.**—Each member of the Facility Board shall be appointed for a term of 5 years, except that any member may be removed from office by the President for good cause.

(5) **Chairperson.**—The Chairperson of the Facility Board shall be designated by the President at the time of appointment. The Chairperson shall designate another member to serve as Acting Chairperson during the absence or disability of the Chairperson.

(6) **Vacancies.**—A member of the Facility Board appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term.

(7) **Continuation of Membership.**—A member of the Facility Board may serve after the expiration of the member’s term until a successor has been appointed.

(e) **Mortgage-Related Activities.**—The business of the Facility shall be limited to the following functions, and such activities as may be incident to such functions:
(1) Borrowing.—Borrowing, giving security, paying interest and other return, and issuing notes, debentures, bonds, and other obligations and securities to fund the purchase of residential mortgages, and to achieve initial capitalization levels as required by the FHFA Board.

(2) Single-Family Mortgage Purchase.—The purchase of residential mortgages on single-family housing that are originated by approved sellers pursuant to section 102(j).

(3) Multifamily Mortgage Purchase.—The purchase of residential mortgages on multifamily housing that are originated by approved sellers pursuant to section 102(j).

(4) Maintenance of TBA Market.—Maintaining the “to-be-announced” market for securities based on or backed by residential mortgages on single-family or multifamily housing.

(5) Mortgage-Backed Securities.—Issuing, and guaranteeing timely payment of principal and interest on, securities and other obligations based on or backed by a pool of residential mortgages purchased by the Facility, whose quality and characteristics are interchangeable with securities issued by the enterprises before the date of the enactment of
this Act, including applicable rules related to the calculation of net capital requirements.

(6) Collection of Fees.—The collection of guarantee fees established under section 105 in connection with mortgage purchases and reinsurance fees established under section 106(a).

(7) Risk Management.—The management of interest rate risk associated with operations of the Facility.

(f) Prohibition on Mortgage Origination.—The Facility shall not engage in mortgage origination.

(g) Self-Supporting.—The operations of the Facility shall be funded only by income derived from its operations, after obligations for capital reserves in accordance with section 104 and for the Reinsurance Fund under section 106(b) are met.

(h) Equal Access to Products.—The FHFA Board shall, by regulation, require that the Facility operate to carry out the purposes under subsection (b) in a manner that provides equal access at all times, by all eligible or qualified and approved residential mortgage lenders, and all markets, to products of the Facility.

(i) Personnel.—The Facility Board may fix the number and basic pay of, and appoint and direct, all em-
ployees of the Facility without regard to the provisions of title 5, United States Code.

(j) **LEASING AUTHORITY.**—For the purpose of mitigating losses to the taxpayer and stabilizing home prices, the Facility may market for rental any real-estate owned properties and assets of the enterprises that are transferred to the Facility pursuant to section 201(b) and enter into such lease agreements with lessees as the Facility Board determines appropriate, prior to sale of such properties and assets, except that any such lease agreement shall terminate before the expiration of the 5-year period beginning upon the establishment of the Facility.

(k) **BUDGETS; AUDITS; MANAGEMENT REPORTS; OBLIGATIONS.**—The Facility shall be considered a wholly owned Government corporation for purposes of chapter 91 of title 31, United States Code, but not including section 9108 of such chapter.

(l) **GENERAL POWERS.**—The Facility may—

(1) adopt, amend, and repeal bylaws;

(2) adopt and use a corporate seal;

(3) enter into contracts, incur liabilities, make guarantees, borrow money, issue notes, bonds, and other obligations;

(4) sue or be sued in its own capacity; and
(5) purchase, receive, hold, and use real and personal property and other assets necessary for the conduct of its operations.

SEC. 102. LIMITATIONS ON MORTGAGE PURCHASES.

(a) Safe and Sound Mortgages.—

(1) Limitation on Facility Purchases.—To limit the risk assumed by the Facility, the FHFA Board shall, by regulation, limit the residential mortgages that may be purchased by the Facility to safe and sound mortgages, as such term is defined pursuant to paragraph (2), within such mortgage product types and classifications as are approved in advance by the FHFA Board pursuant to paragraph (3).

(2) Definition.—The FHFA Board shall, by regulation, define the term “safe and sound residential mortgages” for purposes of this subsection, which shall—

(A) be established by the FHFA Board;

(B) be limited to mortgages that are of a quality, type, and class determined by the FHFA Board to be appropriate to provide adequate liquidity in the housing finance markets and that serve a range of residential mortga-
gors and residential housing markets, which shall include—

(i) mortgages having a term to maturity of 30 years or less and a fixed rate of interest over the entire term of mortgage;

(ii) mortgages for single-family housing and mortgages for multifamily housing;

(iii) programs for whole loans and certificates; and

(iv) other mortgages that are not insured under the National Housing Act and not securitized through securities guaranteed by the Government National Mortgage Association;

(C) incorporate—

(i) the outstanding balance requirements for single-family mortgages under subsection (b) of this section;

(ii) the conforming loan limits for single-family mortgages under subsection (c) of this section;

(iii) the downpayment requirements for single-family mortgages under subsection (d) of this section;
(iv) the requirements for adjustable
rate mortgages under subsection (e) of this
section;

(v) the representation and warranty
requirements under subsection (f) of this
section;

(vi) the underwriting standards under
subsection (g) of this section; and

(vii) the property valuation standards
under subsection (h) of this section.

(3) PRODUCT APPROVAL.—The FHFA Board
shall require the Facility to obtain the approval of
the FHFA Board for any product of the Facility be-
fore initially offering the product. The FHFA Board
shall establish standards for approval of products,
which shall provide for conditional approval and pro-
cedures for submission of requests for such approval.

(b) OUTSTANDING BALANCE REQUIREMENTS FOR
SINGLE-FAMILY MORTGAGES.—The regulations of the
FHFA Board pursuant to subsection (a) shall ensure that
a mortgage on single-family housing shall not be consid-
ered a safe and sound mortgage if the outstanding prin-
cipal balance under the mortgage at the time of purchase
by the Facility exceeds 80 percent of the sale price of the
single-family residence securing the mortgage, unless—
(1) the seller retains a participation of not less than 10 percent of the sale price of the single-family residence securing the mortgage, and the aggregate amount any outstanding principal balance (including such participation) shall not exceed 90 percent of the sale price of the single-family residence securing the mortgage;

(2) for such period and under such circumstances as the Facility Board may require, the seller agrees to repurchase or replace the mortgage upon demand of the Facility in the event that the mortgage is in default;

(3) the portion of the outstanding principal balance of the mortgage that exceeds such 80 percent is guaranteed or insured by a qualified insurer, as determined by the Facility in accordance with such standards and requirements as the FHFA Board shall establish; or

(4) the mortgage is financed in part through a shared equity arrangement under which independent, private sector investors invest, together with the mortgagors, equity funds for such residences in the form of cash (or its equivalent) paid on account of the property and thereby share in the ownership of such residences, except that—
(A) the mortgagor shall retain an ownership in the residence under the shared equity arrangement that is not less than 50 percent; and

(B) such private sector financing may provide not more than half of the minimum down-payment amount required under subsection (d).

(c) Conforming Loan Limits for Single-Family Mortgages.—The regulations of the FHFA Board pursuant to subsection (a) shall ensure that a mortgage on single-family housing of a particular size shall not be considered a safe and sound mortgage if the mortgage has an original principal obligation that exceeds the higher of—

(1) the maximum dollar amount limitation for such fiscal year governing the maximum original principal obligation of mortgages that are purchased by the Federal Home Loan Mortgage Corporation for such size residence, as determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), or

(2) 125 percent of the area median price for a residence of the applicable size, but in no case to exceed 175 percent of the limitation for such year de-
terminated under such section 305(a)(2) for a residence of the applicable size,
except that, for mortgages originated in any year, if the limitation for such year on the maximum original principal obligation of a mortgage that may be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation determined under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) or section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1754(a)(2)) respectively, for any size residence for any area is less than such maximum original principal obligation limitation that was in effect for such size residence for such area for 2008 pursuant to section 201 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 619), notwithstanding any other provision of law or of this Act, the limitation under this subsection on the maximum original principal obligation of a mortgage for such size residence for such area that may be considered a safe and sound mortgage shall be such maximum limitation in effect for such size residence for such area for 2008.

(d) DOWNPAYMENT REQUIREMENT.—The regulations of the FHFA Board pursuant to subsection (a) shall ensure that, notwithstanding any other provision of this
title, a mortgage on single-family housing shall not be con-
sidered a safe and sound mortgage unless the mortgagor
has paid on account of the property subject to the mort-
gage, in cash (or its equivalent), an amount equal to not
less than 5 percent of the sale price of the property or
such larger amount as the FHFA Board may establish
to mitigate risks and prevent losses to the Facility.

(e) Adjustable Rate Mortgages.—The regula-
tions of the FHFA Board pursuant to subsection (a) shall
provide that a mortgage on single-family housing having
an interest rate that is not fixed at a single annual per-
centage rate for the entire term of the mortgage shall not
be considered a safe and sound mortgage unless such qual-
ity, type, and class of non-fixed rate mortgages has been
approved for purposes of this section by the FHFA Board
as consistent with the safety and soundness of the Facility
and the mortgage finance system.

(f) Representation and Warranty Require-
ment.—The regulations of the FHFA Board pursuant to
subsection (a) shall provide that a mortgage shall not be
considered a safe and sound mortgage unless such mort-
gage meets such requirements regarding representations
and warranties sufficient to certifying that the mortgage
is covered by a policy for title insurance as the FHFA
Board shall establish to ensure that title-related risks for
the mortgage are borne by State-licensed title insurance companies.

(g) UNDERWRITING STANDARDS.—The regulations of the FHFA Board pursuant to subsection (a) shall provide that a mortgage shall not be considered a safe and sound mortgage unless such mortgage meets such underwriting standards as the FHFA Board shall establish that—

(1) promote transparency, uniformity, and consumer protections; and

(2) ensure a mortgagor’s ability to repay the mortgage obligation, including standards for determining mortgagors’ income, assets, liabilities, credit history, and credit risk.

(h) PROPERTY VALUATION STANDARDS.—The regulations of the FHFA Board pursuant to subsection (a) shall provide that a mortgage shall not be considered a safe and sound mortgage unless such mortgage meets the property valuation and appraisal standards under subpart E of part 226 of title 12, Code of Federal Regulations (Regulation Z).

(i) PRICE LIMITATIONS.—The Facility shall ensure that prices to be paid by the Facility for residential mortgages purchased shall be based on market prices for the particular class of mortgages involved.
(j) **Seller Approval.**—The Facility may purchase residential mortgages meeting the requirements of this title only from sellers who have been approved by the Facility as meeting such standards for approval as the Facility Board shall establish, which shall include standards governing the following:

1. Care and due diligence in complying with the underwriting standards established pursuant to subsection (g).
2. Minimum capital to ensure the ability to perform under standard representations and warranties.
3. Contractual obligations.
4. Representations and warranties pursuant to subsection (f).
5. Indemnification for losses.
6. Delivery of documents.
7. Ownership, establishment, maintenance, retaining, examination, and storage of mortgage records and information.
8. Fidelity bond and errors and omissions coverage.
10. Lending practices.
(k) SERVICING OF MORTGAGES.—This Act may not be construed to prohibit, or to authorize the Facility Board or the FHFA Board to prohibit, any approved seller who sells a mortgage to the Facility from servicing such mortgage.

SEC. 103. REDUCTION OF MARKET SHARE.

(a) LIMITATIONS.—The FHFA Board shall, by regulation, seek to ensure that the market share of the Facility, as defined by the FHFA Board, does not exceed approximately 50 percent of mortgage originations in the United States.

(b) STANDARDS AND REQUIREMENTS.—The FHFA Board shall establish such standards and requirements regarding the maximum volume of purchases by the Facility. In establishing such standards, the FHFA Board shall seek to avoid excessive disruption to stability of the residential mortgage market.

(c) SAFETY VALVE.—Notwithstanding any other provision of this section, the FHFA Board may provide, in a timely manner, for the temporary suspension or adjustment of the limits under this section on the market share of the Facility, but only if the FHFA Board determines that the private market has significantly reduced participation in the residential mortgage markets, taking into consideration the yield spread between private label mort-
gage-backed securities and mortgage-backed securities issued by the Facility and such other indicia as the FHFA Board considers appropriate.

(d) CORRECTION PLAN.—If at any time the FHFA Board determines that the market share of the Facility exceeds the maximum market share permitted under this section, the FHFA Board shall require the Facility to establish and implement a plan that—

(1) reduces such market share so that it complies with the subsection (a)(1);

(2) impacts all geographic regions of the country similarly;

(3) restricts or prohibits the business of the Facility in mortgages that are used to prepay an existing loan secured by the same property as such mortgage; and

(4) increases guarantee fees under section 105 or reinsurance fees under section 106(a), or both.

Such a plan shall seek to impact all lenders as equally as possible, taking into account each lender’s history regarding its share of activity in selling mortgages to the Facility.

SEC. 104. CAPITAL STANDARDS.

(a) IN GENERAL.—The FHFA Board shall, by regulation, establish risk-based capital requirements for the
Facility to ensure that the Facility operates in a safe and sound manner, maintaining sufficient capital and reserves to support the risks that arise in operations and management of the Facility.

(b) FACTORS.—The capital requirements for the Facility shall—

(1) be based on the risks specifically involved in the purchase and securitization of safe and sound mortgages, as such term is defined pursuant to section 103(a); and

(2) be based on actuarial loss rate history of mortgages having similar characteristics.

SEC. 105. GUARANTEE FEES.

(a) ESTABLISHMENT.—The Facility shall charge a guarantee fee under this section in connection with any purchase of residential mortgages from approved sellers and in connection with any guarantee issued by the Facility of timely payment of principal and interest on mortgage-backed securities, notes, and other obligations issued by the Facility.

(b) AMOUNT.—Any guarantee fee under this section shall be in an amount that the Facility Board determines appropriate and reasonable, based on likelihood of loss for the particular type of product, to provide for operation of the Facility in accordance with this Act, except that such
fees may be increased to facilitate compliance with the
market share limitations under section 103 or for such
other purpose as the FHFA Board may approve. The
FHFA Board may establish a minimum amount for the
guarantee fee.

(c) IMPERMISSIBLE CONSIDERATIONS.—Such fees
shall be based on quality of mortgages and may not be
based on or incorporate—

(1) the geographic location of properties subject
to mortgages backing or on which are based such se-
curities, notes, or other obligations;

(2) the volume of mortgages sold to the Facility
by an approved seller; or

(3) any consideration of reducing the costs of
homeownership.

SEC. 106. FEDERAL INSURANCE BACKSTOP.

(a) REINSURANCE FEES.—

(1) IN GENERAL.—The Facility shall collect
and transfer to the Reinsurance Fund established
under subsection (b), a reinsurance fee under this
subsection in connection with any guarantee issued
by the Facility of timely payment of principal and
interest on mortgage-backed securities, notes, and
other obligations issued by the Facility.
(2) AMOUNT.—The fee shall be established by the Facility Board in such amount as may be necessary to cover obligations of the Facility under such guarantees to the extent the capital funds of the Facility cannot cover such obligations and shall be based on the outstanding mortgage exposure of the Facility. The FHFA Board may establish a minimum amount for the reinsurance fee.

(b) REINSURANCE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a Reinsurance Fund for the Facility.

(2) CREDITS.—The Reinsurance Fund shall be credited with—

(A) all reinsurance fees collected by the Facility pursuant to subsection (a);

(B) any amounts earned on investments of the Fund pursuant to paragraph (4); and

(C) such other amounts as may be credited to the Fund, including amounts as may be required to be credited by the Secretary of the Treasury.

(3) USE.—Amounts in the Reinsurance Fund shall be available, at the direction of FHFA Board, only for payment of obligations of the Facility under
guarantees issued by the Facility of timely payment of principal and interest on mortgage-backed securities, notes, and other obligations issued by the Facility and only to the extent that the FHFA Board determines that the capital of the Facility is insufficient to cover such obligations.

(4) INVESTMENTS.—The Secretary may invest such amounts as the Secretary considers advisable in obligations issued or guaranteed by the United States.

SEC. 107. DEFICIT REDUCTION.

Any receipts and earnings of the Facility in excess of amounts required to comply with the capital standards established pursuant to section 104, amounts required to be deposited in the Reinsurance Fund established under section 106(b), and amounts required for the repurchase of senior preferred stock of the enterprises issued pursuant to the Senior Preferred Stock Purchase Agreements entered into between the Department of the Treasury and the enterprises in September 2008 (as such Agreement may be amended and restated), shall be transferred into the General Fund of the Treasury and used to reduce the budget deficit of the Federal Government.

SEC. 108. PORTFOLIO REDUCTION.

(a) LIMITATION.—
(1) **In general.**—The Facility may not own mortgage assets in excess of $250,000,000,000, as such amount shall be adjusted by the FHFA Board, effective January 1 of each year beginning after the date of the enactment of this Act, in accordance with an appropriate inflationary index, as determined by the FHFA Board. The FHFA Board shall cause notice of each such adjustment to be published promptly in the Federal Register.

(2) **Definition.**—For purposes of this section, the term “mortgage assets” means, with respect to the Facility, assets of the Facility consisting of mortgages, mortgage loans, mortgage-related securities, participation certificates, mortgage-backed commercial paper, obligations of real estate mortgage investment conduits and similar assets, in each case to the extent such assets would appear on the balance sheet of the Facility.

(b) **Use.**—Mortgage assets owned by the Facility shall be available for use—

(1) to support multifamily housing and residential mortgages that cannot readily be securitized;

(2) to provide financing to support residential mortgage markets affected by economic downturns; and
(3) to modify delinquent mortgages that are purchased from pools of mortgages backing or on which are based mortgage-backed securities issued and guaranteed by the Facility.

(c) MONITORING.—The FHFA Board shall monitor the mortgage assets owned by the Facility to ensure compliance with this section.

(d) SAFETY VALVE.—Notwithstanding subsection (a), the FHFA Board may provide for the temporary increase in the limitation under subsection (a) on mortgage assets owned by the Facility if the FHFA Board determines that there has been a substantial reduction in the availability of private residential mortgage financing, taking into consideration such indicia as the FHFA Board considers appropriate.

SEC. 109. INITIAL STANDARDS.

Not later than the expiration of the 6-month period beginning upon the appointment of all initial members of the FHFA Board pursuant to section 301(b) the FHFA Board shall issue such regulations, guidelines, orders, requirements, and standards pursuant to section 1396C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by section 302 of this Act) as may be required under this title for the establishment and operation of the Facility.
TITLe II—ENDING THE CONSERVATORSHIPS OF FANNIE MAE AND FREDDIE MAC

SEC. 201. TREASURY PLAN.

(a) In General.—Not later than the expiration of the 6-month period beginning upon the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Director of the Federal Housing Finance Agency, shall develop and submit to the Congress a plan that provides for the orderly and timely wind-down and termination of the enterprises, during such period as the Secretary considers appropriate but in no case ending later than 36 months after the date of the enactment of this Act, in accordance with this section and the receivership authority under section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 and in a manner that avoids excessive disruption to the stability of the residential mortgage market.

(b) Contents.—Such plan—

(1) shall provide for the termination, during the period referred to in subsection (a), of the authority of the enterprises to conduct any new business;

(2) shall provide for the transfer of the assets, obligations, and liabilities of the enterprises to the
Secondary Market Facility for Residential Mort-
gages established under title I;

(3) may provide for the Facility to segregate
such sound assets and troubled or impaired assets of
the enterprises into separate trusts or entities;

(4) shall provide for the full repayment to the
taxpayers and the Federal Government of the invest-
ment made by the taxpayers and the Federal Gov-
ernment in the enterprises, which repayment shall be
made by the Facility from income generated by the
Facility, in a manner that is generally consistent
with the manner in which the taxpayers and the
Federal Government were reimbursed by financial
institutions assisted under the Troubled Assets Re-
lief Program of the Secretary of the Treasury under
title I of the Emergency Economic Stabilization Act
of 2008 (12 U.S.C. 5211 et seq.), or in such other
manner as the Secretary considers appropriate;

(5) shall provide for the Secondary Market Fa-
cility for Residential Mortgages established under
title I of this Act to purchase from the Secretary of
the Treasury all preferred stock held by the Treas-
ury pursuant to purchase under the Senior Pre-
ferred Stock Purchase Agreements entered into with
the Treasury by the enterprises in September 2008
(as such Agreements have been amended and restated);

(6) shall provide that, notwithstanding any other provision of law, any provision of the Senior Preferred Stock Purchase Agreement entered into between the Department of the Treasury and an enterprise in September 2008 (as any such Agreement may be amended and restated), or any provision of any certificate in connection with such an Agreement creating or designating the terms, powers, preferences, privileges, limitations, or any other conditions of the Variable Liquidation Preference Senior Preferred Stock of an enterprise issued pursuant to such an Agreement, the annual rate of dividends paid on the Variable Liquidation Preference Senior Preferred Stock of each enterprise issued pursuant to such an Agreement shall, until all such stock is purchases by the Facility pursuant to paragraph (5) of this subsection—

(A) be reduced to not more than 5 percent; and

(B) be variable and based on market conditions and performance;

(7) shall provide for the fulfillment of all obligations of the enterprises under any outstanding debt
obligations and mortgage-backed securities of the enterprises; and

(8) shall provide a date during the period referred to in subsection (a) for the repeal of the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act.

SEC. 202. IMPLEMENTATION OF PLAN.

The Secretary shall—

(1) commence implementation of the plan submitted to the Congress under section 201 upon expiration of the 90-day period beginning upon such submission; and

(2) wind-down and terminate the enterprises in accordance with the terms of the plan.

SEC. 203. REPEAL OF CHARTER ACTS.

Upon the date specified in the plan pursuant to section 201(b)(8), the following provisions are repealed:


TITLE III—FEDERAL HOUSING FINANCE AGENCY

SEC. 301. ESTABLISHMENT OF FEDERAL HOUSING FINANCE AGENCY BOARD.

(a) ESTABLISHMENT.—Section 1312 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4512) is amended—

(1) by striking the section designation and heading and all that follows through subsection (c);

(2) by striking subsections (e) through (g);

(3) by redesignating subsection (d) as subsection (l); and

(4) by inserting before subsection (l) (as so redesignated) the following:

“SEC. 1312. FEDERAL HOUSING FINANCE AGENCY BOARD.

“(a) ESTABLISHMENT.—There is established the Federal Housing Finance Agency Board, who shall govern the Agency.

“(b) APPOINTMENT.—The FHFA Board which shall consist of 5 members, as follows:

“(1) EX OFFICIO MEMBERS.—Two ex officio members who shall be—

“(A) the Secretary of the Treasury or the Secretary’s designee; and
“(B) the Secretary of Housing and Urban Development or the Secretary’s designee.

“(2) APPOINTED MEMBERS.—Three members, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall include—

“(A) one member who shall possess extensive experience and expertise in financial management or oversight, capital markets (including debt markets), the secondary mortgage market, and mortgage-backed securities; and

“(B) two members who shall possess extensive experience and expertise in mortgage finance (including single-family and multifamily housing mortgage finance and with credit unions and smaller financial institutions), development of affordable housing, and economic development and revitalization.

“(c) POLITICAL AFFILIATION.—Not more than three members of the FHFA Board may be members of the same political party.

“(d) CHAIRPERSON.—The Chairperson of the FHFA Board shall be designated by the President at the time of appointment. The Chairperson shall designate another
member to serve as Acting Chairperson during the absence or disability of the Chairperson.

“(e) Term; Removal.—Each member of the FHFA Board shall be appointed for a term of 5 years, and may be removed by the President only for cause.

“(f) Vacancies.—A member of the FHFA Board appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term.

“(g) Continuation of Membership.—A member of the FHFA Board may serve after the expiration of the member’s term until a successor has been appointed.

“(h) Compensation.—Members of the FHFA Board shall each receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(i) Meetings.—The FHFA Board shall meet upon notice by the Chairperson, but in no event shall the FHFA Board meet less frequently than once every 2 months. Any member of the FHA Board may, upon giving written notice to the Chairperson, require a special meeting of the FHFA Board, which shall be convened by the Chairperson within 30 days after such notice.
“(j) Testimony.—On an annual basis, the Board shall testify before the Congress regarding the safety and soundness of the Secondary Market Facility for Residential Mortgages, any material deficiencies in the conduct of the operations of the Facility; the overall operational status of the Facility; operations, resources, and performance of the FHFA Board, and such other matters relating to the FHFA Board and the Facility.

“(k) Advisory Committee.—

“(1) Establishment.—There is established an Advisory Committee to consist of 12 members who shall be appointed by the FHFA Board.

“(2) Membership.—Members of the Advisory Committee shall be broadly representative of mortgage loan originators, investors in mortgage-backed securities, and consumer advocacy organizations, and shall include—

“(A) 3 members who have extensive experience and expertise in financial management or oversight, capital markets (including debt markets), the secondary mortgage market, and mortgage-backed securities;

“(B) 3 members who have extensive experience and expertise in mortgage finance, including with single family and multifamily
housing and with credit unions and small institutions;

“(C) 3 members who have extensive experience and expertise in mortgage loan origination and closing, including mortgage bankers, mortgage brokers, settlement services providers; and

“(D) 3 members from consumer advocacy organizations and other organizations that the FHFA Board deems appropriate to advise the FHFA Board in effectively carrying out its oversight of the Facility.

“(3) MEETINGS.—The Advisory Committee shall meet at least once each calendar quarter.

“(4) DUTIES.—The Advisory Committee shall advise the FHFA Board on its operations and discharge of its duties, and shall submit its own comments to the Congress on the extent to which the FHFA Board is meeting its responsibilities under the law and any suggestions for improvements in such regard.”.

(b) TRANSITION.—

(1) TIMING OF APPOINTMENTS.—The President shall endeavor to appoint and have confirmed all initial members of the Federal Housing Finance Agency Board pursuant to section 1312(b)(2) of the Fed-
eral Housing Enterprises Financial Safety and Soundness Act of 1992 (as amended by subsection (a)(1) of this section) not later than the expiration of the 6-month period beginning upon the date of the enactment of this Act.

(2) CONTINUED SERVICE OF DIRECTOR.—Notwithstanding the amendment made by subsection (a), during the period beginning on the date of the enactment of this Act and ending upon the first date on which all initial members of the Federal Housing Finance Agency Board are appointed and confirmed, the person serving as the Director of the Federal Housing Finance Agency on such date of enactment shall act for all purposes as, and with the full powers of, the Federal Housing Finance Agency Board.

(c) CONFORMING AMENDMENT; REFERENCES.—

(1) CONFORMING AMENDMENT.—Section 5313 of title 5, United States Code, is amended by striking the item relating to Director of the Federal Housing Finance Agency.

(2) REFERENCES.—Any references to the Director of the Federal Housing Finance Agency in statutes, Executive orders, rules, regulations, directives, or delegations of authority shall be deemed to refer to the Federal Housing Finance Agency Board.
established under the amendment made by sub-
section (a) of this section.

SEC. 302. SUPERVISION AND REGULATION OF FACILITY BY
FHFA.

The Federal Housing Enterprises Financial Safety
and Soundness Act of 1992 is amended by adding at the
end the following new subtitle:

“Subtitle F—Supervision and Regu-
lation of Secondary Market Fa-
cility for Residential Mortgages

“SEC. 1396. OVERSIGHT OF FACILITY.

“(a) AUTHORITY.—

“(1) IN GENERAL.—The Secondary Market Fa-
cility for Residential Mortgages established by title
I of the Secondary Market Facility for Residential
Mortgages Act of 2011 (in this subtitle referred to
as the ‘Facility’) shall be subject to the supervision
and regulation of the FHFA Board. The FHFA
Board shall have general regulatory authority over
the Facility and shall exercise such authority, and
may issue such regulations, orders, and interpreta-
tions as the FHFA Board determines necessary to
ensure that the purposes of title I of such Act and
this subtitle and any other applicable laws are car-
ried out and that the Facility is operated in a safe and sound manner.

“(2) LIMITATION.—Any authority under this subtitle of the FHFA Board to supervise and regulate the Facility may not be construed to authorize the FHFA Board to establish or regulate the amount of guarantee fees under section 105 of the Secondary Market Facility for Residential Mortgages Act of 2011.

“(b) USE OF EXISTING AUTHORITY.—Except as provided in this section, the Facility and a Facility-affiliated party shall be subject to the same supervisory and enforcement powers of the Director under this title, to the same extent as if the Facility was a regulated entity and the Facility-affiliated party was an entity-affiliated party, including—

“(1) authority to establish and enforce prudential management and operations standards under section 1313B (12 U.S.C. 4513b);

“(2) authority to require reports under section 1314 (12 U.S.C. 4514);

“(3) authority to conduct examinations under section 1317 (12 U.S.C. 4517);

“(4) the enforcement powers under sections 1371 through 1379 (12 U.S.C. 4631–9); and
“(5) authority to take prompt corrective supervisory actions in response to capital classifications as provided for in sections 1365 and 1366 (12 U.S.C. 4615, 4616).

“SEC. 1396A. MONITORING AND EVALUATION.

“(a) MONITORING.—The FHFA Board shall monitor compliance by the Facility with the requirements of title I of the Secondary Market Facility for Residential Mortgages Act of 2011.

“(b) EVALUATION.—Upon the expiration of the 5-year period beginning on the date of the enactment of the Secondary Market Facility for Residential Mortgages Act of 2011, the FHFA Board shall submit to the Congress a report analyzing the performance of the Facility in meeting the purposes of title I of such Act. Such report shall analyze and compare the performance of the enterprises during the period consisting of the year 2008 and years prior to the performance of the enterprises and the Facility during the period consisting of the year 2009 and years after through the end of such 5-year period.

“SEC. 1396B. FUNDING OF FHFA BOARD OVERSIGHT OF FACILITY.

“(a) ANNUAL ASSESSMENTS.—The FHFA Board shall establish and collect from the Facility annual assessments in an amount not exceeding the amount sufficient
to provide for reasonable costs (including administrative costs) and expenses of the Agency attributable to the Agency’s supervision and regulation of the Facility, including—

“(1) the expenses of any examinations pursuant to section 1396(b)(3);

“(2) the expenses of monitoring pursuant to section 1396A(a); and

“(3) such amounts in excess of actual expenses for any given year as deemed necessary by the FHFA Board to maintain a working capital fund in accordance with subsection (e) of this section.

“(b) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually for each fiscal year, on October 1 and April 1.

“(c) INCREASED COSTS OF REGULATION.—

“(1) INCREASE FOR INADEQUATE CAPITALIZATION.—If the FHFA Board determines that the Facility is not adequately capitalized in accordance with the standards established under section 104 of the Secondary Market Facility for Residential Mortgages Act of 2011, the semiannual payments made pursuant to subsection (b) by the Facility may be increased, as necessary, in the discretion of the Board
to pay additional estimated costs of regulation of the Facility.

“(2) ADDITIONAL ASSESSMENT FOR DEFICIENCIES.—If at any time, as a result of increased costs of regulation of the Facility that is not classified (for purposes of the standards established under section 104 of such Act) as adequately capitalized or as the result of supervisory or enforcement activities pursuant to this subtitle for the Facility, the amount available from any semiannual payment made by the Facility pursuant to subsection (b) is insufficient to cover the costs of the Agency with respect to the Facility, the FHFA Board may make and collect from the Facility an immediate assessment to cover the amount of such deficiency for the semiannual period. If, at the end of any semiannual period during which such an assessment is made, any amount remains from such assessment, such remaining amount shall be deducted from the assessment for the Facility for the following semiannual period.

“(d) SURPLUS.—Except with respect to amounts collected pursuant to subsection (a)(3), if any amount from any annual assessment collected from the Facility remains unobligated at the end of the year for which the assessment was collected, such amount shall be credited to the
assessment to be collected from the Facility for the fol-
lowing year.

“(e) WORKING CAPITAL FUND.—At the end of each
year for which an assessment under this section is made,
the FHFA Board shall remit to the Facility any amount
of assessment collected from the Facility that is attrib-
utable to subsection (a)(3) and is in excess of the amount
the FHFA Board deems necessary to maintain a working
capital fund.

“(f) TREATMENT OF ASSESSMENTS.—

“(1) DEPOSIT.—Amounts received by the
FHFA Board from assessments under this section
may be deposited by the Board in the manner pro-
vided in section 5234 of the Revised Statutes of the
United States (12 U.S.C. 192) for monies deposited
by the Comptroller of the Currency.

“(2) NOT GOVERNMENT FUNDS.—The amounts
received by the FHFA Board from any assessment
under this section shall not be construed to be Gov-
ernment or public funds or appropriated money.

“(3) NO APPORTIONMENT OF FUNDS.—Not-
withstanding any other provision of law, the
amounts received by the FHFA Board from any as-
se ssment under this section shall not be subject to
apportionment for the purpose of chapter 15 of title
31, United States Code, or under any other authority.

“(4) USE OF FUNDS.—The FHFA Board may use any amounts received by the Board from assessments under this section for compensation of the Board and other employees of the Agency and for all other expenses of the Board and the Agency.

“(5) TREASURY INVESTMENTS.—

“(A) AUTHORITY.—The FHFA Board may request the Secretary of the Treasury to invest such portions of amounts received by the Board from assessments paid under this section that, in the Board’s discretion, are not required to meet the current working needs of the Agency.

“(B) GOVERNMENT OBLIGATIONS.—Pursuant to a request under subparagraph (A), the Secretary of the Treasury shall invest such amounts in Government obligations guaranteed as to principal and interest by the United States with maturities suitable to the needs of the Agency and bearing interest at a rate determined by the Secretary of the Treasury taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.
SEC. 1396C. REGULATIONS AND ORDERS.

“(a) Authority.—The FHFA Board shall issue any regulations, guidelines, or orders necessary to carry out the duties of the FHFA Board under this subtitle and title I of the Secondary Market Facility for Residential Mortgages Act of 2011, and to ensure that the purposes of this subtitle and title I of such Act are accomplished.

“(b) Notice and Comment.—Any regulations issued by the FHFA Board under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5.”.

SEC. 303. CONFORMING AMENDMENTS.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended—

(1) in section 1303 (12 U.S.C. 4502)—

(A) by striking paragraph (4);

(B) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively;

(C) by striking paragraph (9);

(D) by redesignating paragraphs (10) through (12) as paragraphs (8) through (10), respectively;

(E) by inserting before paragraph (13) the following new paragraph:
“(11) FHFA Board.—The term ‘FHFA Board’ means the Federal Housing Finance Agency Board established under section 1312.”; and

(F) by redesignating paragraphs (13) through (31) as paragraphs (12) through (30), respectively;

(2) by striking section 1313A (12 U.S.C. 4513a: relating to the Federal Housing Finance Agency Oversight Board);

(3) by striking “Director” each place such term appears (except in section 1316(g), 1338(i), and 1355) and inserting “FHFA Board”;

(4) by striking “Director’s” each place such term appears and inserting “FHFA Board’s”;

(5) by striking “DIRECTOR” each place such term appears in the section headings for sections 1313, 1319B, and 1369D and inserting “FHFA BOARD”; and

(6) in the heading for part 2 of subtitle A, by striking “DIRECTOR” and inserting “FHFA BOARD”.

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