H. R. 2767

To protect American taxpayers and homeowners by creating a sustainable housing finance system for the 21st century.

A BILL

To protect American taxpayers and homeowners by creating a sustainable housing finance system for the 21st century.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting American Taxpayers and Homeowners Act of 2013”.

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SEC. 101. SHORT TITLE.
This title may be cited as the “GSE Bailout Elimination and Taxpayer Protection Act”.

SEC. 102. DEFINITIONS.
For purposes of this title, the following definitions shall apply:

(1) CHARTER.—The term “charter” means—
(A) with respect to the Federal National Mortgage Association, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); and
(B) with respect to the Federal Home Loan Mortgage Corporation, the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.).

(2) DIRECTOR.—The term “Director” means the Director of the Federal Housing Finance Agency.

(3) ENTERPRISE.—The term “enterprise” means—
(A) the Federal National Mortgage Association; and
(B) the Federal Home Loan Mortgage Corporation.

SEC. 103. TERMINATION OF CURRENT CONSERVATORSHIP; MANDATORY RECEIVERSHIP.

Upon the expiration of the 5-year period beginning upon the date of the enactment of this Act, the Director shall, with respect to each enterprise, immediately appoint the Federal Housing Finance Agency as receiver under section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 and carry out such receivership under the authority of such section.

SEC. 104. LIMITATIONS ON ENTERPRISE AUTHORITY.

(a) PORTFOLIO LIMITATIONS.—Subtitle B of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4611 et seq.) is amended by adding at the end the following new section:

"SEC. 1369E. RESTRICTION ON MORTGAGE ASSETS OF ENTERPRISES.

"(a) Restriction.—Subject to subsection (b), no enterprise shall own, as of any applicable date in this subsection or thereafter, mortgage assets in excess of—

"(1) as of December 31, 2013, $550,000,000,000; or

"(2) as of December 31 of each year thereafter, 85 percent of the aggregate amount of mortgage as-"
sets that the enterprise was permitted to own pursuant to this section as of December 31 of the immediately preceding calendar year.

“(b) LIMITATION.—In no event shall an enterprise be required under this section to own less than $250,000,000,000 in mortgage assets.

“(c) DEFINITION OF MORTGAGE ASSETS.—For purposes of this section, the term ‘mortgage assets’ means, with respect to an enterprise, assets of such enterprise 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 such enterprise in accordance with generally accepted accounting principles in effect in the United States as of September 7, 2008 (as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board from time to time; and without giving any effect to any change that may be made after September 7, 2008, in respect of Statement of Financial Accounting Standards No. 140 or any similar accounting standard).”.
(b) EQUITABILITY IN GUARANTEE FEES.—Section 1327 of Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4547) is amended by adding at the end the following new subsection:

“(f) EQUITABILITY IN GUARANTEE FEES.—

“(1) REQUIREMENT.—Notwithstanding any other provision of this section, the Director shall ensure, pursuant to the annual review conducted under paragraph (2), that each enterprise charges a guarantee fee, in connection with any mortgage guaranteed after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, in an amount that the Director determines is equivalent to the amount that the enterprise would charge if the enterprise were held to the same capital standards as private banks or financial institutions.

“(2) ANNUAL DETERMINATION.—Not less often than annually, the Director shall review the guarantee fees charged by each enterprise and determine how such fees compare to the amount determined by the Director under paragraph (1). If the Director determines that such fees charged by an enterprise are less than such amount, the Director shall, by order, require the enterprise to increase such fees in
such amount as the Director determines necessary to comply with paragraph (1).

“(3) FLEXIBILITY IN DETERMINATION OF INCREASE.—To determine the amount of any increase under this subsection, the Director shall establish a pricing mechanism as the Director considers appropriate, taking into consideration current market conditions, including the current market share of an enterprise, and any data collected pursuant to section 1601 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 4514a).”.

(c) REPEAL OF MANDATORY HOUSING ACTIVITIES.—


(2) CONFORMING AMENDMENTS.—Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended—

(A) in section 1303(28) (12 U.S.C. 4502(28)), by striking “, and, for the purposes” and all that follows through “designated disaster areas”;
(B) in section 1324(b)(1)(A) (12 U.S.C. 4544(b)(1)(A)), by striking clauses (i), (ii), and (iv);

(C) in section 1339(h) (12 U.S.C. 4569(h)), by striking paragraph (7);

(D) in section 1341 (12 U.S.C. 4581)—

(i) in subsection (a)—

(I) in paragraph (1), by inserting “or” after the semicolon at the end;

(II) in paragraph (2), by striking the semicolon at the end and inserting a period; and

(III) by striking paragraphs (3) and (4); and

(ii) in subsection (b)(2)—

(I) in subparagraph (A), by inserting “or” after the semicolon at the end;

(II) by striking subparagraphs (B) and (C); and

(III) by redesignating subparagraph (D) as subparagraph (B);

(E) in section 1345(a) (12 U.S.C. 4585(a))—
(i) in paragraph (1), by inserting “or” after the semicolon at the end;

(ii) in paragraph (2), by striking the semicolon at the end and inserting a period; and

(iii) by striking paragraphs (3) and (4); and

(F) in section 1371(a)(2) (12 U.S.C. 4631(a)(2)), by striking “with any housing goal established under subpart B of part 2 of sub-
title A of this title, with section 1336 or 1337 of this title.”.

(3) REPEAL OF HOUSING TRUST FUND.—


(B) CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended—

(i) in section 1303(24)(B) (12 U.S.C. 4502(24)(B)), by striking “1338 and”;

(ii) in section 1324(b)(1)(A) (12 U.S.C. 4544(b)(1)(A)), as amended by the preceding provisions of this Act—
(I) by striking clause (iii);

(II) by striking the dash after “which” and inserting the text of clause (v) and a period; and

(III) by striking clause (v);

(iii) in section 1339(b)—

(I) by striking paragraph (1);

(II) by striking the dash after “consist of” and inserting the text of paragraph (2) and a period; and

(III) by striking paragraph (2);

and

(iv) in section 1345 (12 U.S.C. 4585), by striking subsection (f).

SEC. 105. MODIFICATIONS TO INCREASES IN CONFORMING LOAN LIMITS.

(a) FANNIE MAE.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(1) in the 8th sentence—

(A) in inserting “or subtracting from” after “adding to”; and

(B) by inserting “or decrease, respectively” before the first comma;

(2) by striking the 9th and 10th sentences;
(3) by striking the last sentence;

(4) by inserting "(A)" after the paragraph designation; and

(5) by adding at the end the following new subparagraph:

"(B) HIGH-COST AREAS.—

"(i) MAXIMUM ORIGINAL PRINCIPAL LIMITATION.—Subject to clause (ii), the limitations established pursuant to subparagraph (A) shall also be increased, with respect to properties of a particular size located in any area for which 115 percent of the median house price for such size residence exceeds the limitation under subparagraph (A) for such size residence, to the lesser of—

"(I)(aa) for the first year beginning after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the difference between—

"(AA) 150 percent of the limitation under subparagraph (A) for such size residence; and

"(BB) $20,000 in the case of a 1-family residence, $25,604 in the case of a 2-family residence, $30,950 in the case of
a 3-family residence, and $38,463 in the case of a 4-family residence;

“(bb) for the second year beginning after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the difference between—

“(AA) 150 percent of the limitation under subparagraph (A) for such size residence; and

“(BB) $40,000 in the case of a 1-family residence, $51,208 in the case of a 2-family residence, $61,900 in the case of a 3-family residence, and $76,926 in the case of a 4-family residence;

“(cc) for the third year beginning after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the difference between—

“(AA) 150 percent of the limitation under subparagraph (A) for such size residence; and

“(BB) $60,000 in the case of a 1-family residence, $76,812 in the case of a 2-family residence, $92,850 in the case of
a 3-family residence, and $103,389 in the
case of a 4-family residence;

“(dd) for the fourth year beginning after
the date of the enactment of the Protecting
American Taxpayers and Homeowners Act of
2013, the difference between—

“(AA) 150 percent of the limitation
under subparagraph (A) for such size resi-
dence; and

“(BB) $80,000 in the case of a 1-
family residence, $102,416 in the case of a
2-family residence, $123,800 in the case of
a 3-family residence, and $153,852 in the
case of a 4-family residence; and

“(ee) for the fifth year beginning after the
date of the enactment of the Protecting Amer-
ican Taxpayers and Homeowners Act of 2013,
the difference between—

“(AA) 150 percent of the limitation
under subparagraph (A) for such size resi-
dence; and

“(BB) $100,000 in the case of a 1-
family residence, $128,020 in the case of a
2-family residence, $154,750 in the case of
a 3-family residence, and $192,315 in the case of a 4-family residence;

“(II) the amount that is equal to 115 percent of the median house price in such area for such size residence; or

“(III) the limitation in effect for such size residence for such area, pursuant to the last sentence of this paragraph as in effect immediately before the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, as of the date of such enactment.

“(ii) Prohibition on new high-cost areas.—The limitations established pursuant to subparagraph (A) may not be increased, with respect to properties of any size located in a particular area unless, as of the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, such foregoing limitations in effect for such area for any size residence were determined under the authority provided in the last sentence of this paragraph, as in effect immediately before such enactment.”.

(b) Freddie Mac.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended—
(1) in the 7th sentence—

(A) in inserting “or subtracting from” after “adding to”; and

(B) by inserting “or decrease, respectively” before the first comma; and

(2) by striking the 8th and 9th sentences;

(3) by striking the last sentence;

(4) by inserting “(A)” after the paragraph designation; and

(5) by adding at the end the following new sub-
paragraph:

“(B) HIGH-COST AREAS.—

“(i) MAXIMUM ORIGINAL PRINCIPAL LIMITA-
TION.—Subject to clause (ii), the limitations estab-
lished pursuant to subparagraph (A) shall also be in-
creased, with respect to properties of a particular size located in any area for which 115 percent of the median house price for such size residence exceeds the limitation under subparagraph (A) for such size residence, to the lesser of—

“(I)(aa) for the first year beginning after

the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the difference between—
“(AA) 150 percent of the limitation under subparagraph (A) for such size residence; and

“(BB) $20,000 in the case of a 1-family residence, $25,604 in the case of a 2-family residence, $30,950 in the case of a 3-family residence, and $38,463 in the case of a 4-family residence;

“(bb) for the second year beginning after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the difference between—

“(AA) 150 percent of the limitation under subparagraph (A) for such size residence; and

“(BB) $40,000 in the case of a 1-family residence, $51,208 in the case of a 2-family residence, $61,900 in the case of a 3-family residence, and $76,926 in the case of a 4-family residence;

“(cc) for the third year beginning after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the difference between—
“(AA) 150 percent of the limitation under subparagraph (A) for such size residence; and

“(BB) $60,000 in the case of a 1-family residence, $76,812 in the case of a 2-family residence, $92,850 in the case of a 3-family residence, and $103,389 in the case of a 4-family residence;

“(dd) for the fourth year beginning after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the difference between—

“(AA) 150 percent of the limitation under subparagraph (A) for such size residence; and

“(BB) $80,000 in the case of a 1-family residence, $102,416 in the case of a 2-family residence, $123,800 in the case of a 3-family residence, and $153,852 in the case of a 4-family residence; and

“(ee) for the fifth year beginning after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the difference between—
“(AA) 150 percent of the limitation under subparagraph (A) for such size residence; and

“(BB) $100,000 in the case of a 1-family residence, $128,020 in the case of a 2-family residence, $154,750 in the case of a 3-family residence, and $192,315 in the case of a 4-family residence;

“(II) the amount that is equal to 115 percent of the median house price in such area for such size residence; or

“(III) the limitation in effect for such size residence for such area, pursuant to the last sentence of this paragraph as in effect immediately before the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, as of the date of such enactment.

“(ii) PROHIBITION ON NEW HIGH-COST AREAS.—The limitations established pursuant to subparagraph (A) may not be increased, with respect to properties of any size located in a particular area unless, as of the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, such foregoing limitations in effect for such area for any size residence were determined under
the authority provided in the last sentence of this paragraph, as in effect immediately before such enactment.”.

SEC. 106. MANDATORY RISK-SHARING.

Subpart A of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by adding after section 1327 (12 U.S.C. 4547) the following new section:

“SEC. 1328. MANDATORY RISK-SHARING TRANSACTIONS.

“(a) IN GENERAL.—The Director shall require each enterprise to develop and undertake transactions involving the guarantee by the enterprises of securities and obligations based on or backed by mortgages on residential real properties designed principally for occupancy of from 1 to 4 families that provide for private market participants to share or assume credit risk associated with such mortgages, as follows:

“(1) REQUIRED PERCENTAGE OF BUSINESS.—The Director shall require that not less than 10 percent of the annual business of each enterprise (as measured in such manner as the Director shall determine) in guaranteeing such securities and obligations involve such transactions.

“(2) MULTIPLE TYPES OF TRANSACTIONS.—The Director shall require that in complying with
paragraph (1), each enterprise undertake multiple
types of the various transactions and structures de-
scribed in subsection (b).

“(b) TYPES OF TRANSACTIONS.—The risk-sharing
transactions referred to in subsection (a) may include
transactions involving increased mortgage insurance re-
quirements, credit-linked notes and securities, senior and
subordinated security structures, and such other struc-
tures and transactions as the Director considers appro-
priate to increase private market assumption of credit
risk.”.

SEC. 107. LIMITATION OF ENTERPRISE MORTGAGE PUR-
CHASES TO QUALIFIED MORTGAGES.

(a) FANNIE MAE.—Section 302(b) of the Federal
1717(b)) is amended by adding at the end the following
new paragraph:

“(7) Effective for mortgages with application dates
on or after January 10, 2014, the corporation may only
purchase, make commitments to purchase, service, sell,
lend on the security of, or otherwise deal in a mortgage
that is a qualified mortgage (as such term is defined in
section 129C(b) of the Truth in Lending Act (15 U.S.C.
1639c(b); as added by section 1412 of the Dodd-Frank
Wall Street Reform and Consumer Protection Act (124
1 Stat. 2145)), in accordance with the regulations issued by
2 the Bureau of Consumer Financial Protection to carry out
3 such section.”.
4
5 (b) FREDDIE MAC.—Section 305(a) of the Federal
6 Home Loan Mortgage Corporation Act (12 U.S.C.
7 1454(a)) is amended by adding at the end the following
8 new paragraph:
9 “(6) Effective for mortgages with application dates
10 on or after January 10, 2014, the Corporation may only
11 purchase, make commitments to purchase, service, sell, lend on the security of, or otherwise deal in a mortgage
12 that is a qualified mortgage (as such term is defined in
13 section 129C(b) of the Truth in Lending Act (15 U.S.C.
14 1639c(b); as added by section 1412 of the Dodd-Frank
15 Wall Street Reform and Consumer Protection Act (124
16 Stat. 2145)), in accordance with the regulations issued by
17 the Bureau of Consumer Financial Protection to carry out
18 such section.”.
19
20 SEC. 108. PROHIBITION RELATING TO USE OF POWER OF
21 EMINENT DOMAIN.
22
23 (a) FANNIE MAE.—Subsection (b) of section 302 of
24 the Federal National Mortgage Association Charter Act
25 (12 U.S.C. 1717(b)) is amended by adding at the end the
26 following new paragraph:
“(7)(A) Notwithstanding any other provision of law, the corporation may not purchase or guarantee any mortgage that is secured by a structure or dwelling unit that is located within a county that contains any structure or dwelling unit that secures or secured a residential mortgage loan which mortgage loan was obtained by the State during the preceding 120 months by exercise of the power of eminent domain.

“(B) For purposes of this paragraph, the following definitions shall apply:

“(i) The term ‘residential mortgage loan’ means a mortgage loan that is evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a residential structure or a dwelling unit in a residential structure. Such term includes a first mortgage loan or any subordinate mortgage loan.

“(ii) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, and includes any agency or political subdivision of a State.”.

(b) FREDDIE MAC.—Subsection (a) of section 305 of the Federal Home Loan Mortgage Corporation Act (12
U.S.C. 1454(a)) is amended by adding at the end the following new paragraph:

“(6)(A) Notwithstanding any other provision of law, the Corporation may not purchase or guarantee any mortgage that is secured by a structure or dwelling unit that is located within a county that contains any structure or dwelling unit that secures or secured a residential mortgage loan which mortgage loan was obtained by the State during the preceding 120 months by exercise of the power of eminent domain.

“(B) For purposes of this paragraph, the following definitions shall apply:

“(i) The term ‘residential mortgage loan’ means a mortgage loan that is evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a residential structure or a dwelling unit in a residential structure. Such term includes a first mortgage or any subordinate mortgage.

“(ii) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, and includes any agency or political subdivision of a State.”.
SEC. 109. RECEIVER'S DISCRETIONARY AUTHORITY TO CREATE RECEIVERSHIP ENTITY.

Section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) is amended by striking subsection (i) and inserting the following:

“(i) RECEIVERSHIP ENTITY.—

“(1) AUTHORITY; ORGANIZATION.—The Agency, as receiver appointed pursuant to subsection (a), may establish a receivership entity in such form or structure as the Agency deems appropriate to meet the purposes of receivership and this section.

“(2) POWERS.—Upon creation of such receivership entity, the Agency may transfer to it any assets or liabilities of the regulated entity in default as the Agency, in its discretion, determines to be appropriate, and may authorize the receivership entity to perform any temporary function that the Agency, in its discretion, prescribes in accordance with this section. The transfer of any assets or liabilities of a regulated entity for which the Agency has been appointed receiver shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto. Such authority is in addition to any other power the Agency may
have as receiver or may confer on the receivership entity.

“(3) **EXEMPTION FROM TAXATION.**—Notwithstanding any other provision of Federal or State law, any receivership entity established by the Agency pursuant to this section, its franchise, property and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

“(4) **REGULATIONS.**—The Agency may promulgate such regulations as the Agency determines to be necessary or appropriate to implement this subsection.

“(5) **NO FEDERAL STATUS.**—A receivership entity established pursuant to this section shall not be an agency, establishment, or instrumentality of the United States.”.

SEC. 110. AUTHORITY OF RECEIVER TO REPEAL ENTERPRISE CHARTER.

Section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) is amended by striking subsection (k) and inserting the following new subsection:
“(k) Repeal of Enterprise charters.—

“(1) Fannie Mae.—Effective five years after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013, the charter of the Federal National Mortgage Association is repealed and the Federal National Mortgage Association shall have no authority to conduct new business under such charter, except that the provisions of such charter in effect immediately before such repeal shall continue to apply with respect to the rights and obligations of any holders of—

“(A) outstanding debt obligations of the Federal National Mortgage Association, including any—

“(i) bonds, debentures, notes, or other similar instruments;

“(ii) capital lease obligations; or

“(iii) obligations in respect of letters of credit, bankers’ acceptances, or other similar instruments; or


“(2) Freddie Mac.—Effective five years after the date of the enactment of the Protecting Amer-
ican Taxpayers and Homeowners Act of 2013, the charter of the Federal Home Loan Mortgage Corporation is repealed and the Federal Home Loan Mortgage Corporation shall have no authority to conduct new business under such charter, except that the provisions of such charter in effect immediately before such repeal shall continue to apply with respect to the rights and obligations of any holders of—

“(A) outstanding debt obligations of the Federal Home Loan Mortgage Corporation, including any—

“(i) bonds, debentures, notes, or other similar instruments;

“(ii) capital lease obligations; or

“(iii) obligations in respect of letters of credit, bankers’ acceptances, or other similar instruments; or

“(B) mortgage-backed securities guaranteed by the Federal Home Loan Mortgage Corporation.

“(3) EXISTING GUARANTEE OBLIGATIONS.—

“(A) EXPLICIT GUARANTEE.—The full faith and credit of the United States is pledged to the payment of all amounts which may be re-
quired to be paid under any obligation described in paragraph (1) or (2).

"(B) CONTINUED DIVIDEND PAYMENTS.—
Notwithstanding any other provision of law, provision 2(a) (relating to Dividend Payment Dates and Dividend Periods) and provision 2(c) (relating to Dividend Rates and Dividend Amount) of the Senior Preferred Stock Purchase Agreement, or any provision of any certificate in connection with such 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 Agreement—

"(i) shall not be amended, restated, or otherwise changed to reduce the rate or amount of dividends in effect pursuant to such Agreement as of the Third Amendment to such Agreement dated August 17, 2012, except that any amendment to such Agreement to facilitate the sale of assets of the enterprises shall be permitted; and

"(ii) shall remain in effect until the guarantee obligations described under
paragraphs (1)(B) and (2)(B) of this subsection are fully extinguished.

“(C) Applicability.—All guarantee fee amounts derived from the single-family mortgage guarantee business of the enterprises in existence as of five years after the date of the enactment of the Protecting American Taxpayers and Homeowners Act of 2013 shall be deposited into the United States Treasury, for purposes of deficit reduction.

“(D) Senior Preferred Stock Purchase Agreement Defined.—For purposes of this paragraph, the term ‘Senior Preferred Stock Purchase Agreement’ means—

“(i) the Amended and Restated Senior Preferred Stock Purchase Agreement, dated September 26, 2008, as such Agreement has been amended on May 6, 2009, December 24, 2009, and August 17, 2012, respectively, and as such Agreement may be further amended and restated, entered into between the Department of the Treasury and each enterprise, as applicable; and

“(ii) any provision of any certificate in connection with such 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 or sold pursuant to such Agreement.”.

**TITLE II—FHA REFORM**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “FHA Reform and Modernization Act of 2013”.

**SEC. 202. DEFINITIONS.**

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

1. **BOARD.**—The term “Board” means the Board of Directors of the FHA established under section 214.

2. **DIRECTOR.**—The term “Director” means the Director of the Federal Housing Finance Agency.

3. **FHA.**—The term “FHA” means the Federal Housing Administration established under this title.

4. **FIRST-TIME HOMEBUYER.**—The term “first-time homebuyer” means an individual who meets any of the following criteria:
(A) An individual, and his or her spouse, who has never had ownership in a principal residence.

(B) A single parent (as such term is defined in section 956 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12713)) who has only owned a principal residence with a former spouse while married.

(C) An individual who is a displaced homemaker (as such term is defined in such section 956 of the Cranston-Gonzalez National Affordable Housing Act) and has only owned a principal residence with a spouse.

(D) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.

(E) An individual who has only owned a property that was not in compliance with state, local or model building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.

(5) NATIVE AMERICAN GOVERNMENT.—The term “Native American government” means the government of any Indian or Alaska native tribe, band,
nation, pueblo, village or community that the Secre-
tary of the Interior acknowledges to exist as an In-
dian Tribe, pursuant to the Federally Recognized

(6) **Residential health care facility.**—
The term “residential health care facility” includes
a nursing home, a facility for long-term care, an in-
termediate care facility, a board and care home, an
assisted living facility, a public health center, an out-
patient facility, and a rehabilitation facility.

(7) **Secretary.**—The term “Secretary” means
the Secretary of Housing and Urban Development.

(8) **United States.**—The term “United
States” includes the States, the District of Colum-
bia, the Commonwealth of Puerto Rico, the Com-
monwealth of the Northern Mariana Islands, Guam,
the Virgin Islands, American Samoa, and Native
American governments.

**Subtitle A—Organization**

**SEC. 211. ESTABLISHMENT.**

(a) **In general.**—There is hereby established the
Federal Housing Administration, which shall be a body
corporate without capital stock and shall have succession
until dissolved by Act of Congress.
(b) Government Corporation.—The FHA shall be established as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this subtitle.

(c) Federal Agency.—

(1) In general.—The FHA shall be an agency of the United States, except that the FHA shall not be considered an agency for purposes of holding, managing, and disposing of assets acquired by the FHA under the provisions of this title or the National Housing Act.

(2) Holding, management, and disposal authority.—For purposes of this subsection, the term “holding, managing, and disposing of assets” includes the powers to—

(A) deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, establish suitable agencies for the management of, or exercise discretion to sell for cash or credit or lease, any acquired property;

(B) pursue collection by way of compromise or otherwise all assigned and transferred claims; and
(C) at any time, upon default, foreclose on any property secured by any assigned or transferred mortgage.

(d) **SELF-SUFFICIENT ENTITY.**—The FHA shall operate and conduct its business as a self-sufficient entity in accordance with section 235(c).

(e) **CORPORATE OFFICES AND RESIDENCY.**—The FHA shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia. The FHA may establish other offices in such other places as the FHA considers appropriate in the conduct of its business.

(f) **TAX STATUS.**—The FHA, including its franchise, activities, income, and assets, shall be exempt from all taxation now or hereafter imposed by any taxing authority in the United States, except that any real property of the FHA (other than real property that the FHA uses as an office) shall be subject to taxation to the same extent according to its value as any taxing authority taxes other real property.

(g) **PROTECTION OF NAME.**—

(1) **PROHIBITION.**—No person shall, except the body corporate established under this section, after the date of the enactment of this Act, use the words
“Federal Housing Administration” or the initials “FHA” as the name or part thereof under which such person shall do business.

(2) ENFORCEMENT.—Violations of paragraph (1) may be enjoined by any court of general jurisdiction at the suit of the FHA. In any such suit, the FHA may recover any actual damages resulting from such violation, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damages) of not more than $100 for each day during which such violation is committed or repeated.

SEC. 212. PURPOSES.

The FHA is established for the following purposes:

(1) To provide mortgage insurance and other credit enhancement and related activities, for—

(A) single family homeownership to first-time homebuyers, low- and moderate-income homebuyers, homebuyers in areas subject to counter-cyclical markets or Presidentially declared disasters;

(B) the provision of affordable rental housing; and

(C) the provision of residential health care facilities.
(2) To supplement private sector activity by serving hard-to-serve markets, developing new mortgage products, and filling gaps in the provision and delivery of mortgage credit.

(3) To deliver housing mortgage insurance and credit enhancement and provide other services in a non-discriminatory manner.

(4) To promote liquidity and provide stability to the single family and multifamily housing finance market, by continuing to provide mortgage insurance and credit enhancement on a sound basis during times of regional and national economic downturn.

(5) To engage in research, development, and testing of new products designed to make single family and multifamily housing and residential health care facility credit available to hard-to-serve markets.

(6) To establish uniformity in operations and risk management and loss mitigation in housing mortgage insurance and rural housing loan programs.

SEC. 213. GENERAL POWERS.

To further the purposes of this subtitle, in accordance with chapter 91 of title 31 of the United States Code (relating to government corporations), the FHA—
(1) may adopt, amend, and repeal by-laws, and other written administrative guidance;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) may insure, and make commitments to insure mortgages, to the extent authorized under this title, and enhance and make commitments to otherwise enhance credit, and in providing such insurance may reinsure, advance, incur liabilities, pool loans, and risk share;

(4) may acquire, hold, use, improve, deal in, or dispose of, by any means, any interests in any real property or any personal property;

(5) may execute contracts, and make other agreements in its own name, with any agency, public or private entity, or other person, and carry out any lawful requirement of such contracts, grants, or other agreements;

(6) may take any actions, including the restructuring of debt, that the FHA determines are necessary to manage any portfolio (including the portfolio of the FHA) of property, assets, and obligations;

(7) may—
(A) create and supply, alone or in cooperation with public or private entities or persons, any product or service consistent with its corporate purposes; and

(B) assess fees and charges for such products, information, and services in amounts, as determined by the FHA, that—

(i) do not exceed their value in the market;

(ii) permit the FHA to recover its fully allocated long-term costs; and

(iii) permit the FHA to maintain the level of capital determined by the FHA to be necessary and sufficient to carry out the public purposes of the FHA and as required under subtitle C;

(8) may create distinct insurance funds or other devices to segregate or permit limitations on liability for business activities or accounts;

(9) may qualify any person or entity to engage in business with the FHA and may enforce and impose penalties for the breach of any duties, obligations, and other commitments made by such persons or entities;
(10) shall take actions necessary to administer its business in a nondiscriminatory manner;

(11) may use the services or obtain the goods of any Federal agency, including the Department of Housing and Urban Development, under working or cooperation agreements or contracts with such agencies and make or receive payment for the cost of such activities;

(12) shall have the power, in its corporate name, to sue and be sued, and to complain and defend, in any court of competent jurisdiction, State or Federal, but no attachment, garnishment, injunction, or other similar process, mesne or final, shall be issued against the property of the FHA or against the FHA with respect to its property, and the FHA shall not be liable for interest prior to judgment, for punitive or exemplary damages, for penalties, or for claims based upon unjust enrichment, quasi-contract, or contracts implied-in-law, nor shall the FHA be subject to trial by jury;

(13) notwithstanding any other provision of law—

(A) shall be an agency of the United States Government and the officers and employees of the FHA shall be officers and employees
of the United States Government for purposes
of part IV of title 28, United States Code;

(B) shall have all civil actions to which the
FHA is a party deemed to arise under the laws
of the United States; and

(C) may, at any time before trial and with-
out bond or security, remove any civil or crimi-
nal action or proceeding in a State court to
which the FHA is a party to the United States
district court for the District of Columbia or to
the United States district court with jurisdic-
tion over the place where the civil action or pro-
ceeding is pending, by following any procedure
for removal of actions in effect at the time of
such removal;

(14) may—

(A) accept and use voluntary and uncom-
pensated services and accept, hold, administer,
and use gifts and bequests of property, both
real and personal, for the purpose of aiding or
facilitating the work of the FHA, and

(B) hold gifts and bequests of money and
the proceeds from sales of other property re-
ceived as gifts or bequests in a separate ac-
count, and such amounts shall be disbursed as
provided by the FHA;
except that property accepted pursuant to this para-
graph, and the proceeds thereof, shall be used as
nearly as possible in accordance with the terms of
the gift or bequest and, for the purpose of Federal
income, estate, and gift taxes, property accepted
under this paragraph shall be considered as a gift or
bequest to or for the use of the United States;
(15) shall have any transaction in which it par-
ticipates be exempt from the terms of any State or
other law or prohibition against payment of usurious
interest;
(16) may act as a fiduciary in connection with
any of its undertakings;
(17) may foreclose any single family mortgages
held by the FHA pursuant to the same procedures
and authority applicable to the Secretary under the
Single Family Mortgage Foreclosure Act of 1994;
(18) may foreclose any multifamily housing
mortgages held by the FHA pursuant to the same
procedures and authority applicable to the Secretary
under the Multifamily Mortgage Foreclosure Act of
1981;
(19) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents’ estates;

(20) may invest in systems, technology, or other capital resources, to enhance its ability to carry out the purposes of this title; and

(21) shall have and exercise all powers necessary or appropriate to effect any of the purposes of this title, including the power to carry out any authority delegated to the FHA by the Secretary.

SEC. 214. BOARD OF DIRECTORS.

(a) In General.—The powers of the FHA shall be vested in the Board of Directors of the FHA.

(b) Members and Appointment.—The Board of Directors shall consist of 9 individuals appointed by the President, who shall include the following individuals:

(1) The Secretary of Housing and Urban Development.

(2) The Secretary of Agriculture.

(3) Not less than 5 individuals who have expertise in mortgage finance.

(4) Not less than 2 individuals who have expertise in affordable housing serving low- and moderate-income populations.
(c) **CHAIRPERSON.**—The Secretary of Housing and Urban Development shall serve as the chairperson of the Board.

(d) **TERMS.**—

(1) **IN GENERAL.**—Each member of the Board appointed under paragraph (3) or (4) of subsection (b) shall be appointed for a term of 3 years, except as provided in paragraphs (2) and (3).

(2) **TERMS OF INITIAL APPOINTEES.**—As designated by the President at the time of appointment, of the members first appointed to the Board pursuant to paragraphs (3) and (4) of subsection (b)—

(A) 3 shall be appointed for terms of 1 year; and

(B) 4 shall be appointed for terms of 2 years.

(3) **VACANCIES.**—Any member appointed to fill a vacancy on the Board 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. A member may serve after the expiration of that member’s term until a successor has taken office. A vacancy on the Board shall be filled in the manner in which the original appointment was made.
(c) MEETINGS AND QUORUM.—The Board shall meet
at any time pursuant to the call of the Chairperson or
a majority of its members and as provided by the bylaws
of the FHA, but not less than quarterly. A majority of
the members of the Board shall constitute a quorum.

(f) POWERS.—The Board shall be responsible for the
general management of the FHA and shall have the same
authority, privileges, and responsibilities as the board of
directors of a private corporation incorporated under the

(g) DUTIES.—In performing its duties, the Board
shall—

(1) obtain guidance from participants in the
mortgage markets served by the FHA;

(2) assess the housing and mortgage insurance
needs of consumers and providers of single family
and multifamily housing and communities, and the
mortgage insurance needs of providers of residential
health care facilities;

(3) obtain information concerning housing fi-
nance markets in order to better assess how the
FHA can complement the roles of public and private
participants in such markets; and

(4) assist the Secretary of Housing and Urban
Development and the Secretary of Agriculture in co-
ordinating the roles of Federal housing, banking,  
and credit agencies generally, and particularly in the  
delivery of housing credit enhancement to families,  
communities, and hard-to-serve markets.

(h) COMPENSATION.—Members of the Board shall  
serve on a part-time basis and shall serve without pay.

(i) TRAVEL EXPENSES.—Each member shall receive  
travel expenses, including per diem in lieu of subsistence,  
in accordance with sections 5702 and 5703 of title 5,  
United States Code.

SEC. 215. OFFICERS AND PERSONNEL.

(a) APPOINTMENT OF OFFICERS.—The Board shall  
appoint a president and vice president of the FHA, and,  
except as provided in subsections (b) and (c), such other  
officers as are provided for in the bylaws of the FHA.

(b) CHIEF RISK OFFICER.—There shall be in the  
FHA a Chief Risk Officer, who—

(1) shall be appointed by the Board of Direc-
tors of the FHA;

(2) shall be selected from among individuals  
who possess demonstrated ability in the general  
management of, and knowledge of and extensive  
practical experience in, risk evaluation practices in  
large governmental or business entities;

(3) shall be—
(A) responsible for all matters relating to managing and mitigating risk to the mortgage insurance programs of the FHA and ensuring the performance of mortgages insured by the FHA; and

(B) responsible for all matters relating to managing and mitigating risk to the housing loans made, insured, or guaranteed under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) and ensuring the performance of such housing loans;

(4) shall not be subject to the review or approval of the Board of Directors of the FHA or the Secretary of Agriculture with respect to the exercise of the responsibilities under subparagraph (A) or (B), respectively, of paragraph (3); and

(5) shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Chief Risk Officer of the FHA and do not nec-
essarily represent the views of the Board of Directors of the FHA or the Secretary of Agriculture.

(c) **Chief Technology Officer.**—There shall be in the FHA a Chief Technology Officer, who—

(1) shall be appointed by the Board of Directors of the FHA;

(2) shall be selected from among individuals who possess demonstrated ability in the general management of, and knowledge of and extensive practical experience in, information technology management practices in, large governmental or business entities;

(3) shall be—

(A) responsible for all matters relating to information technology management relating to the mortgage insurance programs of the FHA; and

(B) responsible for all matters relating to information technology management relating to the programs for making, insuring, and guaranteeing housing loans under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.); including analysis and assessment of the information technology infrastructures, information technology strategy, and use of information technology, ensur-
ing the security and privacy of information technology infrastructure and networks, and promoting technological innovation;

(4) shall not be subject to the review or approval of the Board of Directors of the FHA or the Secretary of Agriculture with respect to the exercise of the responsibilities under subparagraph (A) or (B), respectively of paragraph (3); and

(5) shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Chief Technology Officer of the FHA and do not necessarily represent the views of the Board of Directors of the FHA or the Secretary of Agriculture.

(d) APPOINTMENT OF EMPLOYEES.—Subject to subtitle D, the Board shall appoint such other employees of the FHA as the Board considers necessary for the transaction of the FHA’s business.

(e) COMPENSATION, DUTIES, AND REMOVAL.—

(1) IN GENERAL.—The Board shall fix the compensation of all officers and employees of the FHA
and define their duties. Officers and employees shall be appointed, promoted, assigned, and removed on the basis of qualifications, and any such actions taken shall be consistent with the principles of fairness, nondiscrimination, and due process.

(2) CONSIDERATIONS IN FIXING COMPENSATION.—In fixing and directing compensation for officers and employees of the FHA, the Board shall consult and maintain comparability with the compensation provided by the Government National Mortgage Association, the Federal Housing Finance Agency, the Comptroller of Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation to officers and employees of such entities.

(f) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The officers and employees of the FHA shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(g) USE OF FEDERAL AGENCIES.—In carrying out its purposes, the FHA may use information, services,
staff, and facilities of any executive agency, independent
agency, or department (including the Department of
Housing and Urban Development), with the consent of the
agency or department, and shall reimburse the agency or
department for the cost of such information, services,
staff, and facilities.

(h) INDEMNIFICATION.—The FHA may provide for
the indemnification of any officer, employee, contractor,
or agent of the FHA on such terms as the FHA deter-
mines proper, except that, to the extent that the FHA self-
insures for any indemnification—

(1) the aggregate maximum amount of indem-
nification outstanding at any time shall not exceed
5 percent of the amount of capital required under
section 256 to be maintained by the Mutual Mort-
gage Insurance Fund; and

(2) not more than $1,000,000 may be paid as
an indemnity for any single event.

(i) AMENDMENTS TO HOUSING ACT OF 1949.—Sec-
tion 501 of the Housing Act of 1949 (42 U.S.C. 1471)
is amended by adding at the end the following new sub-
sections:

“(k) AUTHORITY OF CHIEF RISK OFFICER OF
FHA.—The Chief Risk Officer of the FHA appointed pur-
suant to section 215(b) of the FHA Reform and Mod-
ernization Act of 2013 shall be solely responsible for all matters relating to evaluating, managing, and mitigating risk to the programs under this title for making, insuring, and guaranteeing housing loans and ensuring the performance of such housing loans, and such authority shall not be subject to the review or approval of the Secretary.

“(l) Authority of Chief Technology Officer of FHA.—The Chief Technology Officer of the FHA appointed pursuant to section 215(c) of the FHA Reform and Modernization Act of 2013 shall be solely responsible for all matters relating to information technology management relating to the programs under this title for making, insuring, and guaranteeing housing loans, and such authority shall not be subject to the review or approval of the Secretary.”.

SEC. 216. FINANCIAL, UNDERWRITING, AND OPERATIONS SYSTEMS.

(a) In General.—The FHA shall develop and maintain such financial, underwriting, and operations systems as may be necessary to carry out the responsibilities of the FHA. Such systems shall be designed and developed in a manner so that such systems shall also be used for the financial, underwriting, and operations systems, respectively, of the programs under title V of the Housing
Act of 1949 for making, guaranteeing, and insuring rural housing loan programs.

(b) Use by Rural Housing Service Programs.—

(1) Availability.—All financial, underwriting, and operations systems of the FHA shall be available to the Secretary of Agriculture to the extent necessary to ensure compliance with section 501(m) of the Housing Act of 1949 (42 U.S.C. 1471(l)).

(2) Use.—Section 501 of the Housing Act of 1949 (42 U.S.C. 1471), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

“(m) Use of FHA Systems.—The Secretary, the Chief Risk Officer of the FHA, and the Chief Technology Officer of the FHA shall utilize the financial, underwriting, and operations systems of the FHA in carrying out all financial, underwriting, and operations functions with respect to the programs under this title for making, insuring, or guaranteeing housing loans.”.

SEC. 217. PROCUREMENT.

(a) In General.—The FHA shall establish an economical and results-oriented system for the procurement, supply, and disposition by the FHA of personal property and services, which shall include performance measures and standards for determining the extent to which the
FHA’s procurement of property and services satisfies the objective for which the procurement was undertaken. The system shall be consistent with the principles of impartiality and competitiveness.

(b) Exemption from Federal Property and Administrative Service Act Requirements.—Section 113(e) of title 40, United States Code, is amended—

(1) in paragraph (19), by striking “or” at the end;

(2) in paragraph (20), by striking the period at the end and inserting “; or” ; and

(3) by adding at the end the following new paragraph:

“(21) The Federal Housing Administration; and”.

c) Exemption from Procurement Protest System.—Subchapter V of chapter 35 of title 31, United States Code, relating to the procurement protest system, shall not apply to the FHA.

SEC. 218. APPLICABILITY OF LAWS.

(a) Exemption from Notice and Comment Rulemaking.—Any matter relating to credit enhancement or other business activities of the FHA authorized under this title shall be considered a matter relating to agency management or personnel or to public property,
loans, grants, benefits, or contracts, for purposes of section 553(a) of title 5, United States Code.

(b) SUBSIDY LAYERING.—For purposes of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989, mortgage insurance and other credit enhancement provided under this title shall not be considered assistance within the jurisdiction of the Department.

(e) GOVERNMENT CORPORATION CONTROL ACT.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

“(S) the Federal Housing Administration.”.

(d) TAX EXEMPT STATUS OF FHA.—Section 501(l) of the Internal Revenue Code of 1986 (26 U.S.C. 501(l)) is amended by adding at the end the following new paragraph:

“(5) The Federal Housing Administration established under the FHA Reform and Modernization Act of 2013.”.

SEC. 219. EVALUATION.

(a) IN GENERAL.—The Director shall conduct a study and submit a report to the President and the Congress on—
(1) whether this title provides sufficient authority to permit the FHA to accomplish its public purposes efficiently and effectively, and in a safe and sound manner;

(2) the impact of the limitations on business activities as to mortgage amounts and aggregate commitments, and any other statutory limitations, on the current and anticipated business activity of the FHA; and

(3) whether the provisions of subtitle C appropriately provide that the FHA will be operated in a safe and sound manner and will fulfill the public purposes of its establishment.

(b) Timing.—The report required by this section shall be submitted on the third January 1st occurring after the conclusion of the transition period under section 281.

SEC. 220. FUNDING.

(a) Funding of Salaries and Expenses.—There is authorized to be appropriated for each fiscal year to the FHA, for salaries, expenses, and technology for the management and operations of the FHA an amount not exceeding the amount of the negative subsidy credited to the negative subsidy receipt account not needed for re-
serves of the funds of the FHA pursuant to sections 256
and 259.

(b) FUNDING OF CLAIMS.—

(1) AVAILABILITY OF FUNDS.—Amounts cred-
ited to the financing account of the FHA, estab-
lished pursuant to title V of the Congressional
Budget Act of 1974, shall be permanently and in-
definitely available for payment of any claim that
the FHA approves under a contract of insurance or
other credit enhancement instrument pursuant to
this title.

(2) BORROWING AUTHORITY.—

(A) IN GENERAL.—To the extent that such
amounts are insufficient for such purpose, the
FHA may borrow from the Treasury pursuant
to title V of the Congressional Budget Act of
1974.

(B) NOTICE TO CONGRESS.—Upon exer-
cising the authority referred to in subparagraph
(A), the FHA shall submit to the Congress—

(i) notice of such exercise of authority
and the extent of the borrowing under-
taken;

(ii) a plan for repayment to the
Treasury of the amounts borrowed, speci-
fying the time and amounts of such pay-
ments; and

(iii) if such borrowing is for the Mu-
tual Mortgage Insurance Fund, how the
FHA will comply with the capital restora-
tion plan required under section 257(c).

SEC. 221. EFFECTIVE DATE.

This subtitle shall take effect on the date of the en-
actment of this Act.

Subtitle B—Business Authority and
Requirements

SEC. 231. AUTHORITY TO CARRY OUT FHA AND OTHER
BUSINESS.

(a) IN GENERAL.—After the expiration of the transi-
tion period under section 281—

(1) the FHA may exercise (in addition to pow-
ers set forth in section 282) any authority and un-
dertake any responsibilities of the Secretary of
Housing and Urban Development under the Na-
tional Housing Act (as amended by this title) relat-
ing to mortgage insurance, except as otherwise pro-
vided in this title and except that any authority that
requires an appropriation may be conducted only to
the extent that amounts are so appropriated;
(2) any amounts in the Mutual Mortgage Insurance Fund under section 202(a) of the National Housing Act (12 U.S.C. 1708(a)), any amounts in the General Insurance Fund and Special Risk Insurance Fund under sections 519 and 238(b), respectively, of such Act (12 U.S.C. 1735c, 1715z–3(b)), and any amounts in the Cooperative Management Housing Insurance Fund under section 213(k) of such Act (12 U.S.C. 1715e(k)), shall be used by the FHA only—

(A) for meeting any obligations of such Funds entered into before such transition date; and

(B) for carrying out the mortgage insurance obligations of the FHA pursuant to section 282(1) of this title and paragraph (1) of this section; and

(3) the FHA may exercise any authority of the FHA under this title.

(b) TERMINATION OF SECRETARY'S FHA AUTHORITY.—After the expiration of the transition period under section 281, the Secretary may not exercise any authority under the National Housing Act relating to mortgage insurance. This subsection may not be construed to limit
or otherwise affect the Secretary’s authority under title I of the National Housing Act (12 U.S.C. 1702 et seq.).

(c) CONTINUATION OF OBLIGATIONS.—This section and section 282(1) may not be construed to affect the validity of any right, duty, or obligation of the United States or other person arising under or pursuant to any commitment or agreement lawfully entered into with the Secretary of Housing and Urban Development under the National Housing Act.

SEC. 232. ELIGIBLE SINGLE-FAMILY MORTGAGES.

(a) IN GENERAL.—Notwithstanding section 203 of the National Housing Act (12 U.S.C. 1709) or any other provision of law, the FHA may insure, and make commitments to insure, a mortgage on a 1- to 4-family residential property only if the mortgage complies with the following requirements:

(1) MORTGAGE AMOUNT.—The mortgage shall involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the FHA shall approve) in an amount not to exceed the following amounts:

(A) APPRAISED VALUE.—100 percent of the appraised value of the property.

(B) AREA LIMITATION.—
(i) **MAXIMUM LIMIT.**—The lesser of

the following amounts:

(I) In the case of—

(aa) a 1-family residence,

115 percent of the median 1-family house price in the area in

which such residence is located, as determined by the FHA; and

(bb) in the case of a 2-, 3-, or 4-family residence, the per-

centage of such median price that bears the same ratio to such

median price as the dollar amount limitation determined

under the sixth sentence of section 305(a)(2) of the Federal

Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2))

for a 2-, 3-, or 4-family resi-

dence, respectively, bears to the
dollar amount limitation deter-

mined under such section for a 1-

family residence; or

(II) 150 percent of the dollar

amount limitation determined under
the sixth sentence of such section 305(a)(2) for a residence of the applicable size.

For purposes of the preceding sentence, the term “area” means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price.

(ii) MINIMUM LIMIT.—Notwithstanding clause (i), the principal obligation limitation in effect for any area under this subparagraph may not be less than the greater of—

(I) 375 percent of the median income for the area, as determined by the FHA; or

(II) $200,000.

(2) DOWNPAYMENT.—The mortgage shall be executed by a mortgagor who shall have paid on account of the property subject to the mortgage an amount, in cash or its equivalent, equal to or exceeding—
(A) 5 percent of the cost of acquisition of
the property, as determined by the FHA; or

(B) in the case of a mortgage under which
the mortgagor is a first-time homebuyer and for
which such credit enhancement as the FHA
shall determine has been provided, 3.5 percent
of the cost of acquisition of the property, as de-
termined by the FHA.

(3) PUBLIC PURPOSE REQUIREMENT.—The
mortgage shall meet the requirements of any one of
the following subparagraphs:

(A) FIRST-TIME HOMEBUYER.—The mort-
gagor under the mortgage is a first-time home-
buyer (as such term is defined in section 202)
of the property subject to the mortgage and the
property is used as the principal residence of
the mortgagor.

(B) LOW- OR MODERATE-INCOME MORT-
gAGOR.—The mortgagor under the mortgage is
a member of a family as follows:

(i) IN GENERAL.—A family having an
income that is less than 115 percent of the
median income, as determined by the
FHA, for the area in which the property
subject to the mortgage is located, except
that the FHA may establish income ceilings higher or lower than 115 percent of the median for the area to take into consideration various sizes of families.

(ii) HIGH-COST AREAS.—A family that—

(I) resides in any area for which the median 1-family house price exceeds the maximum dollar amount limitation in effect for that year on the original principal obligation of a mortgage on a 1-family residence that may be purchased by the Federal Home Loan Mortgage Corporation, as determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); and

(II) has an income that is less than 150 percent of the median income, as determined by the FHA, for the area in which the property subject to the mortgage is located, except that the FHA may establish income ceilings higher or lower than 150 percent
of the median for the area to take
into consideration various sizes of
families.

For purposes of this subparagraph, the term
“area” has the meaning given such term in the
last sentence of paragraph (1)(B)(i).

(C) COUNTER-CYCLICAL MARKET ADJUST-
MENT.—The property subject to the mortgage
is located in a county or counties for which a
determination under this subparagraph has
been made, as follows:

(i) DETERMINATION.—A mortgage
may be insured pursuant to this subpara-
graph only upon a joint determination by
the Director and the Chief Risk Officer
that—

(I) available credit for the pur-
chase of 1- to 4-family homes located
in such county or counties has con-
tracted significantly, as measured by
the credit availability measure of the
Office of the Comptroller of the Curr-
rency;

(II) housing prices in such coun-
ty or counties have declined signifi-
cantly, as measured by the applicable housing price index of the Federal Housing Finance Agency; or

(III) available credit for the purchase of housing or such other economic conditions exist sufficient to evidence a significant contraction of capital in such county or counties, as measured by a metric identified by the Director and the Chief Risk Officer in a written notice made publicly available, and provided to the Congress, in advance of such determination.

(ii) Conditions of Termination.—Upon making a determination under clause (i), the Director and the Chief Risk Officer shall also identify measurable criteria for determining that the conditions determined under clause (i) for such county or counties have ceased to exist.

(iii) Notice to Congress.—Upon making a determination under clause (i), the Director and the Chief Risk Officer shall provide written notice to the Congress of such determination and the specific
measurable criteria identified pursuant to clause (ii).

(iv) TERMINATION.—The authority to insure mortgages pursuant to this subparagraph on properties located in a county or counties shall terminate upon the earlier of—

(I) the expiration of the 18-month period beginning upon the date that notification under clause (iii) is provided to the Congress of the determination under clause (i) with respect to such county or counties; or

(II) the occurrence of the conditions identified pursuant to clause (ii) with respect to such county or counties.

(v) MULTIPLE DETERMINATIONS.—Nothing in this subparagraph may be construed to prevent multiple or consecutive periods for a county or counties during which mortgages on properties located in such county or counties may be insured pursuant to this subparagraph.
(D) DISASTER AREA.—The Board of Directors exercises the authority to insure mortgages under this subparagraph, subject to the following requirements:

(i) IMPLEMENTATION.—The Board of Directors may implement authority to insure mortgages under this subparagraph only if the Board—

(I) by a vote of the majority of its members, approves such implementation for a specific disaster area under clause (iii) and a specific disaster period under clause (iv); and

(II) notifies the Congress and the President in writing of such approval, such disaster period, and such disaster area not less than 30 days before the commencement of the disaster period.

(ii) ELIGIBLE MORTGAGES.—The FHA may insure, or make a commitment to insure, a mortgage under authority under this subparagraph only if—

(I) the mortgage is made for the purchase of a principal residence by a
mortgagor whose home (that the
mortgagor occupied as an owner or
tenant) was located in a disaster area
described under clause (iii) and was
destroyed or damaged to such an ex-
tent that reconstruction is required,
as a result of a major disaster de-
clared by the President under the
Robert T. Stafford Disaster Relief
and Emergency Assistance Act; and

(II) the commitment for mort-
gage insurance is made during the
disaster period established under
clause (iv) for such disaster area.

(iii) DISASTER AREA.—A disaster
area may be established for purposes of
this subparagraph only for the area af-
fected by a major disaster, as declared by
the President under the Robert T. Stafford
Disaster Relief and Emergency Assistance
Act, or a portion of such area, as deter-
mined by the FHA.

(iv) DISASTER PERIOD.—A disaster
period established for purposes of this sub-
paragraph shall—
(I) commence upon or after the declaration of the major disaster referred to in clause (iii); and

(II) terminate on the date certain approved by the Board of Directors under clause (i)(I) and contained in the notice under clause (i)(II), which shall not be later than 18 months after the commencement of the period.

(b) CONFORMING AMENDMENTS.—Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended—

(1) by striking paragraph (2); and

(2) in paragraph (9)—

(A) by striking subparagraph (A); and

(B) in subparagraph (B), by striking “this paragraph” and inserting “section 202(a)(2) of the FHA Reform and Modernization Act of 2013”.

SEC. 233. RISK-SHARING.

(a) DEVELOPMENT OF DEMONSTRATION MODEL.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the FHA shall develop and implement a model and standards for entering into risk-sharing agreements with respect to
mortgages insured by the FHA, under which the FHA shall insure a portion of the amount of the mortgage and persons or entities determined under the guidelines established pursuant to subsection (b) to be qualified to participate in such an agreement shall insure the remainder (or another) portion of the amount of the eligible mortgage.

(b) QUALIFICATIONS OF RISK-SHARING PARTNERS.—

(1) ESTABLISHMENT.—The model and standards established under this section shall include guidelines for the qualification of persons or entities to participate in risk-sharing and other credit enhancement activities with the FHA.

(2) PROCEDURES.—In establishing such guidelines, the FHA shall review the guidelines established by the Director for qualification of persons or entities to participate in risk-sharing and other credit enhancement activities with the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation. The FHA shall determine whether such guidelines for such enterprises are sufficient for purposes of the FHA, including whether such guidelines meet the requirements under paragraph (3), and—
(A) if the FHA determines that such guidelines are so sufficient, the FHA shall adopt such guidelines for purposes of this section, to the extent appropriate, with any changes necessary to account for differences between the mortgages insured under this title and the National Housing Act and the business under such provisions and the business of such enterprises; or

(B) if the FHA determines that such guidelines are not so sufficient, the FHA shall adopt such guidelines for purposes of this section, to the extent appropriate and with changes referred to in subparagraph (A), together with additional criteria sufficient to address any such insufficiency.

(3) CONTENT.—Such guidelines shall ensure that—

(A) persons or entities participating in risk-sharing and other credit enhancement activities pursuant to this section have sufficient capital, credit worthiness, and liquidity, and are otherwise capable of fulfilling their obligations to the FHA;
(B) such persons or entities and their principals or officers are not engaged in a business the goals of which would conflict with the purposes of the FHA or the National Housing Act; and

(C) product or service delivery will be conducted in a manner that is efficient and effective, and that will comply with the requirement under section 211(d).

(c) RISK-SHARING REQUIREMENT.—

(1) REQUIREMENT.—After the expiration of the 2-year period referred to in subsection (a), the FHA shall ensure that, in each fiscal year, not less than 10 percent of any new business in mortgages on 1- to 4-family residential property is insured pursuant to a risk-sharing agreement with respect to such mortgage that complies with the standards established pursuant to subsection (a).

(2) LIMITATION.—In any fiscal year, the FHA may not comply with paragraph (1) by entering into risk-sharing agreements with respect only to one or a limited number of types or categories of mortgages, or mortgages having only particular, or a particular range of, original principal obligation amounts, but shall enter into risk-sharing agree-
ments for all types and amounts of mortgages insured by the FHA, to the extent required under paragraph (1).

(3) NEW BUSINESS.—For purposes of this subsection, with respect to a fiscal year, the term “new business” means the aggregate dollar amount of the principal obligations of mortgages for which a commitment to insure is made pursuant to the National Housing Act or this title, as applicable, during such fiscal year.

(d) REPORTS TO CONGRESS.—Upon the expiration of each of the 3- and 5-year periods beginning on the date of the enactment of this Act, the FHA shall submit a report to the Congress on the findings and results of risk-sharing activities under this section. Such reports shall describe the model and standards for entering into risk-sharing agreements, analyze appropriate dollar amount limits for the original principal obligations of mortgages that should be subject to a risk-sharing requirement, identify the effects of such risk-sharing activities on the Mutual Mortgage Insurance Fund, and make recommendations regarding expanding the risk-sharing requirement under subsection (c).

(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act. During the tran-
sition period under section 281, any reference in this sec-
tion to the FHA shall be construed to refer to the Sec-
retary to the extent the Secretary has not delegated au-
thority under this section to the FHA pursuant to section
282(1).

SEC. 234. LIMITATION ON MORTGAGE INSURANCE COV-
ERAGE.

(a) LIMITATION.—Notwithstanding any other provi-
sion of this title or the National Housing Act, the FHA
may not insure, or make any commitment to insure, any
portion of any mortgage on a 1- to 4-family residential
property in excess of the amount equal to the following
percentage of the original principal obligation of the mort-
gage:

(1) In the case of any such mortgage insured
after the expiration of the 1-year period beginning
on the date of the enactment of this Act, 90 percent
of such original principal obligation, subject to para-
graphs (2) through (5).

(2) In the case of any such mortgage insured
after the expiration of the 2-year period beginning
on the date of the enactment of this Act, 80 percent
of such original principal obligation, subject to para-
graphs (3) through (5).
(3) In the case of any such mortgage insured after the expiration of the 3-year period beginning on the date of the enactment of this Act, 70 percent of such original principal obligation, subject to paragraphs (4) and (5).

(4) In the case of any such mortgage insured after the expiration of the 4-year period beginning on the date of the enactment of this Act, 60 percent of such original principal obligation, subject to paragraph (5).

(5) In the case of any such mortgage insured after the expiration of the 5-year period beginning on the date of the enactment of this Act, 50 percent of such original principal obligation.

(b) Effective Date.—This section shall take effect on the date of the enactment of this Act. During the transition period under section 281, any reference in this section to the FHA shall be construed to refer to the Secretary to the extent the Secretary has not delegated authority under this section to the FHA pursuant to section 282(1).

SEC. 235. PREMIUMS.

(a) Establishment.—The FHA shall establish and collect premium payments for mortgage insurance provided pursuant to this title and the amendments made by
this title, and shall provide for sharing of premiums with
entities entering into risk-sharing agreements with the
FHA pursuant to section 233 based on the relative portion
of the mortgage insured and the risk of loss borne.

(b) MINIMUM PREMIUMS.—In the case of mortgages
on 1- to 4-family residential properties insured by the
FHA, the premiums established and collected by the FHA
shall include an annual premium payment in an amount
not less than 0.55 percent of the remaining insured prin-
cipal balance (excluding the portion of the remaining bal-
ance attributable to any premium collected at the time of
insurance and without taking into account delinquent pay-
ments or prepayments) for the entire term of the mort-
gage.

(c) SELF-SUFFICIENT OPERATIONS.—Notwith-
standing section 203(c) of the National Housing Act (12
U.S.C. 1709(c)) or any other provision of law, premium
rates established under this section shall be established in
amounts sufficient to cover—

(1) costs of providing mortgage insurance cov-
erage under this title;

(2) costs for administration, operations, man-
agement, and technology systems for the FHA for
cARRYING OUT THIS TITLE;
(3) the capital ratio required for the Mutual
Mortgage Insurance Fund under section 256(b) and
under section 259 with respect to mortgage insur-
ance for mortgages on multifamily properties; and

(4) salaries and expenses for officers and per-
sonnel of the FHA.

(d) RISK-BASED PREMIUMS.—The FHA may, with
respect to mortgages on 1- to 4-family residential prop-
erties insured by the FHA, establish a mortgage insurance
premium structure involving a single premium payment
collected prior to the insurance of the mortgage or annual
payments (which may be collected on a periodic basis), or
both. Under such structure, the rate of premiums for such
a mortgage may vary according to the credit risk associ-
ated with the mortgage and the rate of any annual pre-
mium for such a mortgage may vary during the mortgage
term, except that the basis for determining the variable
rate shall be established before the execution of the mort-
gage. The FHA may change a premium structure estab-
lished under this subsection, but only to the extent that
such change is not applied to any mortgage already exe-
cuted.

(e) SAVINGS PROVISION.—Nothing in this section
may be construed to affect premiums charged for mort-
gage insurance provided for mortgages insured before the

date of the enactment of this Act.

SEC. 236. DEFAULT AND FORECLOSURE STATEMENT.

(a) Written Statement.—The FHA shall ensure

that each mortgagor under a mortgage on a 1- to 4-family

residential property insured by the FHA is provided, by

the mortgagee at the time that such mortgage is origi-
nated, with a written statement containing the informa-
tion required under subsection (b).

(b) Default and Foreclosure Information.—

The information required under this subsection with re-
spect to a mortgage is information identifying the percent-
age (as determined according to historical rates of default

and foreclosure) of mortgages on 1- to 4-family residential

properties that were insured pursuant to this title and the

National Housing Act and that had mortgagors who have

the same risk profile and mortgage product as the mort-
gagor receiving the written statement pursuant to this sec-
tion (as determined in accordance with guidelines estab-
lished by the FHA) that—

(1) during the terms of such mortgages, experi-
enced a default on payments due under such mort-
gages; and

(2) were foreclosed upon during the terms of

such mortgages.
SEC. 237. OCCUPANCY AND RENT LIMITATIONS FOR MULTI-FAMILY MORTGAGE INSURANCE.

(a) In General.—Notwithstanding any provision of the National Housing Act or any other provision of law, the FHA may not insure any mortgage on a residential property having 5 or more dwelling units unless the property is subject to such binding terms and conditions, including such occupancy and rent restrictions, as are satisfactory to the FHA to ensure that the property includes dwelling units, to the extent determined by the FHA to be appropriate, for which occupancy is restricted during the entire term of the mortgage to only the following families:

(1) In General.—A family having an income that is less than 115 percent of the median income, as determined by the FHA, for the area in which the property subject to the mortgage is located, except that the FHA may establish income ceilings higher or lower than 115 percent of the median for the area to take into consideration various sizes of families.

(2) High-Cost Areas.—A family that—

(A) resides in any area in which the median 1-family house price exceeds the maximum dollar amount limitation in effect for that year on the original principal obligation of a mortgage on a 1-family residence that may be pur-
chased by the Federal Home Loan Mortgage Corporation, as determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); and

(B) has an income that is less than 150 percent of the median income, as determined by the FHA, for the area in which the property subject to the mortgage is located, except that the FHA may establish income ceilings higher or lower than 150 percent of the median for the area to take into consideration various sizes of families.

(b) Lower Incomes.—Subsection (a) may not be construed to prevent the FHA from establishing occupancy, income, and rent restrictions that establish limits on incomes for families occupying income-restricted units in a property that are lower than the incomes specified in subsection (a).

(c) Area.—For purposes of this section, the term “area” has the meaning given such term in the last sentence of section 232(a)(1)(b)(i).

SEC. 238. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle, except for sections 233 and 234, shall take effect
upon the expiration of the transition period under section 281.

Subtitle C—Financial Safety and Soundness

SEC. 251. AUTHORITY OF DIRECTOR.

(a) DUTY.—The Director of the Federal Housing Finance Agency shall supervise and regulate the safety and soundness of the FHA and the programs of the Rural Housing Service of the Department of Agriculture for housing loans made, insured, or guaranteed under title V of the Housing Act of 1949, and it shall be the duty of the Director to ensure that the FHA and such Rural Housing Service programs are adequately capitalized and operating safely.

(b) AUTHORITY.—The Director may make such determinations, take such actions, and perform such functions as the Director determines necessary to meet the responsibilities of the Director under this subtitle.

SEC. 252. BUDGETS AND BUSINESS PLANS.

(a) SUBMISSION OF BUSINESS-TYPE BUDGET.—In each year, the FHA shall prepare and submit an annual budget as required under section 9103 of title 31, United States Code, and shall submit such budget to the Director by a date sufficient to enable the Director to produce, pursuant to section 255(c) of this title, the credit subsidy cost
estimates that are required for the budget of the United States Government under section 1105(a) of title 31, United States Code.

(b) SUBMISSION OF BUDGET AND CREDIT COST ESTIMATES TO OMB.—For purposes of inclusion in the budget of the United States Government, the FHA shall submit the annual budget of the FHA and the annual credit subsidy cost estimates produced pursuant to section 255(e) of this title to the Director of the Office of Management and Budget.

(c) RESERVES.—

(1) ESTABLISHMENT.—Subject to sections 256 and 259, the FHA may establish any reserve that the FHA determines is necessary for the business operations of the FHA.

(2) AMOUNTS.—The FHA may hold as a reserve in any financing account, as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), such amounts as the FHA considers necessary to comply with the capital requirements established for the FHA under sections 256 and 259 of this title and to fulfill the purposes of this title.

SEC. 253. ANNUAL BUSINESS PLAN; USE OF GAAP.

(a) ANNUAL BUSINESS PLAN.—The FHA shall establish a business plan on an annual basis and shall make
such plan available for review by the Director. Such plan shall specify the products and operational strategy of the FHA, including plans to address compliance with the safety and soundness requirements applicable to the FHA.

(b) USE OF GAAP.—Any financial reporting of the FHA, including the preparation of the annual business plan required by subsection (a), the annual budget required in accordance with section 252(a), and any financial statements of the FHA, shall be conducted in accordance with generally accepted accounting principles applicable to the private sector.

SEC. 254. EXAMINATIONS, REPORTS, AND COST ESTIMATES.

(a) EXAMINATIONS.—The Director shall conduct such examinations of the FHA and the Rural Housing Service programs referred to in section 251(a) as the Director determines necessary to evaluate the safety and soundness of the FHA and such programs. Such examinations shall be subject to and governed by subsections (c) through (h) of section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517), except that the last sentence of subsection (c) shall not apply and any reimbursements referred to in such sentence shall be made from amounts collected under section 255 of this title.
(b) Reports.—The Director may require the FHA and the Rural Housing Service to submit, within a reasonable period of time, any regular or special report, data, or other information whenever, in the judgment of the Director, such report, data, or information is necessary to carry out the Director’s responsibilities under this title.

(e) Credit Subsidy Cost Estimates.—

(1) In General.—The Director shall produce and submit to the Director of the Office of Management and Budget the annual credit subsidy cost estimates for the FHA and the Rural Housing Service programs referred to in section 251(a) required for the President’s budget. Such estimates shall be consistent with the estimates of performance generated by the risk-based capital model developed in accordance with section 257(b), and with the President’s economic forecast.

(2) Unified Estimates.—The annual credit subsidy cost estimates produced under this subsection by the Director shall be reported on a unified basis, which shall be based upon the business of the FHA, and the Rural Housing Service programs referred to in section 251(a), as a whole.

(d) Annual Report on Safety and Soundness.—The Director shall submit an annual report to
Congress and the Director of the Office of Management and Budget on the financial safety and soundness of the FHA and the Rural Housing Service programs referred to in section 251(a), as measured pursuant to this subtitle.

SEC. 255. REIMBURSEMENT OF COSTS.

(a) ASSESSMENT AND COLLECTION.—The Director shall assess and collect from the FHA and the Secretary of Agriculture annual assessments in such amounts determined by the Director as necessary to reimburse the Federal Housing Finance Agency for the reasonable costs and expenses of the activities undertaken by such Agency to carry out the duties of the Director under this subtitle, including the costs of examination, enforcement, and oversight expenses.

(b) REQUIREMENTS.—Annual assessments imposed by the Director shall be—

(1) imposed prior to October 1 of each year;

(2) allocated among the FHA and the Secretary of Agriculture proportionally based on the costs and expenses of the Agency of carrying out the duties under this subtitle with respect to FHA and the Rural Housing Service program referred to in section 251(a), respectively;
(3) collected at such time or times during each assessment year as determined necessary or appropriate by the Director; and

(4) treated in the same manner as provided under section 1316(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4516(f)) with respect to amounts received by the Director from assessments under section 1316 of such Act, except that amounts from assessments under this section may be used only for expenses of the Director and the Agency relating to the functions and responsibilities under this subtitle.

SEC. 256. MUTUAL MORTGAGE INSURANCE FUND CAPITAL RESERVE.

(a) Segregation of Books.—To ensure accurate determinations of the capital ratio under subsection (b) of this section and such ratio under section 205(f) of the National Housing Act, as amended by subsection (d) of this section, the FHA shall establish separate accounts in the Mutual Mortgage Insurance Fund and take such other actions as may be necessary to segregate the following amounts:

(1) Capital attributable to new business.
(2) Capital attributable to mortgages that become insured before the expiration of the transition period under section 281.

(b) CAPITAL RATIO FOR NEW BUSINESS.—The FHA shall ensure that the account for the Mutual Mortgage Insurance Fund that is established pursuant to subsection (a)(1) of this section at all times maintains a capital ratio of not less than 4.0 percent.

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) CAPITAL.—The term “capital” means the economic net worth of the account of the Fund that is established pursuant to subsection (a)(1) of this section, as determined by the FHA under the annual audit required under section 538 of the National Housing Act (12 U.S.C. 1735f–16).

(2) CAPITAL RATIO.—The term “capital ratio” means the ratio of capital to unamortized insurance-in-force.

(3) ECONOMIC NET WORTH.—The term “economic net worth” means the current cash available to the account of the Fund that is established pursuant to subsection (a)(1) of this section, plus the net present value of all future cash inflows and outflows expected to result from outstanding new business.
(4) **FUND.**—The term “Fund” means the Mutual Mortgage Insurance Fund established under section 205 of the National Housing Act (12 U.S.C. 1711).

(5) **NEW BUSINESS.**—The term “new business” means mortgages that are obligations of the Mutual Mortgage Insurance Fund that become insured by the FHA after the expiration of the transition period under section 281.

(6) **UNAMORTIZED INSURANCE IN FORCE.**—The term “unamortized insurance-in-force” means the remaining obligation on outstanding new business, as estimated by the FHA.

(d) **TREATMENT OF EXISTING CAPITAL RATIO.**—Paragraph (4) of section 205(f) of the National Housing Act (12 U.S.C. 1711(f)(4)) is amended—

(1) in subparagraph (A), by striking “Mutual Mortgage Insurance Fund” and inserting “account of the Mutual Mortgage Insurance Fund that is established pursuant to subsection (a)(2) of the FHA Reform and Modernization Act of 2013”; 

(2) in subparagraph (C)—

(A) by striking “Fund” the first place such term appears and inserting “account of the Mutual Mortgage Insurance Fund that is estab-
lished pursuant to subsection (a)(2) of the FHA Reform and Modernization Act of 2013’’; and

(B) by striking “the Fund.” and inserting the following: “such account that become insured by the Secretary of Housing and Urban Development (or the FHA, pursuant to subtitle D of the FHA Reform and Modernization Act of 2013) before the expiration of the transition period under section 281 of such Act.”; and

(3) in subparagraph (D), by inserting before the comma the following: “and become insured before the expiration of the transition period under section 281 of the FHA Reform and Modernization Act of 2013”.

SEC. 257. CAPITAL CLASSIFICATIONS AND PERFORMANCE MEASURES FOR MUTUAL MORTGAGE INSURANCE FUND.

(a) Capital Classification; Effect on Insurance Authority.—

(1) Adequately capitalized.—At any time that the capital ratio (as such term is defined in section 256(c)(2) of this title) is greater than 4.0 percent, the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1)
shall be classified as adequately capitalized for purposes of this subtitle.

(2) UNDERCAPITALIZED.—At any time that the capital ratio is less than 4.0 percent—

(A) the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1) shall be classified as undercapitalized for purposes of this subtitle; and

(B) if such capital ratio is—

(i) equal to or greater than 2.0 percent, the FHA may not enter into any new commitment to insure any mortgage on a 1- to 4-family residential property that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the FHA shall approve) in an amount exceeding 90 percent of the appraised value of the property; and

(ii) less than 2.0 percent but equal to or greater than 0.0 percent, the FHA may not enter into any new commitment to insure any mortgage on a 1- to 4-family residential property that involves a principal obligation (including such initial service
charges, appraisal, inspection, and other fees as the FHA shall approve) in an amount exceeding 80 percent of the appraised value of the property.

(3) **SIGNIFICANTLY UNDERCAPITALIZED.**—At any time that the capital ratio is less than 0.0 percent—

(A) the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1) shall be classified as significantly undercapitalized for purposes of this subtitle; and

(B) the Director may, pursuant to section 258(a)(1), take actions under section 258(b).

(4) **QUARTERLY DETERMINATION OF CAPITAL RATIO.**—The Director shall determine the capital ratio and the capital classification of the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1) for purposes of this subtitle not less frequently than each calendar quarter.

(b) **STRESS TEST.**—

(1) **IN GENERAL.**—The Director shall develop a risk-based capital model to determine the amount of capital that is sufficient for the FHA to maintain
positive capital during a period of economic stress. The model shall incorporate the assumptions under paragraphs (2) and (3).

(2) CREDIT RISK.—For purposes of paragraph (1), the Director shall assume that, during the period of economic stress referred to in paragraph (1), credit losses occur at a rate consistent with a nationwide economic recession of average severity based on nationwide economic recessions since 1950.

(3) OTHER RISKS.—For purposes of paragraph (1), the Director shall make assumptions about such other aspects of the period of economic stress as the Director determines are appropriate and consistent.

(e) CAPITAL RESTORATION PLAN REQUIREMENT.—

If the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1) is classified as undercapitalized or significantly undercapitalized, the FHA shall—

(1) submit to the Director a capital restoration plan meeting the requirements of section 258(d) for raising or restoring the capital of such account to an amount not less than the amount required for such account to be classified as adequately capitalized; and
(2) upon approval by the Director, carry out such plan.

If the Director disapproves a capital restoration plan submitted under this subsection, the Director shall convey in writing reasons for such disapproval and shall provide for the FHA to resubmit a revised plan for approval by the Director.

SEC. 258. ENFORCEMENT.

(a) GROUNDS.—The Director may take actions under subsection (b) only if—

(1) the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1) is classified under section 257(a) as significantly undercapitalized;

(2) the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1) is classified under section 257(a) as undercapitalized and—

(A) the FHA does not submit a capital restoration plan that is substantially in compliance with section 257(c) within the applicable period, or the Director disapproves the capital restoration plan submitted by the FHA; or
(B) the FHA has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan; or

(3) the FHA is engaging or has engaged, or the Director has reasonable cause to believe that the FHA is about to engage in—

(A) any conduct that is likely to threaten the adequacy of the capital of the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1);

(B) any failure to comply with any written agreement entered into by the FHA with the Director; or

(C) any failure to comply with any request by the Director for a report, data, or information under section 254(b).

(b) ACTIONS.—The Director may, under this subsection, require the FHA—

(1) to cease and desist from any conduct or activity that—

(A) with respect to the account for the Mutual Mortgage Insurance Fund established pursuant to section 256(a)(1), is described in paragraph (2) or (3) of subsection (a), or that
contributes to the condition described in subsection (a)(1); and

(B) with respect to any other Fund, contributes to a failure to meet a capital reserve requirement established pursuant to section 259(a) or is likely to threaten the adequacy of the capital of such Fund; and

(2) to take corrective or remedial action, including—

(A) restricting the growth of, or contracting, any category of assets or liabilities;

(B) reducing, modifying, or terminating any activity that the Director determines creates excessive risk to the FHA;

(C) terminating agreements or contracts;

(D) engaging or employing qualified employees (who may be subject to approval by the Director at the direction of the Director); or

(E) submitting to the Director for review and approval a detailed and complete operating plan.

(c) REPORTS.—If the Director is authorized under subsection (a) of this section or section 259(b) to take action under subsection (b) of this section and determines not to take any such action, the Director shall prepare
a report detailing the basis of the Director’s decision not
to take such action and shall, within 30 days of the deci-
sion, submit the report to the President, the Director of
the Office of Management and Budget, the Comptroller
General of the United States, the Committee on Banking
and Financial Services of the House of Representatives,
and the Committee on Banking, Housing, and Urban Af-
fairs of the Senate.

(d) CAPITAL RESTORATION PLANS.—A capital rest-
oration plan submitted pursuant to section 257(c),
259(b), or 260(d)(3) shall—

(1) set forth a feasible plan for raising or re-
storing the capital of the Fund for which it is pre-
pared;

(2) specify the level of capital to be achieved
and maintained;

(3) be submitted to the Director within 45 days
from the date of notification, or if the Director de-
determines that an extension is necessary, within such
additional time as the Director so determines;

(4) describe the actions that the FHA shall
take for such Fund to become classified as ade-
quately capitalized;

(5) establish a schedule for completing the ac-
tions set forth in the plan; and
(6) specify the types and levels of activities (including existing and new business activities) in which the FHA shall engage during the term of the plan.

SEC. 259. CAPITAL RESERVE REQUIREMENTS FOR OTHER FUNDS.

(a) REQUIREMENTS.—The Director shall establish capital reserve requirements for—

(1) the General Insurance Fund established under section 519 of the National Housing Act (12 U.S.C. 1735c);

(2) the Special Risk Insurance Fund established under section 238(b) of such Act (12 U.S.C. 1715z–3(b));

(3) the Cooperative Management Housing Insurance Fund established under section 213(k) of such Act (12 U.S.C. 1715e(k)); and

(4) the Rural Housing Insurance Fund established under title V of the Housing Act of 1949 (42 U.S.C. 1471), or the various accounts of such Fund.

(b) ENFORCEMENT.—The Director may enforce compliance with the requirements under subsection (a) of this section with respect to a Fund by taking action under section 258(b) or by requiring submission of a capital res-
toration plan for such Fund meeting the requirements of section 258(d).

SEC. 260. AUTHORITY TO ESTABLISH TEMPORARY CAPITAL RATIOS IN CASES OF NATIONWIDE COUNTER-CYCLICAL MARKET ADJUSTMENT.

(a) Authority; Determination.—The Director may suspend the applicability of the capital ratio under section 256(b) for the Mutual Mortgage Insurance Fund or any capital reserve requirement established pursuant to section 259 for any Fund specified under such section and establish a temporary alternative capital ratio with respect to such Fund for a specified period of time, but only upon a joint determination by the Director and the Chief Risk Officer that—

(1) available credit throughout the United States or a significant portion of the United States for the purchase of the types of residences for which mortgages that obligations of such Fund are made has contracted significantly, as measured by the credit availability measure of the Office of the Comptroller of the Currency;

(2) housing prices throughout the United States or a significant portion of the United States have declined significantly, as measured by the applicable
housing price index of the Federal Housing Finance Agency; or

(3) available credit for the purchase of housing or such other economic conditions exist sufficient to evidence a significant contraction of capital throughout the United States or a significant portion of the United States, as measured by a metric identified by the Director and the Chief Risk Officer in a written notice made publicly available, and provided to the Congress, in advance of such determination.

(b) CONDITIONS OF TERMINATION.—Upon making a determination under subsection (a), the Director and the Chief Risk Officer shall also identify measurable criteria for determining that the conditions determined under subsection (a) have ceased to exist.

(e) NOTICE TO CONGRESS.—Upon making a determination under subsection (a), the Director and the Chief Risk Officer shall provide written notice to the Congress of such determination and the specific measurable criteria identified pursuant to subsection (b).

(d) EFFECT OF TEMPORARY ALTERNATIVE CAPITAL RATIO.—During any period that a temporary alternative capital ratio is in effect pursuant to subsection (a) with respect to any Fund—
(1) in the case of a temporary capital ratio for
the Mutual Mortgage Insurance Fund, subsections
(a) and (c) of section 257 and section 258 shall not
apply;

(2) such temporary and alternative capital clas-
sifications as the Director shall establish shall be in
effect with respect to such Fund; and

(3) the Director shall require the FHA or the
Secretary of Agriculture (as appropriate) to submit
and carry out a capital restoration plan for such
Fund meeting the requirements under section
258(d) and may take actions under section 258(b)
with respect to such Fund only in accordance with
such standards relating to such temporary and alter-
native capital classifications for such Fund as the
Director shall establish.

(e) TERMINATION.—Any temporary alternative cap-
ital ratio established pursuant to subsection (a) shall ter-
minate upon the earlier of—

(1) the expiration of the 18-month period begin-
ning upon the date that notification under sub-
section (c) is provided to the Congress of the deter-
mination under subsection (a); or

(2) the occurrence of the conditions identified
pursuant to subsection (b).
(f) **MULTIPLE DETERMINATIONS.**—Nothing in this section may be construed to prevent multiple or consecutive periods during which temporary alternative capital ratios are in effect pursuant to this section.

**SEC. 261. 7-YEAR BORROWER SUSPENSION FOR FORECLOSURE.**

(a) **FHA.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), with respect to any mortgage on a 1- to 4-family residential property that is foreclosed upon, during the 7-year period beginning upon the date of such foreclosure, the FHA may not newly insure, under any provision of this title, the National Housing Act, or any FHA program, any other mortgage under which the mortgagor is the individual who was the mortgagor under the mortgage that was foreclosed upon.

(2) **WAIVER.**—The FHA shall provide, by regulation, for the FHA to waive the applicability of paragraph (1) with respect to a mortgagor in cases in which hardship circumstances materially contributed to the default and foreclosure of the mortgage. For purposes of this subsection, such hardship circumstances may include divorce, job or other income
loss, health problems, death in the family, and such other situations as the FHA may prescribe.

(b) RURAL HOUSING.—Section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended by adding at the end the following new subsection:

“(c) 7-YEAR BORROWER SUSPENSION FOR FORECLOSURE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), with respect to any mortgage on a 1- to 4-family residential property that is foreclosed upon, during the 7-year period beginning upon the date of such foreclosure, the Secretary may not newly make, insure, or guarantee, under any provision of this title, any other loan under which the borrower is individual who was the mortgagor under the mortgage that was foreclosed upon.

“(2) WAIVER.—The Secretary shall provide, by regulation, for waiver of the applicability of paragraph (1) with respect to a borrower in cases in which hardship circumstances materially contributed to the default and foreclosure of the mortgage. For purposes of this subsection, such hardship circumstances may include divorce, job or other income loss, health problems, death in the family, and such other situations as the Secretary may prescribe.”.
(c) Regulations.—The FHA and the Secretary of Agriculture shall jointly issue regulations required under subsection (a) of this section and section 505(c) of the Housing Act of 1949, as added by subsection (b) of this section.

SEC. 262. BORROWER INELIGIBILITY UPON SECOND FORECLOSURE.

(a) FHA.—If any individual is the mortgagor under any two mortgages on 1- to 4-family residential properties that have been foreclosed upon, the FHA may not newly insure, under any provision of this title, the National Housing Act, or any FHA program, any other mortgage under which such individual is the mortgagor.

(b) Rural Housing.—Section 505 of the Housing Act of 1949 (42 U.S.C. 1475), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

“(d) Borrower Ineligibility Upon Second Foreclosure.—If any individual is the mortgagor under any two mortgages for 1- to 4-family residential properties that have been foreclosed upon, the Secretary may not newly make, insure, or guarantee, under any provision of this title, any other loan under which such individual is the borrower.”.
SEC. 263. LIMITATION ON SELLER CONCESSIONS.

(a) FHA.—The FHA may not newly insure, under any provision of this title, the National Housing Act, or any FHA program, any mortgage on a 1- to 4-family residential property with respect to which the seller of the property subject to such mortgage (or any third party or entity that is reimbursed directly or indirectly by the seller) contributes toward the acquisition of the property by the mortgagor any amount in excess of 3 percent of the total closing costs (as determined by the FHA) in connection with such acquisition.

(b) RURAL HOUSING.—Section 501 of the Housing Act of 1949 (42 U.S.C. 1471), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

“(n) LIMITATION ON SELLER CONCESSIONS.—The Secretary may not newly make, insure, or guarantee, under any provision of this title, any loan for a 1- to 4-family residential property with respect to which the seller of the property for which the loan is made (or any third party or entity that is reimbursed directly or indirectly by the seller) contributes toward the acquisition of the property by the borrower any amount in excess of 3 percent of the total closing costs (as determined by the Secretary) in connection with such acquisition.”.
SEC. 264. LENDER REPURCHASE REQUIREMENT.

(a) REQUIREMENT.—The FHA may not newly insure, under any provision of this title, the National Housing Act, or any FHA program, any mortgage on a 1- to 4-family residential property unless the mortgagee under such mortgage enters into such binding agreements as the FHA considers necessary to ensure that, if the mortgagor is in default with respect to the mortgagor’s obligation to make payments under the mortgage for 60 or more consecutive days during the 24-month period beginning upon origination of the mortgage, the mortgagee will, upon notice by the FHA, repurchase such mortgage in an amount equal to the remaining principal obligation under the mortgage, as determined in accordance with guidelines issued by the FHA.

(b) EFFECTIVE DATE.—This section shall take effect upon the date of the enactment of this Act.

SEC. 265. INDEMNIFICATION BY MORTGAGEES.

(a) IN GENERAL.—If the FHA determines that at or before the time of loan closing the mortgagee knew, or should have known based on the information then reasonably available to the mortgagee, of a serious and material violation of the requirements established by the FHA with respect to a mortgage executed after the date of the enactment of this Act by such mortgagee approved by the FHA under the direct endorsement program or insured by a
mortgagee pursuant to the delegation of authority under
section 256 of the National Housing Act (12 U.S.C.
1715z–21) such that the mortgage loan should not have
been approved and endorsed for insurance, and the FHA
pays an insurance claim with respect to the mortgage
within a reasonable period specified by the FHA, the FHA
may require the mortgagee approved by the FHA under
the direct endorsement program or the mortgagee dele-
gated authority under such section 256 to indemnify the
FHA for the loss, or any portion thereof, if the violation
was a materially contributing factor to the cause of the
mortgage default.

(b) FRAUD OR MATERIAL MISREPRESENTATION.—If
fraud or material misrepresentation was involved in con-
nection with the origination or underwriting of a mortgage
executed after enactment by the mortgagee and the FHA
determines that at or before the time of loan closing such
mortgagee knew or should have known, based on the infor-
mation then reasonably available to such mortgagee, of the
fraud or material misrepresentation such that the mort-
gage loan should not have been approved and endorsed
for insurance, the FHA shall require the mortgagee ap-
proved by the FHA under the direct endorsement program
or the mortgagee delegated authority under such section
256 to indemnify the FHA for the loss, or any portion
thereof, if the fraud or material misrepresentation was a materially contributing factor to the cause of the mortgage default.

(c) Appeals Process.—The FHA shall, by regulation, establish an appeals process for mortgagees to appeal indemnification determinations made pursuant to subsection (a) or (b).

(d) Requirements and Procedures.—The FHA shall issue regulations establishing appropriate requirements and procedures governing the indemnification of the FHA by the mortgagee, including public reporting on—

(1) the number of loans that—

(A) were not originated or underwritten in accordance with the requirements established by the FHA;

(B) involved fraud or material misrepresentation in connection with the origination or underwriting that was a material contributing factor to the cause of the mortgage default; and

(C) the financial impact on the Mutual Mortgage Insurance Fund when indemnification is required.

(e) Quality Control and Assurance.—

(1) Manual.—The FHA shall, pursuant to its existing regulatory authority, issue and update an-
nually a manual, handbook, or guide that collects all
of the origination and underwriting requirements
that a mortgagee must follow to make residential
mortgage loans eligible for insurance by the FHA
which shall—

(A) provide clear and concise directions so
that a mortgagee can reasonably know what is
expected of it;

(B) identify examples of specific serious
and material violations that could be the basis
for an indemnification demand under this sec-
tion;

(C) apply nationally and be interpreted by
the FHA uniformly with respect to all mort-
gages endorsed for insurance; and

(D) permit prospective changes with rea-
sonable advance notice to mortgagees, which
such changes must be incorporated into the fol-
lowing year’s revised version of the manual,
handbook, or guide and may not provide for
retroactive changes to mortgages previously en-
dorsed for insurance.

(2) REQUIREMENTS.—The FHA shall—

(A) make prompt initial determinations of
a mortgagee’s potential liability for either in-
demnification under this section or other ad-
ministrative remedies or sanctions that may be
available under the National Housing Act or
other applicable laws, based on either self-re-
ports by the mortgagee or other findings by the
FHA through its examination processes of po-
tential serious and material violations of such
origination and underwriting requirements es-
tablished under paragraph (1) or other fraud
and material misrepresentations;

(B) promptly notify the mortgagee of such
initial determination and afford the lender the
opportunity to provide additional information
and analysis before a final determination is
made; and

(C) not pursue indemnification under sub-
sections (a) and (b) with respect to those mort-
gages reviewed under this subsection unless an
initial determination of mortgagee liability is
made and communicated to the mortgagee with-
in six months of the FHA’s receipt of informa-
tion that is reasonably sufficient to enable the
FHA to determine initially that a serious and
material violation or fraud or material mis-
representation may have occurred.
(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act. During the transition period under section 281, any reference in this section to the FHA shall be construed to refer to the Secretary to the extent the Secretary has not delegated authority under this section to the FHA pursuant to section 282(1).

SEC. 266. PROHIBITIONS RELATING TO USE OF POWER OF EMINENT DOMAIN.

(a) FHA.—

(1) IN GENERAL.—Notwithstanding any other provision of law, neither the Secretary nor the FHA may newly insure, under any provision of this title, the National Housing Act, or any FHA program, any mortgage that is secured by a structure or dwelling unit that is located within a county that contains any structure or dwelling unit that secures or secured a residential mortgage loan which mortgage loan was obtained by the State during the preceding 120 months by exercise of the power of eminent domain.

(2) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(A) RESIDENTIAL MORTGAGE LOAN.—The term “residential mortgage loan” means a
mortgage loan that is evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a residential structure or a dwelling unit in a residential structure. Such term includes a first mortgage or any subordinate mortgage.

(B) STATE.—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, and includes any agency or political subdivision of a State.

(b) RURAL HOUSING.—Section 501 of the Housing Act of 1949 (42 U.S.C. 1471), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

“(o) PROHIBITION RELATING TO USE OF POWER OF EMINENT DOMAIN.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may not newly guarantee, make, or insure under this title any mortgage that is secured by a structure or dwelling unit that is located within a county that contains any structure or dwelling unit that secures or secured a residential mortgage loan which mortgage loan was ob-
tained by the State during the preceding 120 months by exercise of the power of eminent domain.

“(2) Definitions.—For purposes of this subsection, the following definitions shall apply:

“(A) Residential mortgage loan.—The term ‘residential mortgage loan’ means a mortgage loan that is evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a residential structure or a dwelling unit in a residential structure. Such term includes a first mortgage or any subordinate mortgage.

“(B) State.—The term ‘State’ has the meaning given such term in section 502(h)(12), and includes any agency or political subdivision of a State.”.

(c) Effective Date.—This section and the amendment made by this section shall take effect upon the date of the enactment of this Act.

SEC. 267. RESIDUAL INCOME REQUIREMENT.

(a) In General.—The FHA may not newly insure, under any provision of this title, the National Housing Act, or any FHA program, any mortgage on a 1- to 4-family residential property unless the mortgagor under such mortgage meets such requirements as the FHA shall,
by regulation, establish to ensure that the mortgagor has sufficient residual income.

(b) Residual Income.—For purposes of this section, the term “residual income” means, with respect to a mortgagor, the net monthly income of the mortgagor, as provided by regulation by the FHA, after taking into consideration—

(1) any assets of the mortgagor other than the property subject to such mortgage; and

(2) any monthly obligations of the mortgagor with respect to mortgage payments, insurance payment, and taxes for the property subject to the mortgage, income and other taxes, maintenance, and utility expenses for the property, child care expenses, auto, consumer, and any other debt obligations, alimony and child support expenses, and such other expenses as the FHA may provide.

(c) Effective Date.—This section and the amendment made by this section shall take effect upon the date of the enactment of this Act.

SEC. 268. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle (except for sections 264, 265, 266, and 267, and any amendments made by such sections) shall take effect upon the expiration of the transition period under section 281.
Subtitle D—Transition

SEC. 281. TRANSITION PERIOD.

(a) In General.—For purposes of this subtitle, the term “transition period” means the period that—

(1) begins on the date of the enactment of this Act; and

(2) ends upon the earlier of—

(A) the date that the Director publishes notice in the Federal Register that the Director has determined that all of the requirements under subsection (b) have been completed; or

(B) the expiration of the 5-year period beginning on the date of the enactment of this Act.

(b) Requirements for Ending Transition Period.—The requirements under this subsection are the following:

(1) Approval of Initial Annual Budget and Business Plan.—The FHA has submitted to the Director of the Federal Housing Finance Agency an initial annual budget and business plan and the Director has approved the budget and plan.

(2) Determination of Corporate Capacity.—The Director of the Office of Management and Budget has determined, and notified the Direc-
tor, that the staff, systems, and administrative infra-
structure of the FHA are sufficient to permit the
FHA to fully conduct the operation of its business.

SEC. 282. AUTHORITY DURING TRANSITION PERIOD.

During the transition period the FHA may—

(1) carry out any power or responsibility of the
Secretary relating to mortgage insurance programs
under the National Housing Act that the Secretary
delegates to the FHA, using the staff, systems, and
administrative infrastructure that the FHA engages
or acquires during the transition period, or the per-
sonnel and other resources of the Secretary;

(2) incur any obligation consistent with—

(A) the carrying out of a power or respon-
sibility delegated under paragraph (1); or

(B) the acquisition, engagement, or devel-
opment of staff, systems (including technology
to enhance the ability of the FHA to engage in
the business authorized by the title), and ad-
ministrative structure; and

(3) engage in any activity or undertake any re-
ponsibility (not including entering into, or making
any commitment to enter into, any contract of insur-
ance under this title) that the FHA determines to
be consistent with the establishment of the FHA.
SEC. 283. ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish an advisory board to provide advice to the Board of Directors of the FHA regarding establishing and organizing the FHA and creating the business plan, premium structure, and product lines of the FHA.

(b) FUNCTIONS.—In carrying out its responsibilities under subsection (a) the advisory board may—

(1) obtain guidance from participants in the mortgage markets to be served by the FHA;

(2) assess the housing and mortgage credit needs;

(3) obtain information concerning single family housing finance markets to assess how the FHA can complement the roles of public and private participants in such markets; and

(4) consult with the relevant Federal agencies generally regarding how the FHA can improve the delivery of single family housing credit enhancement to families, communities, and hard-to-serve markets.

(c) MEMBERSHIP.—The advisory board shall consist of—

(1) the Assistant Secretary of Housing and Urban Development who is the Federal Housing Commissioner;
(2) the Administrator of the Rural Housing Service of the Department of Agriculture;

(3) not less than 5 individuals appointed by the Secretary who are representatives of the mortgage finance industry; and

(4) not less than 2 individuals who have expertise in affordable housing serving low- and moderate-income populations.

Members of the advisory board shall serve at the pleasure of the Secretary.

(d) Termination.—The advisory board shall terminate upon the expiration of the transition period under section 281.

SEC. 284. TRANSFER OF HUD AUTHORITY.

(a) Transfer.—Except as provided in subsections (c) and (d), effective upon the expiration of the transition period, the functions of, authority provided to, and the responsibilities of the Secretary of Housing and Urban Development and the Department of Housing and Urban Development under the following provisions of law are transferred to the FHA:

(1) Titles II and V of the National Housing Act (12 U.S.C. 1707 et seq., 1735a et seq.).

(2) Section 3 of Public Law 99–289 (12 U.S.C. 1721 note; relating to estimates of use of insuring
authority), except that this paragraph shall not termi-
ninate or transfer any authority of the Secretary
under such section relating to section 306(g) of the
National Housing Act (12 U.S.C. 1721(g)).

(3) Section 801 of the Housing Act of 1954 (12
U.S.C. 1701j–1; relating to builders warranties).

(4) Section 424 of the Housing and Community
Development Act of 1987 (12 U.S.C. 1715z–1c; re-
lating to residential water treatment).

(5) Section 328 of the Cranston-Gonzalez Na-
tional Affordable Housing Act (12 U.S.C. 1713
note; relating to delegation of processing).

(6) Section 106 of the Energy Policy Act of
1992 (12 U.S.C. 1701z–16; relating to energy effi-
cient mortgages pilot program).

(7) Section 542 of the Housing and Community
Development Act of 1992 (12 U.S.C. 1715z–22; re-
lating to multifamily mortgage credit programs).

(8) Section 103(h) of the Multifamily Housing
1715z–1a note; relating to alternative uses of multi-
family projects to prevent default).

(b) REPEAL OF ASSIGNMENT PROVISIONS.—Effec-
tive upon the date of the enactment of this Act, section
204(a)(1)(B) of the National Housing Act (12 U.S.C. 1710(a)) is amended by striking the last sentence.

(c) APPLICABILITY.—The repeals under subsections (a) and (b) shall not affect any legally binding obligations entered into pursuant to the provisions repealed before the applicable effective date under such subsections. Any mortgage insurance, funds, or activities subject, before repeal, to a provision of law repealed by such subsections shall continue to be governed by the provision as it existed immediately before repeal, except that the FHA may exercise any authority under such provision otherwise transferred to the FHA by this title.

(d) REFERENCES.—After the expiration of the transition period, any reference in Federal law to the Secretary of Housing and Urban Development, in connection with any function of the Secretary transferred under subsection (a) or any other provision of this subtitle, shall be deemed to be a reference to the FHA.

SEC. 285. WIND-UP OF HUD AFFAIRS.

(a) ABOLISHMENT OF POSITIONS.—Effective upon the expiration of the transition period, any offices of the Department of Housing and Urban Development responsible for functions transferred pursuant to section 284(a), to the extent of such functions, and the position of the
Federal Housing Commissioner in the Department of Housing and Urban Development, are abolished.

(b) Disposition of Affairs.—During the transition period, the Secretary, solely for the purpose of winding up the affairs of the Department relating to the functions transferred under section 284—

(1) shall manage the employees of the Department responsible for such functions and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee under section 287; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Department relating to such functions.

(e) Status of Employees Before Transfer.—The provisions of and amendments made by this title and the abolishments under subsection (a) of this section may not be construed to affect the status of any employee of the Department as an employee of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 287.

(d) Use of Property and Services.—
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(1) PROPERTY.—The FHA may use the property of the Department of Housing and Urban Development to perform functions which have been transferred to the FHA for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this title or any amendment made by this title to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Department of Housing and Urban Development before the expiration of the transition period under subsection (a) in connection with functions that are transferred under section 284 to the FHA shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with the FHA to coordinate and facilitate a prompt and reasonable transition.

(c) CONTINUATION OF SERVICES.—The FHA may use the services of employees and other personnel of the
Department of Housing and Urban Development relating to the functions transferred under section 284, on a reimbursable basis, to perform functions which have been transferred to the FHA for such time as is reasonable to facilitate the orderly transfer of functions pursuant to any other provision of this title or any amendment made by this title to any other provision of law.

(f) САVINGS PROVISIONS.—

(1) Existing rights, duties, and obligations not affected.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Secretary of Housing and Urban Development, or any other person, which—

(A) arises under—

(i) the National Housing Act; or

(ii) any other provision of law applicable with respect to the functions of the Department of Housing and Urban Development transferred under section 284; and

(B) existed on the day before the date of abolition under subsection (a).

(2) Continuation of suits.—No action or other proceeding commenced by or against the Secretary of Housing and Urban Development in connection with functions transferred to the FHA under
section 284 shall abate by reason of the enactment of this title, except that the FHA shall be substituted for the Secretary as a party to any such action or proceeding.

SEC. 286. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.

(a) IN GENERAL.—All regulations, orders, and determinations described in subsection (b) shall remain in effect according to the terms of such regulations, orders, and determinations, and shall be enforceable by or against the FHA, until modified, terminated, set aside, or superseded in accordance with applicable law by the FHA, as the case may be, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, or determination is described in this subsection if it—

(1) was issued, made, prescribed, or allowed to become effective by—

(A) the Secretary of Housing and Urban Development and relates to a function of the Secretary transferred under section 284; or

(B) a court of competent jurisdiction, and relates to functions transferred under section 284; and
(2) is in effect upon the expiration of the transition period.

SEC. 287. TRANSFER AND RIGHTS OF HUD EMPLOYEES.

(a) TRANSFER.—Each employee of the Department of Housing and Urban Development who performs functions transferred under section 284 shall be transferred to the FHA for employment, not later than the date of the expiration of the transition period, and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as the position held by such employee on the day immediately preceding the transfer.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee transferred under subsection (a) holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, in the case of a temporary employee, separated in accordance with the terms of the appointment of the employee.
(c) Appointment Authority for Excepted and Senior Executive Service Employees.—

(1) In general.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) Decline of transfer.—The FHA may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

(A) a position excepted from the competitive service because of its confidential, policy-making, policy-determining, or policy-advocating character; or

(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) Reorganization.—If the FHA determines, after the end of the 1-year period beginning on the expiration of the transition period, that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.
(c) Employee Benefit Programs.—

(1) In General.—Any employee of the Department of Housing and Urban Development accepting employment with the FHA as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the FHA or the Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on the date of the expiration of the transition period, if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the FHA.

(2) Cost Differential.—

(A) In General.—The difference in the costs between the benefits which would have been provided by the Department of Housing and Urban Development and those provided by this section shall be paid by the FHA.

(B) Health Insurance.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the FHA, the em-
ployee shall be permitted to select an alternate
Federal health insurance program not later
than 30 days after the date of such election or
notice, without regard to any other regularly
scheduled open season.

SEC. 288. TRANSFER OF PROPERTY AND FACILITIES.
Upon the expiration of the transition period, all prop-
erty of the Department of Housing and Urban Develop-
ment relating to the functions transferred under section
284 shall transfer to the FHA.

SEC. 289. EFFECTIVE DATE.
This subtitle shall take effect on the date of the en-
actment of this Act.

Subtitle E—Related Amendments and Provisions

SEC. 291. GNMA AUTHORITY.
Title III of the National Housing Act is amended—
(1) in section 301(5) (12 U.S.C. 1716(5)), by
inserting after “federally owned mortgage portfolios”
the following: “(including any owned by the Federal
Housing Administration)”;
(2) in section 302 (12 U.S.C. 1717)—
(A) in subsection (b)(1), by inserting “,
the FHA Reform and Modernization Act of
2013,” after “National Housing Act” each place such term appears; and

(B) in subsection (c)(2), by inserting after subparagraph (F) the following new subpara-

graph:

“(G) The Federal Housing Administration.”;

and

(3) in section 306(g) (12 U.S.C. 1721(g)—

(A) in the clause (ii) of the first sentence of paragraph (1), by inserting “or the FHA Re-

form and Modernization Act of 2013” before “,

or which are insured”; and

(B) in paragraph (3)(A), by inserting “under the FHA Reform and Modernization Act of 2013 or are insured” after “Federal Housing Administration”.

SEC. 292. REPEAL OF CERTAIN FHA PROGRAMS.

(a) REPEALS.—Effective upon the expiration of the 2-year period that begins upon the date of the enactment of this Act, the following sections are repealed:

(1) HOME EQUITY CONVERSION MORTGAGE PROGRAM.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20).

(2) MORTGAGE INSURANCE FOR HOSPITALS.—

(b) CONFORMING AMENDMENTS.—

(1) The penultimate sentence of section 212(a) (12 U.S.C. 1715c(a)) is amended by inserting after “section 242” each place such term appears the following: “(as such section was in effect immediately before the effective date under section 292(a) of the FHA Reform and Modernization Act of 2013)”.

(2) Section 223 (12 U.S.C. 1715n) is amended—

(A) in subsection (a)(7), in the matter preceding subparagraph (A), by inserting before the first comma the following: “but not including a mortgage insured under section 242 ‘(as such section was in effect immediately before the effective date under section 292(a) of the FHA Reform and Modernization Act of 2013)’”;

(B) in subsection (d)(2)(A)—

(i) in clause (i) by striking “and” at the end; and

(ii) by inserting before the semicolon at the end the following: “and (iii) shall not be insured under section 242 (as such section was in effect immediately before the effective date under section 292(a) of
the FHA Reform and Modernization Act of 2013); and

(C) in subsection (f)—

(i) in paragraph (1)—

(I) by striking “existing hospital (or”; and

(II) by striking “thereof)” and inserting “thereof”; and

(ii) in paragraph (4)—

(I) in the matter preceding subparagraph (A), by striking “existing hospital (or”;

(II) in the matter preceding subparagraph (A), by striking “thereof)” and inserting “thereof,”;

(III) in subparagraphs (A), (B), and (C)—

(aa) by striking “existing hospital (or” each place such term appears; and

(bb) by striking “thereof)” each place such term appears and inserting “thereof”; and

(IV) in subparagraph (D), by striking “or of section 242 (for the
existing hospital proposed to be refinanced)’.

(3) Section 541(a) (12 U.S.C. 1735f–19(a)) is amended by inserting after ‘‘section 242 of this Act’’ the following: ‘‘, as such section was in effect immediately before the effective date under section 292(a) of the FHA Reform and Modernization Act of 2013’’.

c) Savings Provisions.—

(1) Effect of Repeals.—The repeals under subsection (a) shall not affect any legally binding obligations entered before the effective date of such repeals.

(2) Insurance Authority.—Notwithstanding the repeals under subsection (a), the Secretary (or the FHA, pursuant to subtitle D of this title) may insure any mortgage for which a commitment to insure under section 242 or 255 of the National Housing Act was made before the expiration of the period referred to in subsection (a). Any such mortgage insured under such section 242 or 255 shall be subject to the terms of such section as in effect immediately before the expiration of such period.

(3) Savings Provision.—Any funds or activities subject, before the effective date of the repeals
under subsection (a) of this section, to section 242
or 255 of the National Housing Act shall continue
to be governed by such sections as in effect imme-
diately before such effective date.

SEC. 293. CONFORMING AMENDMENTS.

(a) PENALTIES FOR EQUITY SKIMMING.—Paragraph
(1) of section 912 of the Housing and Urban Development
Act of 1970 (12 U.S.C. 1709–2(1)) is amended by insert-
ing “or Federal Housing Administration” after “Housing
and Urban Development”.

(b) FRAUDULENTLY MISAPPROPRIATED MORTGAGE
PROCEEDS.—Section 819 of the Housing and Community
Development Act of 1974 (12 U.S.C. 1701l–1) is amend-
ed—

(1) by inserting “or the Federal Housing Ad-
ministration” after “Secretary of Housing and
Urban Development”; and

(2) by inserting “or such Administration, as ap-
propriate,” before “has reason”.

(c) UNAUTHORIZED USE OF MULTIFAMILY HOUSING
ASSETS AND INCOME.—Section 421 of the Housing and
Community Development Act of 1987 (12 U.S.C. 1715z–
4a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—
(i) by inserting “or the FHA, as applicable,” after “Secretary’’); (ii) by inserting “or by the FHA pursuant to the FHA Reform and Modernization Act of 2013” after “National Housing Act”; and (iii) in the last sentence, by inserting “or the FHA” after “Secretary” each place such term appears; (B) in paragraph (2), by inserting “or the FHA Reform and Modernization Act of 2013” before the first comma; and (2) in subsections (b) through (e)— (A) by inserting “or the FHA, as applicable,” after “Secretary,” each place such term appears; and (B) by inserting “or the FHA, as applicable,” after “Secretary” each place such term appears (except the penultimate occurrence in subsection (c)).

to the FHA Reform and Modernization Act of 2013” before the semicolon;

(2) in section 803(10)(A) (12 U.S.C. 3752(10)(A))—

(A) in subparagraph (A), by striking “or” at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

“(B) is held by the FHA pursuant to the FHA Reform and Modernization Act of 2013; or”; and

(3) by adding at the end the following new section:

“SEC. 820. AUTHORITY OF FHA.

“After the expiration of the transition period under section 281 of the FHA Reform and Modernization Act of 2013, any reference in sections 804 through 819 of this Act to the Secretary shall be considered to also refer to the FHA (as established pursuant to subtitle A of such Act), but only with respect to single family mortgages described in section 803(10)(B).”.
(c) MULTIFAMILY MORTGAGE FORECLOSURE.—The Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3701 et seq.) is amended—

(1) in section 363(2) (12 U.S.C. 3702(2)), by adding after and below subparagraph (E) the following:

“Such term includes a mortgage on a property consisting of 5 or more dwelling units that is held by the FHA pursuant to the FHA Reform and Modernization Act of 2013.”.

(2) by adding at the end the following new section:

“AUTHORITY OF FHA

“Sec. 369J. After the expiration of the transition period under section 281 of the FHA Reform and Modernization Act of 2013, any reference in sections 364 through 369I of this Act to the Secretary shall be considered to also refer to the FHA (as established pursuant to subtitle A of such Act), but only with respect to multifamily mortgages described in the last sentence of section 363(2).”.

SEC. 294. RULE OF CONSTRUCTION.

Notwithstanding any other evidence of the intent of the Congress, it is hereby declared to be the intent of Congress that the provisions of this title shall be construed broadly to achieve the purposes of the title, and the provisions of any other Act that must be construed with any
provision of this title shall similarly be construed to
achieve the purposes of this title to the extent reasonably
possible. This section shall take effect on the date of the
enactment of this Act.

SEC. 295. EFFECTIVE DATE.

The amendments made by this subtitle shall be made,
and shall apply beginning on, the expiration of the transi-
tion period under section 281.

TITLE III—BUILDING A NEW
MARKET STRUCTURE
Subtitle A—National Mortgage
Market Utility

SEC. 301. SHORT TITLE.

This subtitle may be cited as the “National Mortgage
Market Utility Act of 2013”.

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the liquidity and efficiency of the national
housing finance market is enhanced by a robust sec-
ondary market for residential mortgage loans, in-
cluding securities backed by residential mortgage
loans;

(2) the financial crisis that began in 2007 re-
vealed weaknesses in the market infrastructure re-
related to residential mortgage-backed securities, including—

(A) weaknesses in standards—

(i) for underwriting and servicing residential mortgage loans that may be collateral for mortgage-backed securities; and

(ii) for issuers and trustees of such securities;

(B) weaknesses in the manner of recording and registering ownership and security interests in residential mortgage loans that backed pools of securities; and

(C) weaknesses in the availability of information to assess performance of pools;

(3) weaknesses revealed in the financial crisis created uncertainty and impeded timely and successful resolution of troubled residential mortgage loans, and have impeded the return of private capital to the market for securities backed by residential mortgage loans in the absence of a Federal guarantee of timely payment of principal and interest to investors; and

(4) improved standards and information availability and a national system for registering mortgage-related documents, including notes, mortgages
and deeds of trust, and ownership and security in-
terests established therein, with standard procedures
for demonstrating the right to act with regard to
such notes or other registered data, would assist in
addressing these weaknesses.

(b) PURPOSES.—The purposes of the national mort-
gage market utility created by this title are—

(1) to enhance efficiency, liquidity, and security
in the secondary market for residential mortgages,
including mortgage-backed securities;

(2) to establish standards related to originating
and servicing eligible collateral and for issuers and
trustees of qualified securities, which would be ex-
empt from the Securities Act of 1933;

(3) to improve uniformity, quality and accessi-
bility of information related to the performance of
residential mortgage loans;

(4) to operate a common securitization platform
that could be available to issuers of residential mort-
gage-backed securities;

(5) to foster the use and uniformity of elec-
tronic methods for the creation, authentication,
transmission, storage, and availability of materials
relating to mortgages;
(6) to provide a central repository for notes, mortgages, and other mortgage-related information, and address problems that can arise when paper notes cannot be produced, due to loss or destruction as a result of natural disaster or other causes; and

(7) to provide a uniform procedure for demonstrating the right to act with regard to such notes or other registered data for all actions in any State or Federal proceeding, judicial or nonjudicial, involving such notes or other data.

SEC. 303. DEFINITIONS.

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

(1) AFFILIATE.—With respect to the Utility, the term “affiliate” means any entity that controls, is controlled by, or is under common control with, the Utility.

(2) AGENCY.—The term “Agency” means the Federal Housing Finance Agency.

(3) DEPOSITOR.—The term “depositor” means—

(A) any person authorized to submit documents or data for registration with the Repository; and
(B) any person qualified pursuant to section 331 (relating to organization and operation of the Repository) to inform the Repository of—

   (i) newly identified interest holders, whether through creation, assignment, or transfer; or

   (ii) changes to interests of existing holders, including through modification, amendment, or restatement of, or discharge related to, any registered mortgage-related document.

(4) DIRECTOR.—The term “Director” means the Director of the Federal Housing Finance Agency.

(5) ELIGIBLE COLLATERAL.—The term “eligible collateral” means a residential mortgage loan that meets any standard for mortgage classification established pursuant to section 322 (relating to standards for qualified securities).

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

   (A) the Federal National Mortgage Association and any affiliate thereof, and
(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(7) MORTGAGE-RELATED DOCUMENT.—The term “mortgage-related document” means any document or other information or data related to the use of residential real estate as security for a loan, including documents establishing an obligation to repay a loan secured by residential real estate, establishing a security interest in real estate, establishing the value of the real estate at the time the security interest is created, and insuring clear title to residential real estate pledged as security, or as the Director by regulation may define. Such documents may include electronic documents.

(8) ORGANIZER.—The term “organizer” means the person or entity that establishes the Utility.

(9) PARTICIPANT.—The term “participant” means any person authorized to use data maintained or created by the Repository that is not otherwise available to the public.

(10) PLATFORM.—The term “Platform” means the securitization infrastructure announced by the Federal Housing Finance Agency on October 4, 2012, and as developed by an enterprise or the enterprises in conservatorship, under authority of the

(11) REPOSITORY.—The term “Repository” means the national mortgage data repository organized under section 331.

(12) UTILITY.—The term “Utility” means the national mortgage market utility established under section 311.

(13) UTILITY-AFFILIATED PARTY.—The term “utility-affiliated party” means—

(A) any director, officer, employee or controlling stockholder of, or agent for, the Utility;

(B) any shareholder, affiliate, consultant, or joint venture partner of the Utility, and any other person, as determined by the Director (by regulation or on a case-by-case basis) that participates in the conduct of the affairs of the Utility;

(C) any independent contractor of the Utility (including any attorney, appraiser or accountant) if—

(i) the independent contractor knowingly or recklessly participates in any violation of law or regulation, any breach of fi-
duciaiy duty or 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 Utility.

PART 1—ESTABLISHMENT AND AUTHORITY OF
THE UTILITY

SEC. 311. ESTABLISHMENT.

(a) Authority of Director.—Under such regu-
lations as the Director may prescribe, the Director shall pro-
vide for the organization, incorporation, examination, op-
eration, and regulation of a national mortgage market
utility (“Utility”), and issuance of a charter for such Util-
ity. The Utility shall be organized, operated, and managed
as a not-for-profit entity.

(b) Formation of Utility; Application.—

(1) Formation.—Subject to the terms of this
subtitle and any regulations issued by the Director,
a person or entity may file an application with the
Director to establish the Utility. The Utility may be
chartered as a corporation, mutual association, part-
nership, limited liability corporation, cooperative, or
any other organizational form that the applicant
may deem appropriate.
(2) **CONTENTS OF APPLICATION.**—An application for establishment of the Utility shall include—

(A) the proposed articles of association;

(B) a statement of the general object and purpose of the Utility, consistent with the provisions of this subtitle;

(C) the proposed capitalization and business plan for the Utility;

(D) the proposed State whose law would govern, by election of the applicant, the operation of the Utility to the extent not otherwise covered by this subtitle;

(E) information on the financial resources of the applicant;

(F) a statement of the relevant housing finance experience of the applicant;

(G) identification of the proposed senior managers of the Utility, and the relevant experience of such individuals; and

(H) any other information the Director determines to be necessary to evaluate the background, experience, and integrity of the applicant and the proposed senior managers, or information otherwise relevant to determine the likely success of the proposed Utility.
(c) Issuance of Charter and Chartering Criteria.—

(1) Charter.—Not later than the end of the 2-year period following the date of the enactment of this Act, the Director shall issue a charter for the Utility to the applicant that the Director determines, in the Director’s sole discretion, has the managerial, financial, and operational resources to succeed, consistent with the purposes of this subtitle. At the discretion of the Director, the charter may require the Utility to obtain specific approval from the Director before commencing any business operation, including operations related to the Platform or the Repository, which approval shall be provided when the Director determines, in the Director’s sole discretion, that the Utility demonstrates appropriate operational, managerial, and governance capability with regard to such operation, including successful completion of testing and transition periods.

(2) Chartering Criteria.—In making a determination under paragraph (1), the Director shall consider the competence, experience, and integrity of the applicant and proposed senior managers of the Utility, and the financial and operational resources
and future prospects of the Utility. The Director may not issue a charter if the applicant fails to—

(A) comply with all applicable formation requirements;

(B) provide all information requested by the Director;

(C) demonstrate the competence, experience, and integrity necessary to operate the Utility in a safe and sound manner;

(D) demonstrate sufficient financial resources necessary to operate the Utility in a safe and sound manner;

(E) provide the Director with assurances that it will operate and maintain the Platform in an open-access manner that does not discriminate against eligible loan originators, aggregators, or qualified issuers; or

(F) provide the Director with assurances that the Utility will make available to the Director, on an on-going basis, such information on the operation and activities of the Utility, or any affiliate of the Utility, that the Director deems necessary to ensure the safe and sound operation of the Utility and to enforce compliance with this subtitle.
(3) **Explanation for Denial.**—Within 30 days of denying any application for the issuance of a charter under this section, the Director shall provide the applicant with a written explanation of the basis for the denial.

(d) **Authority To Suspend.**—

(1) **In General.**—The authority of the Director shall include the authority to suspend the charter of the Utility, if the Director determines, in the Director’s discretion, that—

(A) the organizers have failed to make adequate progress in establishing the Utility or any business operation;

(B) the organizers engaged in waste of appropriated funds made available for establishment of the Repository; or

(C) such suspension is necessary for any other reason related to safe and sound operation of the Utility.

(2) **Rulemaking.**—The Director shall issue regulations to address suspension of the charter, including a process for remediation.

(e) **Status.**—

(1) **Not a Federal Government Instrumentality.**—The Utility is not, and shall not be
deemed to be, a department, agency, or instrumentality of the United States Government and shall not be subject to title 5 or 31 of the United States Code.

(2) **SUPERVISION.**—Notwithstanding any other provision of law, the Utility shall be subject to the exclusive supervision and regulation by the Agency, and shall not be subject to supervision or regulation by any other Federal department or agency or by any State. The Utility is authorized to conduct its business without regard to any qualification or similar statute in any State.

(3) **EXEMPTION FROM TAXATION.**—The Utility shall be exempt from all taxation imposed by the United States, any territory, dependency, or possession of the United States or any State, county, municipality, or local taxing authority, except that any real property of the Repository shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property.

(f) **DIRECTORS.**—The Utility shall be governed by a board of directors, which shall consist of a number of directors determined by the Director to meet the needs of the Utility, of which—
(1) not less than two members shall be from larger financial institutions;
(2) not less than two members shall be from smaller financial institutions;
(3) not less than two members shall have expertise in residential mortgage securitizations,
(4) not less than two members shall have expertise in legal and electronic documentation and systems; and
(5) such other members as the Director may provide, who shall have such qualifications as the Director may establish in the charter or by regulation to meet the requirements for independence and any provisions of applicable State law.

(g) REPORTS TO CONGRESS.—Commencing with the first annual report of the Director following the date of the enactment of this Act, the annual report of the Director under section 1319B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4521) shall include a description of the Agency’s activities with regard to organization, incorporation, examination, operation, and regulation of the Utility.

SEC. 312. GENERAL POWERS; AUTHORIZED AND PROHIBITED ACTIVITIES.

(a) GENERAL POWERS.—The Utility may—
(1) adopt and use a corporate seal;

(2) determine a State whose law will govern the corporate business activities of the Utility;

(3) adopt, amend, and repeal by-laws;

(4) sue or be sued, subject to section 334 (relating to judicial review);

(5) make contracts, incur liabilities, borrow money, and issue notes, bonds, or other obligations;

(6) purchase, receive, hold, and use real and personal property and other assets necessary for the conduct of its operations;

(7) elect or appoint directors, officers, employees and agents, subject to section 311(f); and

(8) upon receipt of the Director’s prior written approval, establish subsidiaries or affiliates that shall be subject to the same rights, duties and responsibilities as the Utility.

(b) AUTHORIZED ACTIVITIES.—In addition to the general powers under subsection (a), the Utility shall—

(1) develop standards related to originating, servicing, pooling, and securitizing residential mortgage loans in accordance with part 2;

(2) operate and maintain the Platform and establish fees for use of the Platform;
(3) establish the Repository and establish fees for registration of mortgage-related documents and maintenance and use of data of the Repository, in accordance with part 3;

(4) perform any other service or engage in any other activity that the Director determines, by regulation or order, to be incidental to the activities enumerated in this subsection; and

(5) establish fees for the provision of other related or incidental services not inconsistent with the purposes of this subtitle.

(c) PROHIBITED ACTIVITIES.—The Utility shall not—

(1) originate, service, insure, or guarantee any residential mortgage or other financial instrument that is associated with a residential mortgage;

(2) guarantee timely payment of principal or interest on any mortgage-related security;

(3) adopt access rules or fees for the Platform the effect of which is to discriminate against eligible loan originators, aggregators, or qualified issuers based on size, composition, business line, or loan volume; or

(4) perform any service or engage in any activity other than those authorized under this subtitle,
unless such activity has been determined by the Director to be incidental to an authorized activity.

SEC. 313. TRANSFER OF OWNERSHIP OF PLATFORM.

(a) Valuation.—Not later than the end of the 6-month period beginning on the date of the enactment of this Act, the Director shall determine a method for recovering the cost to each enterprise of developing the Platform, in consultation with Treasury, and agree on a valuation of the Platform upon transfer to the Utility.

(b) Transfer.—Not later than the end of the 1-year period beginning on the date of the issuance of the charter of the Utility by the Director, the Director shall oversee the transfer to the Utility of ownership of the Platform. At the time of such transfer, the value of the Platform as established in accordance with subsection (a) shall be deemed transferred to the Utility, and shall be repaid to the Treasury of the United States by the Utility within 10 years after such transfer.

(c) Availability to Director.—After transfer of the Platform to the Utility, to the extent feasible the Platform shall be made available to the Agency on terms and conditions applicable to other users, to assist with managing the wind-down of any enterprise for which the Agency has been appointed conservator or receiver pursuant to

SEC. 314. FUNDING.

(a) INITIAL FUNDING.—There is authorized to be appropriated $150,000,000 for the establishment and initial oversight, regulation, and supervision of the Utility and its operation.

(b) REPAYMENT OF INITIAL FUNDING.—The Utility shall repay to the Treasury of the United States the amount of the initial funding provided in subsection (a) within the 10-year period beginning on the date that the Utility is chartered.

(c) ONGOING FUNDING.—

(1) COLLECTION OF FEES.—After establishment, all expenses of the Utility shall be paid for by fees collected based on services provided by and operations of the Utility.

(2) ESTABLISHMENT OF FEE SCHEDULE.—The Utility shall—

(A) establish, subject to the approval of the Director, a fee schedule and may differentiate fees based on classes or types of services, operations, and users of services or operations, and such differentiation shall not be deemed discriminatory; and
(B) review and publish the fee schedule not less frequently than annually, but may review, revise, and publish the schedule more frequently than annually.

SEC. 315. REGULATION, SUPERVISION, AND ENFORCEMENT.

(a) GENERAL OVERSIGHT.—The Director shall exercise, by rule, order, or guidance, oversight of the Utility, which shall include the authority to regulate, supervise, and examine the Utility and take enforcement actions against the Utility or any Utility-affiliated party, consistent with the provisions of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992.

(b) SCOPE OF AUTHORITY.—The authority of the Director under this section shall include the authority to exercise such incidental powers as may be necessary or appropriate to fulfill the duties and responsibilities of the Director in the oversight, supervision, and regulation of the Utility.

(c) DIVISION OF UTILITY REGULATION.—The Director shall establish within the Agency a Division of Utility Regulation, which shall—

(1) be headed by a Deputy Director designated by the Director from among individuals who are citizens of the United States who have a demonstrated understanding of financial management or oversight
and of mortgage securities markets and housing finance; and

(2) as requested by the Director, conduct examination and supervision activities, gather any information attendant to such activities, and provide recommendations to the Director regarding the safe and sound operation of the Utility and regarding any requests to revise, alter, or amend existing or proposed activities.

(d) Consultation With Other Agencies.—In exercising authority to regulate and supervise the Utility, the Director shall consult with other Federal departments and agencies that regulate or supervise entities, institutions, or companies that are or may become subject to standards, rules, processes, or procedures developed by the Utility (including issuers through the Platform and depositors or participants in the Repository), including the Bureau of Consumer Financial Protection and any appropriate Federal banking agency (as defined under section 3 of the Federal Deposit Insurance Act).

(e) Annual Assessment.—The Director shall establish and collect from the Utility an annual assessment in an amount not exceeding the amount sufficient to provide for reasonable costs (including administrative costs) and expenses of the Agency related to its oversight of the
Utility. The amounts received by the Director from assessments under this section shall not be construed to be Government or public funds or appropriated money. Notwithstanding any other provision of law, the amounts received by the Director from assessments 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.

SEC. 316. CIVIL AND CRIMINAL LIABILITY.

(a) Use of Names.—

(1) In general.—Except as expressly authorized by statute of the United States, no person or organization (except the Repository, Utility, and Platform) shall use the term “National Mortgage Market Utility”, “Common Securitization Platform”, or “National Mortgage Data Repository”, or such other name as the Director may establish in the charter of the Utility or any combination of words that appears to indicate that such use of the term conflicts with the operation of the Utility or any function created herein. No individual or organization shall use or display—

(A) any sign, device, or insignia prescribed or approved by the Utility for use of display by the Utility;
(B) any copy, reproduction or colorable imitation of any such sign, device, or insignia; or

(C) any sign, device or insignia reasonably calculated to convey the impression that it is a sign, device or insignia used by the Utility or prescribed by the Utility contrary to policies or procedures of the Utility prohibiting, limiting or restricting such use by any individual or organization.

(2) RELIEF.—The Agency or Utility may seek to enjoin or recover damages for any breach of this section and refer to the Attorney General any matters that may constitute criminal activity for a breach of this section.

(b) EXCLUSIVE OPERATION OF THE REPOSITORY.—Except as expressly authorized by statute of the United States, no person or organization (except the Utility) shall operate a national registry or repository of mortgage-related documents. Any State of the United States may operate a State registry or repository system, subject to the laws of that State, provided that any such State registry or repository system does not conflict with the Repository or the purposes of this subtitle.
(c) ACTIONS FOR BREACH.—In any action for breach of contract, including breach of representation or warranty, or breach of privacy related to data collected and maintained by the Repository, no prevailing party may recover more than an amount established by the Director, by regulation. When issuing any such regulation, the Director shall take into consideration intentional, willful, reckless, or negligent actions or omissions. Such regulations shall be reviewed not less frequently than annually, and may be revised in the Director’s discretion.

PART 2—STANDARDS FOR QUALIFIED SECURITIES

SEC. 321. QUALIFIED SECURITIES.

For purposes of this subtitle, the term “qualified security” means a security that—

(1) is collateralized by a class, or multiple classes, of residential mortgages established under section 322(a);

(2) is issued in accordance with a standard form securitization agreement under section 322(b);

(3) is issued by a qualified issuer in accordance with section 322(g);

(4) is issued through the Platform; and

(5) is not guaranteed, in whole or in part, by the United States Government.
SEC. 322. STANDARDS FOR QUALIFIED SECURITIES.

(a) Standard Mortgage Classifications.—

(1) Establishment of Mortgage Classifications.—The Utility shall prescribe classifications for residential mortgages having various degrees of credit risk, ranging from a classification of mortgages having little to no credit risk to a classification of mortgages having higher credit risk. In prescribing such classifications the Utility shall seek to allow for the pricing of credit risk, allow for the trading of securities collateralized by each classification of mortgages established pursuant to this subsection in the forward market, and maintain well-functioning liquid markets in securities collateralized by each of the classifications of mortgages established pursuant to this subsection.

(2) Underwriting Criteria.—For each classification of mortgages established under paragraph (1), the Utility shall establish standards for each of the following underwriting criteria:

(A) Debt-to-Income Ratio.—The ratio of the amount of the total monthly debt of the mortgagor to the amount of the monthly income of the mortgagor.

(B) Loan-to-Value Ratio.—The ratio of the principal obligation under the mortgage to
the value of the residence subject to the mortgage, at the time of mortgage origination.

(C) **Credit History.**—Information on the credit history of the mortgagor, including credit scores of the mortgagor.

(D) **Loan Documentation.**—The extent of loan documentation and verification of the financial resources of the mortgagor used to qualify the mortgagor for the mortgage, including any appraisal.

(E) **Occupancy.**—Whether the residence subject to the mortgage is occupied by the mortgagor.

(F) **Credit Enhancement.**—Whether any mortgage insurance or other type of insurance or credit enhancement was obtained at the time of origination.

(G) **Loan Payment Terms.**

   (i) **In General.**—The terms of the mortgage that determine the magnitude and timing of payments due from the mortgagor, including the term to maturity of the mortgage, the frequency of payment, the type of amortization, any prepayment
penalties, and whether the interest rate is
fixed or may vary.

(ii) **Inclusion of 30-Year Fixed Interest Rate.**—Terms established under
clause (i) shall include a 30-year fixed interest rate mortgage.

(H) **Other.**—Such other underwriting criteria as the Utility may establish, consistent
with the goals of this subtitle.

(3) **Definitions.**—The Utility shall, for purposes of this subsection, prescribe definitions for
each of the following terms:

(A) **Mortgage.**—The term “mortgage”,
which definition shall include only mortgages on
residential properties.

(B) **Default.**—The term “default”, with
respect to a mortgage.

(C) **Delinquency.**—The term “delinquency”, with respect to a mortgage.

(D) **Loan Documentation.**—The term
“loan documentation”, with respect to a mort-
gage.

(E) **Additional Terms.**—Such other
terms as the Utility may establish.
(b) **Standard Form Securitization Agreements.**—

(1) **In General.**—The Utility shall develop, adopt, and publish standard form securitization agreements for eligible collateral.

(2) **Required Content.**—The standard form securitization agreements to be developed under paragraph (1) shall include terms relating to—

- (A) pooling and servicing;
- (B) purchase and sale;
- (C) representations and warranties, including representations and warranties as to compliance or conformity with standards established by the Utility, as appropriate;
- (D) indemnification and remedies, including principles of a repurchase program that will ensure an appropriate amount of risk retention under the representations and warranties set forth under subparagraph (C); and
- (E) the qualification, responsibilities, and duties of trustees.

(c) **Registration With the Repository.**—The Utility shall require that any mortgage-related document associated with eligible collateral for qualified securities be registered with the Repository.
(d) Standards for Servicing.—The Utility shall develop, adopt, and publish—

(1) servicing standards, including for the modification, restructuring, or work-out of any mortgage that serves as collateral for a qualified security; and

(2) a servicer succession plan, which may include provisions for—

(A) a specialty servicer that can replace the existing servicer if the performance of the mortgage pool deteriorates to specified levels; and

(B) a plan to achieve consistency in servicing systems related to systematic note-taking, consistent mailing addresses, and other points of contact for borrowers to use, among other items.

(e) Standards for Servicer Reporting.—The Utility shall develop, adopt, and publish standards for the reporting obligations of servicers of any mortgage that serves as collateral for a qualified security.

(f) Standards for Aggregators.—The Utility may develop, adopt, and publish standards for aggregation of eligible collateral by entities, institutions, or companies other than an issuer. Notwithstanding any such standards developed by the Utility, any Federal Home Loan Bank
may act as an aggregator and offer the service of aggregation to any member of such Bank, subject to regulations prescribed by the Director.

(g) Standards for Qualified Issuers.—

(1) In General.—The Utility shall develop, adopt, and publish standards for an issuer to qualify as a qualified issuer. Such standards shall only include—

(A) the experience, financial resources, and integrity of the issuer and its principals, including compliance history with Federal and State laws;

(B) the adequacy of insurance and fidelity coverage of the issuer with respect to errors and omissions; and

(C) a requirement that the issuer submit audited financial statements to the Utility, who shall make such statements publicly available through the Utility’s Web site.

(2) Application Process.—

(A) In General.—The Utility shall establish an application process for the qualification of issuers, in such form and manner and requiring such information as the Utility may pre-
scribe, in accordance with standards adopted under paragraph (1).

(B) APPROVAL.—The Utility shall approve any application made pursuant to subparagraph (A) unless the issuer does not meet the standards adopted under paragraph (1).

(C) PUBLICATION.—The Agency shall publish a list of newly qualified issuers in the Federal Register and the Utility shall maintain an updated list of qualified issuers on the Utility’s Web site.

(3) REVIEW AND REVOCATION OF QUALIFIED STATUS.—

(A) IN GENERAL.—The Utility may review the status of a qualified issuer if the Utility is notified that a claim has been made against the issuer by a trustee with respect to a violation of a contractual term in a securitization document of the issuer.

(B) REVOCATION.—

(i) IN GENERAL.—Subject to subparagraph (C), if the Utility determines, subject to the approval of the Director, in a review pursuant to subparagraph (A), that an issuer no longer meets the standards
for qualification, the Utility shall revoke
the issuer’s qualified status.

(ii) CONSTRUCTION.—The revocation
of an issuer’s qualified status under this
subparagraph shall—

(I) have no effect on the qualified
status of any security issued before
such revocation; and

(II) not relieve the issuer of any
obligation associated with any rep-
resentation or warranty or any repur-
chase obligations related to any quali-
fied security issued before such rev-
ocation.

(C) GRACE PERIOD.—The Utility shall es-
tablish standards by which a qualified issuer
who no longer meets the standards for quali-
fication may remediate and return to meeting
the standards, without losing the issuer’s quali-
fied status.

(D) PUBLICATION.—The Agency shall pub-
lish a list of issuers who are no longer qualified
in the Federal Register and the Utility shall
maintain an updated list of such issuers on the
Utility’s Web site.
(h) Standards for Trustees.—

(1) In general.—There shall at all times be one or more trustee for each pool of mortgages that acts as collateral for a qualified security.

(2) Rulemaking.—The Director shall issue regulations regarding the qualifications of trustees under paragraph (1) that shall, to the extent practicable, be consistent with the qualification provisions applicable to trustees under section 310(a) of the Trust Indenture Act of 1934 (15 U.S.C. 77jjj(a)).

(3) Conflicts of interest.—The Director shall issue conflict of interest regulations that apply to a qualified trustee. Such regulations shall, to the extent practicable, be consistent with those conflict of interest provisions applicable to an indenture trustee under section 310(b) of the Trust Indenture Act of 1934 (15 U.S.C. 77jjj(b)).

(4) Reporting of claims.—Any time a trustee brings a claim against a qualified issuer on behalf of investors with respect to a standard form securitization agreement, the trustee shall notify the Director of such claim.
(5) Protection of investor rights.—For the purpose of protecting investor rights, each trustee shall—

(A) maintain a list of all investors (beneficial owners) in a qualified security;

(B) update such list from time to time;

(C) not make such list available to investors (beneficial owners); and

(D) act as a means to communicate information about the qualified security to investors (beneficial owners) and act as a means for investors (beneficial owners) to communicate with each other.

(6) No liability for certain communications.—A trustee shall not be liable for the content of any information provided to the trustee by an investor (beneficial owner) that the trustee communicates to another investor (beneficial owner).

(7) Investor (beneficial owner) notification of trustee.—A person who becomes an investor (beneficial owner) in a qualified security shall promptly notify the trustee of such security of the change in ownership.

(i) Independent third party.—If the majority of investors (beneficial owners) in a pool of qualified securi-
ties chooses to hire an independent third party to act on behalf of the best interests of the investors (beneficial owners), such party shall—

(1) be granted access to the loan documents for the mortgage loans backing such security and all servicing reports the servicer provides to investors (beneficial owners) or the trustee;

(2) be granted access to the list of investors (beneficial owners) maintained by the trustee, on the condition that the independent third party will not make the list available to the investors (beneficial owners); and

(3) have the right, on behalf of the investors (beneficial owners), to inform the trustee of such securities of any breach of the securitization agreement identified by the third party.

(j) MANDATORY ARBITRATION.—

(1) IN GENERAL.—All disputes between an owner of a qualified security and the qualified issuer of such security relating to representations and warranties shall be subject to mandatory arbitration procedures established by the Utility, in accordance with current market practices.

(2) SELECTION OF ARBITRATOR.—Investors (beneficial owners) and issuers subject to a dispute
described under paragraph (1) shall have the right
to agree on an independent arbitrator. If the parties
cannot agree on an independent arbitrator, the Util-
ity shall select an independent arbitrator for the par-
ties.

(3) REPORTING DUTY OF ARBITRATOR.—

(A) UPON COMMENCEMENT.—The arbi-
trator shall provide the Utility with notice upon
commencement of any arbitration under this
subsection.

(B) UPON CONCLUSION.—Upon conclusion
of any arbitration under this subsection, the ar-
bitrator shall provide the Utility with—

(i) the decision reached by the arbi-
trator; and

(ii) the basis for the arbitrator's deci-
sion, including any evidence or testimony
received during the arbitration process.

(k) DATA STANDARDS; DISCLOSURE STANDARDS.—

(1) DATA STANDARDS.—The Utility shall de-
velop, adopt, and publish standard data definitions
for all aspects of loan origination, appraisals, and
servicing. In developing such definitions, the Utility
shall consider the data standard-setting work under-
taken by the Mortgage Industry Standards Mainte-
inance Organization through the enterprises’ Uniform Mortgage Data Program announced by the Agency on May 24, 2010.

(2) DISCLOSURE STANDARDS.—The Utility shall develop, adopt, and publish standards for disclosure of loan origination, appraisal, and servicing data, including data required in subsection (a)(2) (relating to underwriting criteria) for residential mortgage loans that comprise qualified securities, and that allow for trading of qualified securities under this subtitle in a forward market.

(3) COORDINATION.—In developing the data and disclosure standards required by this subsection, the Utility shall ensure that such standards are coordinated.

(4) PRIVACY PROTECTIONS.—In prescribing the definitions and standards required under this subsection, the Utility shall take into consideration issues of consumer privacy and all statutes, rules, and regulations related to privacy of consumer credit information and personally identifiable information. Such standards shall expressly prohibit the identification of specific borrowers.

(5) CONSULTATION.—When reviewing any disclosure standards established under this subsection,
the Director shall consult with the Securities and
Exchange Commission.

(l) **Timing of Issuance; Agency Review; Authority To Revise Standards.**—

(1) **Timing.**—The Director shall issue any reg-
ulations required by this section not later than the
end of the 12-month period beginning on the date of
the enactment of this Act. The Utility shall issue
any definitions, standards, rules, processes, or proce-
dures required by this section not later than the end
of the 12-month period beginning on the date of
issuance of the charter by the Director.

(2) **Agency Review.**—Any definition, stand-
ard, rule, process or procedure established by the
Utility shall be submitted to the Director for review
and approval prior to its implementation if, in the
Director's discretion, the Director requires such sub-
mission. Any definition, standard, rule, process or
procedure that the Director requires be submitted to
the Agency for review and approval shall be reviewed
within three months of submission.

(3) **Authority to Revise.**—

(A) **In General.**—The Utility may review,
revise, and, if revised, re-publish any standard
form securitization agreement or other defini-
tion, standard, rule, process, or procedure required to be developed by this subtitle if the Utility determines review or revision to be necessary or appropriate to satisfy the goals of this subtitle.

(B) Application of Revisions.—Any revisions made pursuant to subparagraph (A) shall apply only to securitizations made after the date of such revision.

(m) Effect of Conflict.—In the event a definition, standard, rule, process, or procedure established by the Utility is in conflict with any definition, standard, rule, process, or procedure established by another Federal department or agency, the Director shall consult with the other Federal department or agency, and provide prompt written notification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, of the conflict.

(n) Public Involvement.—In developing definitions, standards, rules, processes, and procedures required by this subtitle, the Utility shall work with market participants, including servicers, originators, and mortgage investors, and develop methods for gathering information and comment from such groups.
SEC. 323. LIABILITY FOR MISLEADING STATEMENTS.

(a) IN GENERAL.—Any person who shall make or cause to be made any statement in any application, report, or document filed with the Agency or Utility pursuant to any provisions of this subtitle, or any rule, regulation, or order thereunder, which statement was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or who shall omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall be liable to any person (not knowing that such statement was false or misleading or of such omission) who, in reliance upon such statement or omission, shall have purchased or sold a qualified security issued under the indenture to which such application, report, or document relates, for damages caused by such reliance, unless the person sued shall prove that such person acted in good faith and had no knowledge that such statement was false or misleading or of such omission. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction. In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit and assess reasonable costs, including reasonable attorneys’ fees, against either party litigant, having due regard for the merits and good faith of the suit or defense. No action
shall be maintained to enforce any liability created under this section unless brought within one year after the discovery of the facts constituting the cause of action and within three years after such cause of action accrued.

(b) Rights and Remedies Under Other Laws.— The rights and remedies provided by this part shall be in addition to any and all other rights and remedies that may exist under the Securities Act of 1933 or the Securities Exchange Act of 1934 or otherwise at law or in equity; but no person permitted to maintain a suit for damages under the provisions of this subtitle shall recover, through satisfaction of judgment in one or more actions, a total amount in excess of the person’s actual damages on account of the act complained of.

SEC. 324. UNLAWFUL REPRESENTATIONS.

It shall be unlawful for any person in offering, selling, or issuing any qualified security pursuant to this subtitle to represent or imply in any manner whatsoever that any action or failure to act by the Agency or Utility in the administration of this subtitle means that the Agency or Utility has in any way passed upon the merits of, or given approval to, any trustee, indenture, or security, or any transaction or transactions therein, or that any such action or failure to act with regard to any statement or report files or examined by the Agency or Utility pursuant
to this subtitle or any rule, regulation, or order thereunder, has the effect of a finding by the Agency or Utility that such statement or report is true and accurate on its face or that it is not false or misleading.

SEC. 325. CONTRARY STIPULATIONS VOID.

Any condition, stipulation, or provision binding any person to waive compliance with any provision of this subtitle or with any rule, regulation, or order thereunder shall be void.

PART 3—NATIONAL MORTGAGE DATA REPOSITORY

SEC. 331. ORGANIZATION AND OPERATION.

(a) ORGANIZATION AND OPERATION.—Under such regulations as the Director may prescribe, the Utility shall organize and operate a national mortgage data repository ("Repository").

(b) AUTHORIZED ACTIVITIES.—In addition to organizing and operating the Repository, the Utility shall—

(1) establish and operate a repository for mortgage-related documents;

(2) establish standards for qualification of any depositor of mortgage-related documents to the Repository;

(3) establish standards and procedures for submission of mortgage-related documents to the Re-
pository, including required information and the type and format of information and data;

(4) establish procedures for validation of mortgage-related documents and the data contained in the Repository;

(5) establish standards and procedures for acceptance of mortgage-related documents (including electronic copies), and notice of acceptance, by the Repository;

(6) establish standards and procedures for registration of any mortgage-related document with the Repository, including notice of registration and the assignment of a unique identifier;

(7) establish standards and procedures for recording the creation, assignment, or transfer of an interest in any registered mortgage-related document;

(8) establish standards and procedures for qualification of depositors and participants in the Repository;

(9) establish procedures for proper demonstration of registration of mortgage-related documents with the Repository and recordation of an interest by the holder of an interest in any such document, subject to regulations issued by the Director in ac-
cordance with section 332 (relating to legal effect of registration with the Repository);

(10) establish and maintain a catalog of the mortgage-related documents registered with the Repository;

(11) establish standards and procedures for disposition of mortgage-related documents, including safekeeping, long-term storage, or destruction of paper documents;

(12) establish standards and procedures for making data publicly available;

(13) ensure that data collected and maintained by the Repository are kept secure and protected against unauthorized disclosure, including disclosure of personally identifiable information that is not otherwise available as part of any public record;

(14) establish a process, including notification from the public, for identification and correction of incorrect information submitted to or maintained by the Repository;

(15) establish fees for registration of mortgage-related documents and maintenance and use of data, and for the provision of other related services not inconsistent with the purposes of this subtitle; and
(16) perform any other service or engage in any other activity that the Director determines, by regulation or order, to be incidental to the activities enumerated in this subsection.

(c) REQUIREMENTS ON PARTICIPANTS.—Each participant shall—

(1) comply with such requirements as may be set by the Repository for using data maintained or created by the Repository; and

(2) use such designation as the Repository may provide, such as a unique identifier.

SEC. 332. LEGAL EFFECT OF REGISTRATION WITH REPOSITORY.

Notwithstanding any provision of State or Federal law to the contrary, by proper demonstration of registration with the Repository, any holder of an interest in any mortgage-related note shall satisfy any requirement for demonstration of a right to act regarding such note or other registered data that exists in State or Federal law, including any obligation to produce or possess an original note. The Director shall provide for the establishment of procedures for proper demonstration of registration of any mortgage-related document and of an interest by the holder of an interest in any such document with the Repository. Once registered with the Repository, such registra-
tion shall be a legal right enforceable in any judicial or
nonjudicial process.

SEC. 333. GRANTS TO STATES; REPAYMENT.

(a) GRANTS TO STATES.—There is hereby authorized
to be appropriated $50,000,000 to the Director for the
establishment of a fund to be administered by the Agency
for providing grants to States, on application to the Agen-
cy, to facilitate participation in the Repository by any de-
positor or participant or class of depositors or partici-
pants, or any other person upon appropriate demonstra-
tion to the Agency that such a grant would assist in the
accomplishment of the purposes of this subtitle. Any such
amounts appropriated and not granted by the Agency
within five years of the date of the enactment of this Act
shall be returned to the Treasury of the United States.

(b) REPAYMENT.—The Director shall cause to be col-
lected from the Utility and deposit in the Treasury of the
United States an amount equal to the aggregate amount
provided as grants to States pursuant to subsection (a)
within the 10-year period beginning on the date that the
first grant is made pursuant to subsection (a).

SEC. 334. JUDICIAL REVIEW.

Except as otherwise expressly provided under this
part, no person other than the Director or the Attorney
General of the United States, or any duly authorized rep-
resentative of the Director or the Attorney General, may proceed against the Repository in any State or Federal court. The prohibition in the preceding sentence shall not apply to a civil action against the Repository or any duly authorized agent thereof for breach of a contract, including breach of a representation or warranty, or breach of privacy related to data collected and maintained by the Repository or any duly authorized agent thereof.

SEC. 335. TRANSITION PROVISIONS.

(a) IN GENERAL.—The Agency shall provide for a transition period to permit the efficient implementation of the provisions of this part. Such transition may include periods for testing, early adoption, and final mandatory adoption for all recorded mortgages.

(b) ELECTRONIC SUBMISSIONS.—The Repository shall accept electronic submissions and paper-based documents submitted electronically subject to rules of the Repository. After the expiration of the 10-year period that begins upon the date of the enactment of this Act, subject to an extension of such period for up to 5 additional years if the Director determines appropriate, the Repository shall require only electronic submission.
PART 4—CONFORMING AMENDMENTS

SEC. 341. CONFORMING AMENDMENT TO FEDERAL HOME LOAN BANK ACT.

Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end the following new subsection:

“(m) AGGREGATION OF LOANS ORIGINATED BY MEMBERS.—Any Federal Home Loan Bank may aggregate for securitization through the common securitization platform (as such term is defined in section 303 of the National Mortgage Market Utility Act of 2013) residential mortgage loans originated by any member of such Bank, pursuant to regulations issued by the Director.”.

SEC. 342. CONFORMING AMENDMENTS TO THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.

Section 803(8)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5462(8)(A)) is amended—

(1) redesignating clause (iv) as clause (v); and

(2) inserting after clause (iii) the following new clause:

“(iv) The Federal Housing Finance Agency, with respect to a designated financial market utility that is subject to the exclusive supervision of that Agency pursu-
SEC. 343. CONFORMING AMENDMENTS TO SECURITIES ACT OF 1933.

(a) EXEMPTED SECURITIES.—Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following new paragraph:

“(15) Any qualified security, as such term is defined in section 321 of the National Mortgage Market Utility Act of 2013.”.

(b) REMOVAL OF CREDIT RISK RETENTION REFERENCE.—Section 27B of the Securities Act of 1933 (15 U.S.C. 77z–2a) is amended by striking subsection (d).

SEC. 344. CONFORMING AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) FALSE ADVERTISING.—Section 709 of title 18, United States Code, is amended by inserting after “a Federal Home Loan Bank; or” the following: “Whoever uses the words ‘National Mortgage Data Repository’ or such other name as the Director of the Federal Housing Finance Agency may establish in the charter of the repository or any combination of words that appears to indicate that such use of the term conflicts with the exclusive operation of the repository created by part 3 of the National Mortgage Market Utility Act of 2013 as a business name
or any part of a business name, or falsely publishes, adver-
tises, or represents by any device or symbol or other means
reasonably calculated to convey the impression that he or
it is the repository created by such part; or”.

(b) **Fraud and False Statements.**—Chapter 47
of title 18, United States Code, is amended—

(1) by adding at the end the following new sec-
tion:

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§ 1041. Information security; false statements and
concealment of facts related to the Na-
tional Mortgage Market Utility Act of
2013
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“Whoever, with regard to any mortgage-related docu-
ment (as such term is defined in section 303 of the Na-
tional Mortgage Market Utility Act of 2013) or the reg-
istration of any document or any interest in any such doc-
ument pursuant to that Act, makes any false statement
or representation of fact, knowing it to be false, or know-
ingly conceals, covers up or fails to disclose any material
fact the disclosure of which is required by such Act or
regulation, shall be fined under this title, or imprisoned
not more than five years, or both.”; and

(2) in the table of contents for such chapter, by
inserting after the item relating to section 1040 the
following:
Subtitle B—Covered Bonds

SEC. 351. SHORT TITLE.

This subtitle may be cited as the “United States Covered Bond Act of 2013”.

SEC. 352. DEFINITIONS.

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

(1) Ancillary asset.—The term “ancillary asset” means—

(A) any interest rate or currency swap associated with 1 or more eligible assets, substitute assets, or other assets in a cover pool;

(B) any credit enhancement or liquidity arrangement associated with 1 or more eligible assets, substitute assets, or other assets in a cover pool;

(C) any guarantee, letter-of-credit right, or other secondary obligation that supports any payment or performance of 1 or more eligible assets, substitute assets, or other assets in a cover pool; and

(D) any proceeds of, or other property incident to, 1 or more eligible assets, substitute assets, or other assets in a cover pool.
(2) CORPORATION.—The term “Corporation” means the Federal Deposit Insurance Corporation.

(3) COVER POOL.—The term “cover pool” means a dynamic pool of assets that is comprised of—

(A) in the case of any eligible issuer described in subparagraph (A), (B), or (C) of paragraph (9)—

(i) 1 or more eligible assets from a single eligible asset class; and

(ii) 1 or more substitute assets or ancillary assets; and

(B) in the case of any eligible issuer described in paragraph (9)(D)—

(i) the covered bonds issued by each sponsoring eligible issuer; and

(ii) 1 or more substitute assets or ancillary assets.

(4) COVERED BOND.—The term “covered bond” means any recourse debt obligation of an eligible issuer that—

(A) has an original term to maturity of not less than 1 year;

(B) is secured by a perfected security interest in or other perfected lien on a cover pool
that is owned directly or indirectly by the issuer of the obligation;

(C) is issued under a covered bond program that has been approved by the applicable covered bond regulator;

(D) is identified in a register of covered bonds that is maintained by the Secretary; and

(E) is not a deposit (as defined in section 3(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l))).

(5) COVERED BOND PROGRAM.—The term "covered bond program" means any program of an eligible issuer under which, on the security of a single cover pool, 1 or more series of covered bonds may be issued.

(6) COVERED BOND REGULATOR.—The term "covered bond regulator" means—

(A) for any eligible issuer that is subject to the jurisdiction of an appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), the appropriate Federal banking agency;

(B) for any eligible issuer that is described in paragraph (9)(D), that is not subject to the
jurisdiction of an appropriate Federal banking 
agency, and that is sponsored by only 1 eligible 
issuer, the covered bond regulator for the spon-
sor;

(C) for any eligible issuer that is described 
in paragraph (9)(D), that is not subject to the 
jurisdiction of an appropriate Federal banking 
agency, and that is sponsored by more than 1 
eligible issuer, the covered bond regulator for 
the sponsor whose covered bonds constitute the 
largest share of the cover pool of the issuer; 
and 

(D) for any other eligible issuer that is not 
subject to the jurisdiction of an appropriate 
Federal banking agency, the Secretary.

(7) ELIGIBLE ASSET.—The term “eligible 
asset” means—

(A) in the case of the residential mortgage 
asset class, any first-lien mortgage loan that— 

(i) is secured by 1- to 4-family resi-
dential property; and 

(ii) is not made, insured, or guaran-
teed by the Government;
(B) in the case of the commercial mortgage asset class, any commercial mortgage loan (including any multifamily mortgage loan);

(C) in the case of the public sector asset class—

    (i) any security issued by a State, municipality, or other governmental authority;
    (ii) any loan made to a State, municipality, or other governmental authority; and
    (iii) any loan, security, or other obligation that is insured or guaranteed, in full or substantially in full, by the full faith and credit of the United States Government (whether or not such loan, security, or other obligation is also part of another eligible asset class);

(D) in the case of the auto asset class, any auto loan or lease;

(E) in the case of the student loan asset class, any student loan (whether guaranteed or nonguaranteed);

(F) in the case of the credit or charge card asset class, any extension of credit to a person under an open-end credit plan;
(G) in the case of the small business asset class, any loan that is made or guaranteed under a program of the Small Business Administration; and

(H) in the case of any other eligible asset class, any asset designated by the Secretary, by rule and in consultation with the covered bond regulators, as an eligible asset for purposes of such class.

(8) ELIGIBLE ASSET CLASS.—The term "eligible asset class" means—

(A) a residential mortgage asset class;

(B) a commercial mortgage asset class;

(C) a public sector asset class;

(D) an auto asset class;

(E) a student loan asset class;

(F) a credit or charge card asset class;

(G) a small business asset class; and

(H) any other eligible asset class designated by the Secretary, by rule and in consultation with the covered bond regulators.

(9) ELIGIBLE ISSUER.—The term "eligible issuer" means—

(A) any insured depository institution and any subsidiary of such institution;
(B) any bank holding company, any savings and loan holding company, and any subsidiary of any of such companies;

(C) any nonbank financial company (as defined in section 102(a)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5311(a)(4))) that is supervised by the Board of Governors of the Federal Reserve System under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323), including any intermediate holding company supervised as a nonbank financial company, and any subsidiary of such a nonbank financial company; and

(D) any issuer that is sponsored by 1 or more eligible issuers for the sole purpose of issuing covered bonds on a pooled basis.

(10) OVERSIGHT PROGRAM.—The term “oversight program” means the covered bond regulatory oversight program established under section 353(a).

(11) SECRETARY.—The term “Secretary” means the Secretary of the Department of the Treasury.

(12) SUBSTITUTE ASSET.—The term “substitute asset” means—
(A) cash;

(B) any direct obligation of the United States Government, and any security or other obligation whose full principal and interest are insured or guaranteed by the full faith and credit of the United States Government;

(C) any direct obligation of a United States Government corporation or Government-sponsored enterprise of the highest credit quality, and any other security or other obligation of the highest credit quality whose full principal and interest are insured or guaranteed by such corporation or enterprise, except that the outstanding principal amount of these obligations in any cover pool may not exceed an amount equal to 20 percent of the outstanding principal amount of all assets in the cover pool without the approval of the applicable covered bond regulator;

(D) any overnight investment in Federal funds;

(E) any other substitute asset designated by the Secretary, by rule and in consultation with the covered bond regulators; and
(F) any deposit account or securities account into which only an asset described in subparagraph (A), (B), (C), (D), or (E) may be deposited or credited.

SEC. 353. REGULATORY OVERSIGHT OF COVERED BOND PROGRAMS ESTABLISHED.

(a) Establishment.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall, by rule and in consultation with the covered bond regulators, establish a covered bond regulatory oversight program that provides for—

(A) covered bond programs to be evaluated according to reasonable and objective standards in order to be approved under paragraph (2), including any additional eligibility standards for eligible assets and any other criteria determined appropriate by the Secretary to further the purposes of this subtitle;

(B) covered bond programs to be maintained in a manner that is consistent with this subtitle and safe and sound asset-liability management and other financial practices; and

(C) any estate created under section 354 to be administered in a manner that is con-
sistent with maximizing the value and the proceeds of the related cover pool in a resolution under this subtitle.

(2) Approval of Each Covered Bond Program.—

(A) In General.—A covered bond shall be subject to this subtitle only if the covered bond is issued by an eligible issuer under a covered bond program that is approved by the applicable covered bond regulator.

(B) Approval Process.—Each covered bond regulator shall apply the standards established by the Secretary under the oversight program to evaluate a covered bond program that has been submitted by an eligible issuer for approval. Each covered bond regulator also shall take into account relevant supervisory factors, including safety and soundness considerations, in evaluating a covered bond program that has been submitted for approval. Each covered bond regulator, promptly after approving a covered bond program, shall provide the Secretary with the name of the covered bond program, the name of the eligible issuer, and all other information reasonably requested by the Secretary in
order to update the registry under paragraph (3)(A). Each eligible issuer, promptly after issuing a covered bond under an approved covered bond program, shall provide the Secretary with all information reasonably requested by the Secretary in order to update the registry under paragraph (3)(B).

(C) Existing covered bond programs.—A covered bond regulator may approve a covered bond program that is in existence on the date of the enactment of this Act. Upon such approval, each covered bond under the covered bond program shall be subject to this subtitle, regardless of when the covered bond was issued.

(D) Multiple covered bond programs permitted.—An eligible issuer may have more than 1 covered bond program.

(E) Cease and desist authority.—The applicable covered bond regulator may direct an eligible issuer to cease issuing covered bonds under an approved covered bond program if the covered bond program is not maintained in a manner that is consistent with this subtitle and the oversight program and if, after notice that
is reasonable under the circumstances, the
issuer does not remedy all deficiencies identified
by the applicable covered bond regulator.

(F) CAP ON THE AMOUNT OF OUT-
STANDING COVERED BONDS.—

(i) IN GENERAL.—With respect to
each eligible issuer that submits a covered
bond program for approval, the applicable
covered bond regulator shall set, consistent
with safety and soundness considerations
and the financial condition of the eligible
issuer, the maximum amount, as a percent-
age of the eligible issuer’s total assets, of
outstanding covered bonds that the eligible
issuer may issue.

(ii) REVIEW OF CAP.—The applicable
covered bond regulator may, not more fre-
quently than quarterly, review the percent-
age set under clause (i) and, if safety and
soundness considerations or the financial
condition of the eligible issuer has
changed, increase or decrease such per-
centage. Any decrease made pursuant to
this clause shall have no effect on existing
covered bonds issued by the eligible issuer.
(3) Registry.—Under the oversight program, the Secretary shall maintain a registry that is published on a Web site available to the public and that, for each covered bond program approved by a covered bond regulator, contains—

(A) the name of the covered bond program, the name of the eligible issuer, and all other information that the Secretary considers necessary to adequately identify the covered bond program and the eligible issuer; and

(B) all information that the Secretary considers necessary to adequately identify all outstanding covered bonds issued under the covered bond program (including the reports described in paragraphs (3) and (4) of subsection (b)).

(4) Fees.—Each covered bond regulator may levy, on the issuers of covered bonds under the primary supervision of such covered bond regulator, reasonably apportioned fees that such covered bond regulator considers necessary, in the aggregate, to defray the costs of such covered bond regulator carrying out the provisions of this subtitle. Such funds shall not be construed to be Government funds or appropriated monies and shall not be subject to ap-
portionment for purposes of chapter 15 of title 31, United States Code, or any other provision of law.

(b) Minimum Over-Collateralization Requirements.—

(1) Requirements established.—The Secretary, by rule and in consultation with the covered bond regulators, shall establish minimum over-collateralization requirements for covered bonds backed by each of the eligible asset classes. The minimum over-collateralization requirements shall be designed to ensure that sufficient eligible assets and substitute assets are maintained in the cover pool to satisfy all principal and interest payments on the covered bonds when due through maturity and shall be based on the credit, collection, and interest rate risks (excluding the liquidity risks) associated with the eligible asset class.

(2) Asset coverage test.—The eligible assets and the substitute assets in any cover pool shall be required, in the aggregate, to meet at all times the applicable minimum over-collateralization requirements.

(3) Monthly reporting.—On a monthly basis, each issuer of covered bonds shall submit a report on whether the cover pool that secures the cov-
covered bonds meets the applicable minimum over-
collateralization requirements to—

(A) the Secretary;

(B) the applicable covered bond regulator;

(C) the applicable indenture trustee;

(D) the applicable covered bondholders;

and

(E) the applicable independent asset mon-
itor.

(4) INDEPENDENT ASSET MONITOR.—

(A) APPOINTMENT.—Each issuer of cov-
ered bonds shall appoint the indenture trustee
for the covered bonds, or another unaffiliated
entity, as an independent asset monitor for the
applicable cover pool.

(B) DUTIES.—An independent asset mon-
itor appointed under subparagraph (A) shall, on
an annual or other more frequent periodic basis
determined by the Secretary under the over-
sight program—

(i) verify whether the cover pool meets
the applicable minimum over-collateraliza-
tion requirements; and

(ii) report to the Secretary, the appli-
cable covered bond regulator, the applica-
ble indenture trustee, and the applicable
covered bondholders on whether the cover
pool meets the applicable minimum over-
collateralization requirements.

(5) **NO LOSS OF STATUS.**—Covered bonds shall
remain subject to this subtitle regardless of whether
the applicable cover pool ceases to meet the applica-
ble minimum over-collateralization requirements.

(6) **FAILURE TO MEET REQUIREMENTS.**—

(A) **IN GENERAL.**—If a cover pool fails to
meet the applicable minimum over-collateraliza-
tion requirements, and if the failure is not
cured within the time specified in the related
transaction documents, the failure shall be an
uncured default for purposes of section 354(a).

(B) **NOTICE REQUIRED.**—An issuer of cov-
ered bonds shall promptly give the Secretary
and the applicable covered bond regulator writ-
ten notice if the cover pool securing the covered
bonds fails to meet the applicable minimum
over-collateralization requirements, if the failure
is cured within the time specified in the related
transaction documents, or if the failure is not
so cured.

(c) **REQUIREMENTS FOR ELIGIBLE ASSETS.**—
(1) Requirements.—

(A) Loans.—A loan shall not qualify as an eligible asset for so long as the loan is delinquent for more than 60 consecutive days.

(B) Securities.—A security shall not qualify as an eligible asset for so long as the security does not meet any credit-quality requirement under this subtitle.

(C) Origination.—An asset shall not qualify as an eligible asset if the asset was not originated in compliance with any rule or supervisory guidance of a Federal agency applicable to the asset at the time of origination.

(D) No Double Pledge.—An asset shall not qualify as an eligible asset for so long as the asset is subject to a prior perfected security interest or other prior perfected lien that has been granted in an unrelated transaction. Nothing in this subtitle shall affect such a prior perfected security interest or other prior perfected lien, and the rights of such lien holders.

(2) Failure to Meet Requirements.—Subject to paragraph (1)(D), if an asset in a cover pool does not satisfy any applicable requirement described in paragraph (1) or any other applicable
standard or criterion described in this subtitle, the oversight program, or the related transaction documents, the asset shall not qualify as an eligible asset for purposes of the asset coverage test described in subsection (b)(2). A disqualified asset shall remain in the cover pool unless and until removed by the issuer in compliance with the provisions of this subtitle, the oversight program, and the related transaction documents. No disqualified asset may be removed from the cover pool after an estate has been created for the related covered bond program under section 354(b)(1) or 354(c)(2), except in connection with the management of the cover pool under section 354(d)(1)(E).

(d) Other Requirements.—

(1) Books and records of issuer.—Each issuer of covered bonds shall clearly mark its books and records to identify the assets that comprise the cover pool securing the covered bonds.

(2) Schedule of eligible assets and substitute assets.—Each issuer of covered bonds shall deliver to the applicable indenture trustee and the applicable independent asset monitor, on at least a monthly basis, a schedule that identifies all eligible
assets and substitute assets in the cover pool secur-
ing the covered bonds.

(3) Single eligible asset class.—No cover
pool described in section 352(3)(A) may include eli-
gible assets from more than 1 eligible asset class. No
cover poll described in section 2(3)(B) may include
covered bonds backed by more than 1 eligible asset
class.

SEC. 354. RESOLUTION UPON DEFAULT OR INSOLVENCY.

(a) Uncured Default Defined.—For purposes of
this section, the term “uncured default” means a default
on a covered bond that has not been cured within the time,
if any, specified in the related transaction documents.

(b) Default on Covered Bonds Prior to Con-
servatorship, Receivership, Liquidation, or Bank-
ruptcy.—

(1) Creation of separate estate.—If an
uneured default occurs on a covered bond before the
issuer of the covered bond enters conservatorship,
receivership, liquidation, or bankruptcy, an estate
shall be immediately and automatically created by
operation of law and shall exist and be administered
separate and apart from the issuer or any subse-
quent conservatorship, receivership, liquidating agen-
ey, or estate in bankruptcy for the issuer or any
other assets of the issuer. A separate estate shall be
created for each affected covered bond program.

(2) Assets and Liabilities of Estate.—Any
estate created under paragraph (1) shall be com-
prised of the cover pool (including over-collateraliza-
tion in the cover pool) that secures the covered bond.
The cover pool shall be immediately and automati-
cally released to and held by the estate free and
clear of any right, title, interest, or claim of the
issuer or any conservator, receiver, liquidating agent,
or trustee in bankruptcy for the issuer or any other
assets of the issuer. The estate shall be fully liable
on the covered bond and all other covered bonds and
related obligations of the issuer (including obliga-
tions under related derivative transactions) that are
secured by a perfected security interest in or other
perfected lien on the cover pool when the estate is
created. The estate shall not be liable on any obliga-
tion of the issuer that is not secured by a perfected
security interest in or other perfected lien on the
cover pool when the estate is created. No conserv-
vator, receiver, liquidating agent, or trustee in bank-
ruptcy for the issuer may charge or assess the estate
for any claim of the conservator, receiver, liquidating
agent, or trustee in bankruptcy or the conservator-
ship, receivership, liquidating agency, or estate in bankruptcy and may not obtain or perfect a security interest in or other lien on the cover pool to secure such a claim.

(3) RETENTION OF CLAIMS.—Any holder of a covered bond or related obligation for which an estate has become liable under paragraph (2) shall retain a claim against the issuer for any deficiency with respect to the covered bond or related obligation. If the issuer enters conservatorship, receivership, liquidation, or bankruptcy, any contingent claim for such a deficiency shall be allowed as a provable claim in the conservatorship, receivership, liquidating agency, or bankruptcy case. The contingent claim shall be estimated by the conservator, receiver, liquidating agent, or bankruptcy court for purposes of allowing the claim as a provable claim if awaiting the fixing of the contingent claim would unduly delay the resolution of the conservatorship, receivership, liquidating agency, or bankruptcy case.

(4) RESIDUAL INTEREST.—

(A) ISSUANCE OF RESIDUAL INTEREST.—

Upon the creation of an estate under paragraph (1), a residual interest in the estate shall be im-
mediately and automatically issued by operation
of law to the issuer.

(B) Nature of residual interest.—
The residual interest under subparagraph (A)
shall—

(i) be an exempted security as de-
scribed in section 355;

(ii) represent the right to any surplus
from the cover pool after the covered bonds
and all other liabilities of the estate have
been fully and irrevocably paid; and

(iii) be evidenced by a certificate exe-
cuted by the trustee of the estate.

(5) Obligations of Issuer.—

(A) In general.—After the creation of an
estate under paragraph (1), the issuer shall—

(i) transfer to or at the direction of
the trustee for the estate all property of
the estate that is in the possession or
under the control of the issuer, including
all tangible or electronic books, records,
files, and other documents or materials re-
lying to the assets and liabilities of the es-
tate; and
(ii) at the election of the trustee or a servicer or administrator for the estate, continue servicing the applicable cover pool for 120 days after the creation of the estate in return for a fair-market-value fee, as determined by the trustee in consultation with the applicable covered bond regulator, that shall be payable from the estate as an administrative expense.

(B) Obligations Absolute.—Neither the issuer, whether acting as debtor in possession or in any other capacity, nor any conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer or any other assets of the issuer may disaffirm, repudiate, or reject the obligation to turn over property or to continue servicing the cover pool as provided in subparagraph (A).

(c) Default on Covered Bonds Upon Conservatorship, Receivership, Liquidation, or Bankruptcy.—

(1) Corporation Conservatorship or Receivership.—

(A) In General.—If the Corporation is appointed as conservator or receiver for an
issuer of covered bonds before an uncured de-
fault results in the creation of an estate under
subsection (b), the Corporation as conservator
or receiver shall have an exclusive right, during
the 1-year period beginning on the date of the
appointment, to transfer any cover pool owned
by the issuer in its entirety, together with all
covered bonds and related obligations that are
secured by a perfected security interest in or
other perfected lien on the cover pool, to an-
other eligible issuer that meets all conditions
and requirements specified in the related trans-
action documents. The Corporation as conser-
vator or receiver may not remove any asset
from the cover pool, except to the extent other-
wise agreed by a transferee that has assumed
the covered bond program pursuant to subpara-
graph (C).

(B) OBLIGATIONS DURING 1-YEAR PE-
RIOD.—During the 1-year period described in
subparagraph (A), the Corporation as conserv-
vator or receiver shall fully and timely satisfy
all monetary and nonmonetary obligations of
the issuer under all covered bonds and the re-
lated transaction documents and shall fully and
timely cure all defaults by the issuer (other than its conservatorship or receivership) under the applicable covered bond program, in each case, until the earlier of—

(i) the transfer of the applicable covered bond program to another eligible issuer as provided in subparagraph (A); or

(ii) the delivery to the Secretary, the applicable covered bond regulator, the applicable indenture trustee, and the applicable covered bondholders of a written notice from the Corporation as conservator or receiver electing to cease further performance under the applicable covered bond program.

(C) ASSUMPTION BY TRANSFEREE.—If the Corporation as conservator or receiver transfers a covered bond program to another eligible issuer within the 1-year period as provided in subparagraph (A), the transferee shall take ownership of the applicable cover pool and shall become fully liable on all covered bonds and related obligations of the issuer that are secured by a perfected security interest in or other perfected lien on the cover pool.
(2) OTHER CIRCUMSTANCES.—An estate shall be immediately and automatically created by operation of law and shall exist and be administered separate and apart from an issuer of covered bonds and any conservatorship, receivership, liquidating agency, or estate in bankruptcy for the issuer or any other assets of the issuer, if—

(A) a conservator, receiver, liquidating agent, or trustee in bankruptcy, other than the Corporation, is appointed for the issuer before an uncured default results in the creation of an estate under subsection (b); or

(B) in the case of the appointment of the Corporation as conservator or receiver as described in paragraph (1)(A), the Corporation as conservator or receiver—

(i) does not complete the transfer of the applicable covered bond program to another eligible issuer within the 1-year period as provided in paragraph (1)(A);

(ii) delivers to the Secretary, the applicable covered bond regulator, the applicable indenture trustee, and the applicable covered bondholders a written notice elect-
ing to cease further performance under the
applicable covered bond program; or

(iii) fails to fully and timely satisfy all
monetary and nonmonetary obligations of
the issuer under the covered bonds and the
related transaction documents or to fully
and timely cure all defaults by the issuer
(other than its conservatorship or receiver-
ship) under the applicable covered bond
program.

A separate estate shall be created for each affected
covered bond program.

(3) Assets and liabilities of estate.—Any
estate created under paragraph (2) shall be com-
prised of the cover pool (including over-collateraliza-
tion in the cover pool) that secures the covered
bonds. The cover pool shall be immediately and
automatically released to and held by the estate free
and clear of any right, title, interest, or claim of the
issuer or any conservator, receiver, liquidating agent,
or trustee in bankruptcy for the issuer or any other
assets of the issuer. The estate shall be fully liable
on the covered bonds and all other covered bonds
and related obligations of the issuer (including obli-
gations under related derivative transactions) that
are secured by a perfected security interest in or other perfected lien on the cover pool when the estate is created. The estate shall not be liable on any obligation of the issuer that is not secured by a perfected security interest in or other perfected lien on the cover pool when the estate is created. No conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer may charge or assess the estate for any claim of the conservator, receiver, liquidating agent, or trustee in bankruptcy or the conservatorship, receivership, liquidating agency, or estate in bankruptcy and may not obtain or perfect a security interest in or other lien on the cover pool to secure such a claim.

(4) CONTINGENT CLAIM.—Any contingent claim against an issuer for a deficiency with respect to a covered bond or related obligation for which an estate has become liable under paragraph (3) shall be allowed as a provable claim in the conservatorship, receivership, liquidating agency, or bankruptcy case for the issuer. The contingent claim shall be estimated by the conservator, receiver, liquidating agent, or bankruptcy court for purposes of allowing the claim as a provable claim if awaiting the fixing of the contingent claim would unduly delay the reso-
solution of the conservatorship, receivership, liquidating agency, or bankruptcy case.

(5) Residual interest.—

(A) Issuance of residual interest.—

Upon the creation of an estate under paragraph (2), and regardless of whether any contingent claim described in paragraph (4) becomes fixed or is estimated, a residual interest in the estate shall be immediately and automatically issued by operation of law to the conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer.

(B) Nature of residual interest.—

The residual interest under subparagraph (A) shall—

(i) be an exempted security as described in section 355;

(ii) represent the right to any surplus from the cover pool after the covered bonds and all other liabilities of the estate have been fully and irrevocably paid; and

(iii) be evidenced by a certificate executed by the trustee of the estate.

(6) Obligations of issuer.—
(A) IN GENERAL.—After the creation of an estate under paragraph (2), the issuer and its conservator, receiver, liquidating agent, or trustee in bankruptcy shall—

(i) transfer to or at the direction of the trustee for the estate all property of the estate that is in the possession or under the control of the issuer or its conservator, receiver, liquidating agent, or trustee in bankruptcy, including all tangible or electronic books, records, files, and other documents or materials relating to the assets and liabilities of the estate; and

(ii) at the election of the trustee or a servicer or administrator for the estate, continue servicing the applicable cover pool for 120 days after the creation of the estate in return for a fair-market-value fee, as determined by the trustee in consultation with the applicable covered bond regulator, that shall be payable from the estate as an administrative expense.

(B) OBLIGATIONS ABSOLUTE.—Neither the issuer, whether acting as debtor in possession or in any other capacity, nor any conserv-
vator, receiver, liquidating agent, or trustee in bankruptcy for the issuer or any other assets of the issuer may disaffirm, repudiate, or reject the obligation to turn over property or to continue servicing the cover pool as provided in subparagraph (A).

(d) Administration and Resolution of Estates.—

(1) Trustee, Servicer, and Administrator.—

(A) In General.—Upon the creation of any estate under subsection (b)(1) or (c)(2), the applicable covered bond regulator shall—

(i) appoint the trustee for the estate;

(ii) appoint 1 or more servicers or administrators for the cover pool held by the estate; and

(iii) give the Secretary, the applicable indenture trustee, the applicable covered bondholders, and the owner of the residual interest written notice of the creation of the estate.

(B) Terms and Conditions of Appointment.—All terms and conditions of any appointment under paragraph (1), including the
terms and conditions relating to compensation,
shall conform to the requirements of this sub-
title and the oversight program and otherwise
shall be determined by the applicable covered
bond regulator.

(C) QUALIFICATION.—The applicable cov-
ered bond regulator may require the trustee or
any servicer or administrator for an estate to
post in favor of the United States, for the ben-
efit of the estate, a bond that is conditioned on
the faithful performance of the duties of the
trustee or the servicer or administrator. The
covered bond regulator shall determine the
amount of any bond required under this sub-
paragraph and the sufficiency of the surety on
the bond. A proceeding on a bond required
under this subparagraph may not be com-
memed after two years after the date on which
the trustee or the servicer or administrator was
discharged.

(D) POWERS AND DUTIES OF TRUSTEE.—
The trustee for an estate is the representative
of the estate and, subject to the provisions of
this subtitle, has capacity to sue and be sued.
The trustee shall—
(i) administer the estate in compliance with this subtitle, the oversight program, and the related transaction documents;

(ii) be accountable for all property of the estate that is received by the trustee;

(iii) make a final report and file a final account of the administration of the estate with the applicable covered bond regulator; and

(iv) after the estate has been fully administered, close the estate.

(E) POWERS AND DUTIES OF SERVICER OR ADMINISTRATOR.—Any servicer or administrator for an estate—

(i) shall—

(I) collect, realize on (by liquidation or other means), and otherwise manage the cover pool held by the estate for the purpose of winding down the related cover bond program in compliance with this subtitle, the oversight program, and the related transaction documents and in a manner consistent with maximizing the
value and the proceeds of the cover pool;

(II) deposit or invest all proceeds and funds received in compliance with this subtitle, the oversight program, and the related transaction documents and in a manner consistent with maximizing the net return to the estate, taking into account the safety of the deposit or investment; and

(III) apply, or direct the trustee for the estate to apply, all proceeds and funds received and the net return on any deposit or investment to make distributions in compliance with paragraphs (3) and (4);

(ii) may borrow funds or otherwise obtain credit, for the benefit of the estate, in compliance with paragraph (2) on a secured or unsecured basis and on a priority, pari passu, or subordinated basis;

(iii) shall, at the times and in the manner required by the applicable covered bond regulator, submit to the covered bond regulator, the Secretary, the applicable in-
denture trustee, the applicable covered
bondholders, the owner of the residual in-
terest, and any other person designated by
the covered bond regulator, reports that
describe the activities of the servicer or ad-
ministrator on behalf of the estate, the
performance of the cover pool held by the
estate, and distributions made by the es-
tate; and

(iv) shall assist the trustee in pre-
paring the final report and the final ac-
count of the administration of the estate.

(F) SUPERVISION OF TRUSTEE, SERVICER,
AND ADMINISTRATOR.—The applicable covered
bond regulator shall supervise the trustee and
any servicer or administrator for an estate. The
covered bond regulator shall require that all re-
ports submitted under subparagraph (E)(iii) do
not contain any untrue statement of a material
fact and do not omit to state a material fact
necessary in order to make the statements
made, in light of the circumstances under which
they are made, not misleading.

(G) REMOVAL AND REPLACEMENT OF
TRUSTEE, SERVICER, AND ADMINISTRATOR.—If
the covered bond regulator determines that it is in the best interests of an estate, the covered bond regulator may remove or replace the trustee or any servicer or administrator for the estate. The removal of the trustee or any servicer or administrator does not abate any pending action or proceeding involving the estate, and any successor or other trustee, servicer, or administrator shall be substituted as a party in the action or proceeding.

(H) PROFESSIONALS.—The trustee or any servicer or administrator for an estate may employ 1 or more attorneys, accountants, appraisers, auctioneers, or other professional persons to represent or assist the trustee or the servicer or administrator in carrying out its duties. The employment of any professional person and all terms and conditions of employment, including the terms and conditions relating to compensation, shall conform to the requirements of this subtitle and the oversight program and otherwise shall be subject to the approval of the applicable covered bond regulator.

(I) APPROVED FEES AND EXPENSES.—Unless otherwise provided in the applicable terms
and conditions of appointment or employment,
all approved fees and expenses of the trustee,
any servicer or administrator, or any profes-
sional person employed by the trustee or any
servicer or administrator shall be payable from
the estate as administrative expenses.

(J) ACTIONS BY OR ON BEHALF OF E-
STATE.—The trustee or any servicer or adminis-
trator for an estate may commence or continue
judicial, administrative, or other actions, in the
name of the estate or in its own name on behalf
of the estate, for the purpose of collecting, real-
izing on, or otherwise managing the cover pool
held by the estate or exercising its other powers
or duties on behalf of the estate.

(K) ACTIONS AGAINST ESTATE.—No court
may issue an attachment or execution on any
property of an estate. Except at the request of
the applicable covered bond regulator or as oth-
erwise provided in this subparagraph or sub-
paragraph (J), no court may take any action to
restrain or affect the resolution of an estate
under this subtitle. No person (including the
applicable indenture trustee and any applicable
covered bondholder) may commence or continue
any judicial, administrative, or other action against the estate, the trustee, or any servicer or administrator or take any other act to affect the estate, the trustee, or any servicer or administrator that is not expressly permitted by this subtitle, the oversight program, and the related transaction documents, except for a judicial or administrative action to compel the release of funds that—

(i) are available to the estate;

(ii) are permitted to be distributed under this subtitle and the oversight program; and

(iii) are permitted and required to be distributed under the related transaction documents and any contracts executed by or on behalf of the estate.

(L) SOVEREIGN IMMUNITY.—Except in connection with a guarantee provided under paragraph (4) or any other contract executed by the applicable covered bond regulator under this section 354, the Secretary and the covered bond regulator shall be entitled to sovereign immunity in carrying out the provisions of this subtitle.
(2) Borrowings and credit.—

(A) In general.—Any servicer or administrator for an estate created under subsection (b)(1) or (c)(2) may borrow funds or otherwise obtain credit, on behalf of and for the benefit of the estate, from any person in compliance with this paragraph (2) solely for the purpose of providing liquidity in the case of timing mismatches among the assets and the liabilities of the estate. Except with respect to an underwriter, section 5 of the Securities Act of 1933, the Trust Indenture Act of 1939, and any State or local law requiring registration for an offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in a security does not apply to the offer or sale under this paragraph (2) of a security that is not an equity security.

(B) Conditions.—A servicer or administrator may borrow funds or otherwise obtain credit under subparagraph (A)—

(i) on terms affording the lender only claims or liens that are fully subordinated to the claims and interests of the applicable indenture trustee and the applicable
covered bondholders and all other claims against and interests in the estate, except for the residual interest, if the servicer or administrator certifies to the applicable covered bond regulator that, in the business judgment of the servicer or administrator, the borrowing or credit is in the best interests of the estate and is expected to maximize the value and the proceeds of the cover pool held by the estate; or

(ii) on terms affording the lender claims or liens that have priority over or are pari passu with the claims or interests of the applicable indenture trustee or the applicable covered bondholders or other claims against or interests in the estate, if—

(I) the servicer or administrator certifies to the applicable covered bond regulator that, in the business judgment of the servicer or administrator, the borrowing or credit is in the best interests of the estate and is expected to maximize the value and
the proceeds of the cover pool held by
the estate; and

(II) the applicable covered bond
regulator authorizes the borrowing or
credit.

(C) LIMITED LIABILITY.—A servicer or ad-
ministrator shall not be liable for any error in
business judgment when borrowing funds or
otherwise obtaining credit under this paragraph
(2) unless the servicer or administrator acted in
bad faith or in willful disregard of its duties.

(D) LIMITS ON BORROWINGS AND CRED-
it.—Funds may not be borrowed or credit oth-
erwise obtained under subparagraph (A)—

(i) for the purpose of investing in ad-
ditional portfolios of eligible assets through
the issuance of new covered bonds; or

(ii) otherwise for a purpose other than
winding down the related covered bond
program in compliance with this Act, the
oversight program, and the related trans-
action documents.

(E) STUDY ON BORROWINGS AND CRED-
it.—The Comptroller General of the United
States shall conduct a study on whether the
Federal reserve banks should be authorized to lend funds or otherwise extend credit to an estate under this paragraph (2) and, if so, what conditions and limits should be established to mitigate any risk that the United States Government could absorb credit losses on the cover pool held by the estate. The Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study not later than 6 months after the date of enactment of this Act.

(3) DISTRIBUTIONS BY ESTATE.—All payments or other distributions by an estate shall be made at the times, in the amounts, and in the manner set forth in the covered bonds, the related transaction documents, and any contracts executed by or on behalf of the estate in compliance with this subtitle and the oversight program. To the extent that the relative priority of the liabilities of the estate are not specified in or otherwise ascertainable from their terms, distributions shall be made on each distribution date under the covered bonds, the related trans-
action documents, or any contracts executed by or on behalf of the estate—

(A) first, to pay accrued and unpaid super-priority claims under paragraph (2)(B)(ii);

(B) second, to pay accrued and unpaid administrative expense claims under paragraph (1)(I), paragraph (2)(B)(ii), section 354(b)(5)(A), or section 354(c)(6)(A);

(C) third, to pay—

(i) accrued and unpaid claims under the covered bonds and the related transaction documents according to their terms; and

(ii) accrued and unpaid pari passu claims under paragraph (2)(B)(ii); and

(D) fourth, to pay accrued and unpaid subordinated claims under paragraph (2)(B)(i).

(4) DISTRIBUTIONS ON RESIDUAL INTEREST.—

After all other claims against and interests in an estate have been fully and irrevocably paid or defeased, the trustee shall or shall cause a servicer or administrator to distribute the remainder of the estate to or at the direction of the owner of the residual interest. No interim distribution on the resid-
ual interest may be made before that time, unless
the applicable covered bond regulator—

(A) approves the distribution after deter-
mining that all other claims against and inter-
ests in the estate will be fully, timely, and irrev-
ocably paid according to their terms; and

(B) provides an indemnity, for the benefit
of the estate, assuring that all other claims
against and interests in the estate will be fully,
timely, and irrevocably paid according to their
terms.

(5) CLOSING OF ESTATE.—After an estate has
been fully administered, the trustee shall close the
estate and, except as otherwise directed by the appli-
cable covered bond regulator, shall destroy all
records of the estate.

(6) NO LOSS TO TAXPAYERS.—Taxpayers shall
bear no losses from the resolution of an estate under
this subtitle. To the extent that the Secretary and
the Corporation jointly determine that the Deposit
Insurance Fund incurred actual losses that are high-
er because the covered bond program of an insured
depository institution was subject to resolution
under this subtitle rather than as part of the receiv-
ership of the institution under the Federal Deposit
Insurance Act (12 U.S.C. 1811 et seq.), the Corporation may exercise the powers available under section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) to recover an amount equal to those losses after consulting with the Secretary.

SEC. 355. SECURITIES LAW PROVISIONS.

(a) EXISTING EXEMPTIONS APPLICABLE TO COVERED BONDS.—

(1) TREATMENT OF CERTAIN BANKS AND OTHER ENTITIES.—Any covered bond issued or guaranteed by a bank or by an eligible issuer described in section 352(9)(D) and sponsored solely by 1 or more banks for the sole purpose of issuing covered bonds is and shall be treated as a security issued or guaranteed by a bank under section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)), section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)), and section 304(a)(4)(A) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(4)(A)). No covered bond issued or guaranteed by a bank or by an eligible issuer described in section 352(9)(D) and sponsored solely by 1 or more banks for the sole purpose of issuing covered bonds shall be treated as an asset-backed security (as defined in section 3 of the Secu-

Each covered bond regulator for 1 or more banks shall adopt disclosure and reporting regulations for offers or sales of covered bonds by a bank or an eligible issuer described in this paragraph. Such regulations shall provide for uniform and consistent standards for such covered bond issuers, to the extent possible, and shall be consistent with existing regulations governing offers or sales of nonconvertible debt.

(2) Treatment of Certain Associations and Cooperative Banks.—Any covered bond issued by an entity described in section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)) or by an eligible issuer described in section 352(9)(D) and sponsored solely by 1 or more such entities for the sole purpose of issuing covered bonds is and shall be treated as a security issued by such an entity under section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)), section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)), and section 304(a)(4)(A) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(4)(A)). No covered bond issued by an entity described in section 3(a)(5)(A) of the Securities
Act of 1933 (15 U.S.C. 77c(a)(5)(A)) or by an eligible issuer described in section 352(9)(D) and sponsored solely by 1 or more such entities for the sole purpose of issuing covered bonds shall be treated as an asset-backed security (as defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c)). Each covered bond regulator for 1 or more entities described in section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)) shall adopt, as part of the securities regulations of the covered bond regulator, a separate scheme of registration, disclosure, and reporting obligations and exemptions for offers or sales of covered bonds that are described in this paragraph. Such regulations shall provide for uniform and consistent standards for such covered bond issuers, to the extent possible, and shall be consistent with regulations governing offers or sales of similar securities.

(3) CONSTRUCTION.—No provision of this subtitle, including paragraph (1) or (2), may be construed or applied in a manner that impairs or limits any other exemption that is available under applicable securities laws.
(b) Exemptions for Estates.—Any estate that is or may be created under section 354(b)(1) or 354(c)(2) shall be exempt from all securities laws but—

(1) shall be subject to the reporting requirements established by the applicable covered bond regulator under section 354(d)(1)(E)(iii); and

(2) shall succeed to any requirement of the issuer to file such periodic information, documents, and reports in respect of the covered bonds as specified in section 13(a) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a)) or rules established by an appropriate Federal banking agency.

(c) Exemptions for Residual Interests.—Any residual interest in an estate that is or may be created under section 354(b)(1) or 354(c)(2) shall be exempt from all securities laws.

SEC. 356. MISCELLANEOUS PROVISIONS.


(1) in subparagraph (C), by striking “or” at the end;

(2) in subparagraph (D), by adding “or” at the end; and
(3) by inserting after subparagraph (D) the following:

“(E) covered bonds (as defined in section 352 of the United States Covered Bond Act of 2013),”.

(b) Tax Treatment of Covered Bond Programs.—

(1) Treatment of Estates Created Under Covered Bond Programs.—Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) Treatment of Estates Created Under Covered Bond Programs.—For purposes of this title—

“(1) Treatment as Disregarded Entity.—Any estate created with respect to a covered bond program—

“(A) shall not be treated as an entity subject to taxation separate from the owner of the residual interest with respect to such estate; and

“(B) shall be treated as a disregarded entity that is owned by the owner of such residual interest.
“(2) Limitations on treatment as disregarded entity.—

“(A) Maximum duration.—Paragraph (1) shall not apply with respect to an estate after the earlier of—

“(i) the end of the 30-year period beginning on the date of the creation of such estate; or

“(ii) the end of the 180-day period beginning on the date of the final payment on the last outstanding covered bond that is secured by the cover pool held by such estate.

“(B) Restrictions on owner of residual interest.—Paragraph (1) shall apply with respect to an estate for any period only if—

“(i) at no time during such period does more than one person hold a residual interest with respect to such estate;

“(ii) such person is—

“(I) subject to tax under subtitle A on the net income of such estate for the taxable year of such person which includes such period; or
“(II) a conservator, receiver, liquidating agent, or trustee in bankruptcy with respect to the issuer for such period; and

“(iii) such person is not a regulated investment company (as defined in section 851) or real estate investment trust (as defined in section 856) for the taxable year which includes such period.

“(3) Treatment as Corporation.—With respect to any period for which paragraph (1) does not apply to an estate created with respect to a covered bond program, such estate shall be treated as a corporation.

“(4) Coordination with Rules for Taxable Mortgage Pools.—No portion of any estate created with respect to a covered bond program shall be treated as a taxable mortgage pool for purposes of subsection (i) during any period for which paragraph (1) applies to such estate.

“(5) Definitions.—For purposes of this subsection, the terms ‘covered bond program’, ‘covered pool’, ‘estate’, and ‘residual interest’ shall each have the same respective meanings as when used for pur-
poses of the United States Covered Bond Act of
2013.

“(6) CROSS REFERENCES.—

“(A) For nonrecognition with respect to
certain transfers under covered bond programs,
see section 1001(f).

“(B) For excise tax on estates created
under covered bond programs by reason of de-
fault, see section 4475.”.

(2) TREATMENT OF CERTAIN TRANSFERS
UNDER COVERED BOND PROGRAMS.—Section 1001
of such Code is amended by adding at the end the
following new subsection:

“(f) CERTAIN TRANSFERS UNDER COVERED BOND
PROGRAMS.—

“(1) IN GENERAL.—With respect to any cov-
ered bond program, none of the following shall be
treated as a taxable exchange of a covered bond to
a covered bond holder or to a notional principal con-
tract counterparty:

“(A) The transfer of all of the assets and
liabilities of such program.

“(B) The creation of an estate with respect
to such program.
“(C) The transfer of the residual interest
in such estate.

“(2) DEFINITIONS.—For purposes of this sub-
section, the terms ‘covered bond program’, ‘estate’,
and ‘residual interest’ shall each have the same re-
spective meanings as when used for purposes of the
United States Covered Bond Act of 2013.”.

(3) EXCISE TAX ON ESTATES CREATED UNDER
COVERED BOND PROGRAMS BY REASON OF DE-
FAULT.—

(A) IN GENERAL.—Chapter 36 of such
Code is amended by inserting after subchapter
B the following new subchapter:

“Subchapter C—Tax on Certain Estates
Created Under Covered Bond Programs

“Sec. 4475. Tax on estates created under covered bond programs by reason of
default.

“SEC. 4475. TAX ON ESTATES CREATED UNDER COVERED
BOND PROGRAMS BY REASON OF DEFAULT.

“(a) IMPOSITION OF TAX.—A tax is hereby imposed
on the creation of an estate by operation of section

“(b) AMOUNT OF TAX.—The tax imposed under sub-
section (a) with respect to the creation of any estate shall
be equal to 1 percent of the principal amount of the cov-
ered bonds secured by the cover pool with respect to such
estate determined as of the close of the day before the
creation of such estate.

“(c) By Whom Paid.—The tax imposed under sub-
section (a) shall be paid by the issuer of the covered bonds
with respect to the covered bond program with respect to
which the estate referred to in subsection (a) is created.

“(d) No Effect on Cover Pool.—The tax im-
posed under subsection (a) shall not reduce the assets of
the cover pool and no liability for such tax shall attach
to the estate or to the assets of the cover pool.

“(e) Refund in Case of Bankruptcy, Etc.—If an
issuer liable for the tax imposed under subsection (a) en-
ters conservatorship, receivership, liquidation, or bank-
ruptcy during the 5-year period beginning on the date of
the creation of the estate referred to in subsection (a),
such liability shall be extinguished and any such tax paid
shall refunded to the issuer immediately upon such event.

“(f) Definitions.—For purposes of this section, the
terms ‘covered bond program’, ‘cover pool’, and ‘estate’
shall each have the same respective meanings as when
used for purposes of the United States Covered Bond Act
of 2013.”.

(B) Clerical Amendment.—The table of
subchapters for chapter 36 of such Code is
amended by inserting after the item relating to
subchapter B the following new item:

“SUBCHAPTER C—TAX ON CERTAIN ESTATES CREATED UNDER COVERED BOND PROGRAMS”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates created, and transfers made, after the date of the enactment of this Act.

(c) STATE AND LOCAL TAXES.—The Secretary may promulgate regulations under this subtitle that are similar to the provisions of section 346 of title 11, United States Code, including regulations to provide that—

(1) if an estate created under section 354(b)(1) or 354(c)(2) is not treated as an entity subject to taxation separate from the owner of the residual interest for purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), no separate taxable entity shall be created with respect to the estate for purposes of any State or local law imposing a tax on or measured by income; and

(2) if a transfer or assumption of an asset or liability to or by an estate or an eligible issuer under section 354(b) or 354(c) does not cause or constitute an event in which gain or loss is recognized under section 1001 of the Internal Revenue Code of 1986 (26 U.S.C. 1001), the transfer or assumption shall
not cause or constitute a disposition for purposes of any provision assigning tax consequences to a disposition in connection with any State or local law imposing a tax on or measured by income.

(d) No Conflict.—The provisions of this subtitle shall apply, notwithstanding any provision of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), title 11, United States Code, title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), or any other provision of Federal law with respect to conservatorship, receivership, liquidation, or bankruptcy. No provision of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), title 11, United States Code, title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.), or any other provision of Federal law with respect to conservatorship, receivership, liquidation, or bankruptcy may be construed or applied in a manner that defeats or interferes with the purpose or operation of this subtitle.

(e) Annual Report to Congress.—The covered bond regulators shall, annually—

(1) submit a joint report to the Congress describing the current state of the covered bond market in the United States; and
(2) testify on the current state of the covered
bond market in the United States before the Com-
mittee on Financial Services of the House of Rep-
resentatives and the Committee on Banking, Hous-
ing, and Urban Affairs of the Senate.

**TITLE IV—REMOVING BARRIERS
TO NEW INVESTMENT**

**SEC. 401. BASEL III IMPACT STUDY.**

(a) In General.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (in this section collectively referred to as the “Fed-
eral banking agencies”) shall conduct an empirical study
on the Regulatory Capital Rules finalized by the Board of Governors of the Federal Reserve on July 2, 2013 (“Final Rule”) in accordance with subsection (b) and re-
lease a final report in accordance with subsection (d).

(b) Issues To Be Studied.—The study required
under subsection (a) shall include—

(1) the potential impact of the Final Rule on
the financial services sector of the United States,
and specifically covered financial institutions, includ-
ing changes to required capital levels in the aggre-
gate, per asset class and institution size;
(2) the long-term potential impact of the Final Rule, including changes to the current risk weight framework;

(3) the potential cost and complexity of the Final Rule for covered financial institutions;

(4) the potential indicators of covered financial institutions having to maintain higher leverage capital ratios and higher total risk-based capital ratios than non-covered financial institutions, and if such capital levels are commensurate with higher historical losses or greater risk;

(5) whether the Final Rule will cause capital levels at covered financial institutions to fluctuate with more frequency or by greater amounts than the current capital rules and what, if any, safety and soundness issues such fluctuations raise for covered financial institutions or the financial system including whether such fluctuations will make the United States financial system more or less safe than the current rules;

(6) whether the Final Rule will result in the discontinuation of the use of certain risk management tools by covered financial institutions and thereby undermine the safety and soundness of covered financial institutions and the financial system;
(7) the cumulative impact that the Final Rule will have on—

(A) United States economic growth, in general, and specifically, on the Gross Domestic Product;

(B) the availability and cost of credit, both generally and in low- and moderate-income areas;

(C) the availability and cost of residential mortgages and home equity lines of credit, auto loans, student loans, and commercial loans, including small business loans; and

(D) regulatory capital levels, capital quality, asset quality, and risk management at covered financial institutions.

(e) VOLUNTARY PARTICIPATION.—Any financial institution may voluntarily provide information for the study upon the request of the Federal banking agencies, but may not be required to provide such information.

(d) FINAL REPORT.—

(1) AVAILABILITY TO THE PUBLIC.—A final report on the completed study required under subsection (a) shall be made available to the public for notice and comment for a period of not less than 90 days.
(2) REPORT TO CONGRESS.—The Federal banking agencies shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and testify before such committees, on the results of the study required under subsection (a) and a summary of the comments received under paragraph (1).

(3) REVIEW.—The Federal banking agencies shall review any comments submitted under paragraphs (1) and (2) and considerations provided pursuant to paragraphs (1) and (2), and following such review, shall prescribe new rules, if appropriate, based on the results of the study and such comments and considerations. Notwithstanding any other provision of law, a new rulemaking following such comment period shall include an additional comment period of not less than 90 days.

(e) DELAY OF RULEMAKING.—The Final Rule may not take effect for a covered financial institution until the later of—

(1) 2 years after the date of the enactment of this Act; and

(2) 1 year after the promulgation of revised rules in accordance with subsection (d)(3) or a de-
termination by the Federal banking agencies that no
revised rules are needed in accordance with that sub-
section, which shall be published in the Federal Reg-
ister.

(f) Definition of Covered Financial Institution.—For purposes of this section, the term “covered fi-
nancial institution” means any bank, thrift, bank holding
company, and savings and loan holding company (as such
terms are defined under section 3 of the Federal Deposit
Insurance Act) other than a bank, thrift, bank holding
company, or savings and loan holding company identified
by the Financial Stability Board as a “global systemically
important bank”, as of the date of the enactment of this
Act.

SEC. 402. BASEL III LIQUIDITY COVERAGE RATIO AMEND-
MENTS.

(a) In General.—In implementing the Basel III Li-
quidity Coverage Ratio amendments, the Board of Gov-
ernors of the Federal Reserve System, the Federal Deposit
Insurance Corporation, and the Office of the Comptroller
of the Currency may not require, as a condition for status
as a high quality liquid asset, that residential mortgage-
backed securities be collateralized only by (or be
collateralized by a certain percentage of) full recourse
mortgage loans.
(b) DEFINITION.—The term “Basel III Liquidity Coverage Ratio amendments” means the amendments to the Liquidity Coverage Ratio endorsed by the Basel Committee on Banking Supervision on January 6, 2013.

SEC. 403. DEFINITION OF POINTS AND FEES.

(a) AMENDMENT TO SECTION 103 OF TILA.—Section 103(bb)(4) of the Truth in Lending Act (15 U.S.C. 1602(bb)(4)) is amended—

(1) by striking “paragraph (1)(B)” and inserting “paragraph (1)(A) and section 129C”;

(2) in subparagraph (A), by striking “except interest or the time-price differential” and inserting the following:

“except—

“(i) interest and the time-price differential; and

“(ii) the amount of any loan level price adjustment payment set by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or similar governmental entity or government-sponsored enterprise”;

(3) by striking subparagraph (B) and inserting the following new subparagraph:
“(B) all compensation paid directly by a consumer to a mortgage originator, including a mortgage originator that is also the creditor in a table-funded transaction, but not including compensation paid by a mortgage originator or a creditor to an individual employed by the mortgage originator or creditor’’;

(4) in subparagraph (C)—

(A) by inserting “and insurance” after “taxes”;

(B) in clause (ii), by inserting ‘‘, except as retained by a creditor or its affiliate as a result of their participation in an affiliated business arrangement (as defined in section 2(7) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(7))’’ after “compensation”;

and

(C) by striking clause (iii) and inserting the following:

“(iii) the charge is—

“(I) a bona fide third-party charge not retained by the mortgage originator, creditor, or an affiliate of the creditor or mortgage originator; or
“(II) a charge set forth in section 106(e)(1);”; and

(5) in subparagraph (D)—

(A) by striking “accident,”; and

(B) by striking “or any payments” and inserting “and any payments”.

(b) AMENDMENT TO SECTION 129C OF TILA.—Section 129C of the Truth in Lending Act (15 U.S.C. 1639c) is amended—

(1) in subsection (a)(5)(C), by striking “103” and all that follows through “or mortgage originator” and inserting “103(bb)(4)”; and

(2) in subsection (b)(2)(C)(i), by striking “103” and all that follows through “or mortgage originator)” and inserting “103(bb)(4)”.

SEC. 404. EXCLUSION OF ISSUERS OF ASSET-BACKED SECURITIES FROM COVERED FUNDS.

Section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)) is amended—

(1) by striking “‘private equity fund’ mean an issuer” and inserting the following: “‘private equity fund’—

“(A) mean an issuer”; and

(2) by striking the period and inserting “; and”; and
(3) by adding at the end the following:

“(B) does not include an issuer, if such issuer is described under subparagraph (A) solely because such issuer issues asset-backed securities (as such term is defined under section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).”.

SEC. 405. SUSPENSION OF REGULATION AB II RULE-MAKING.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended—

(1) by redesignating the two subsections following subsection (a) (each designated as subsection (b)) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

“(b) With respect to paragraphs (1) and (2) of subsection (a), or any rule or regulation promulgated thereunder or in furtherance thereof (including Rule 144, Rule 144A and Rule 506), the Commission shall not condition the availability of the exemptions afforded by any such paragraph, rule, or regulation upon an issuer’s undertaking to provide to investors, in connection with initial offers or sales or on an ongoing basis thereafter, the same
or substantially similar information as would be required
in a transaction to which section 5 applies.”.

SEC. 406. EFFECTIVE DATE OF CERTAIN MORTGAGE RE-
FORM REGULATIONS.

(a) IN GENERAL.—Section 1400(c) of the Dodd-
Frank Wall Street Reform and Consumer Protection Act
(15 U.S.C. 1601 note) is amended—

(1) in paragraph (1), by amending subpara-
graph (B) to read as follows:

“(B) take effect 24 months after the
issuance of the regulations in final form, or
such later time as specified by regulation.”; and

(2) by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by
subsection (a) shall take effect on the date of the enact-
ment of the Dodd-Frank Wall Street Reform and Con-
sumer Protection Act, as if included in such Act.

SEC. 407. REPEAL OF CREDIT RISK RETENTION REGULA-
TIONS.

(a) IN GENERAL.—

(1) DODD-FRANK.—The Dodd-Frank Wall
Street Reform and Consumer Protection Act (12
U.S.C. 5301 et seq.) is amended—

(A) by striking section 941; and
(B) in the table of contents for such Act,
by striking the item relating to section 941.

(2) SECURITIES EXCHANGE ACT OF 1934.—The
seq.) is amended—

(A) in section 3(a), by striking paragraph
(77) (relating to asset-backed security), as
added by section 941(a) of the Dodd-Frank
Wall Street Reform and Consumer Protection
Act; and

(B) by striking section 15G.

(b) PROHIBITION ON RISK RETENTION AND PRE-
MIUM CAPTURE CASH RESERVE ACCOUNTS.—The Com-
troller of the Currency, the Board of Governors of the
Federal Reserve System, the Federal Deposit Insurance
Corporation, the Bureau of Consumer Financial Protec-
tion, and the Securities and Exchange Commission may
not issue any rule or regulation to require risk retention,
the creation or maintenance of a premium capture cash
reserve account, or any similar mechanism, unless directly
authorized by an Act of Congress.

(c) EFFECTIVE DATE.—The amendments made by
subsection (a) shall take effect on the date of the enact-
ment of the Dodd-Frank Wall Street Reform and Con-
sumer Protection Act, as if included in such Act.
SEC. 408. MORTGAGES IN QUALIFIED SECURITIES.
Section 129C of the Truth in Lending Act (15 U.S.C. 1639c), as amended by section 411(1), is further amended by inserting after subsection (e) the following:
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(f) MORTGAGES IN QUALIFIED SECURITIES.—This section and any regulations promulgated under this section do not apply to a mortgage serving as collateral for a qualified security, as such term is defined under section 321 of the Protecting American Taxpayers and Homeowners Act of 2013.''
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SEC. 409. MORTGAGE LOANS HELD IN PORTFOLIO.
(a) HOME MORTGAGE DISCLOSURE ACT OF 1975.—
Section 304(g) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period and inserting “; and”; and

(3) by adding at the end the following:
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“(3) made by the creditor, so long as such loan appears on the balance sheet of such creditor.”.
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(b) TRUTH IN LENDING ACT.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 129C (15 U.S.C. 1639c), as amended by section 408, by inserting after subsection (f) the following:
“(g) MORTGAGE LOANS HELD IN PORTFOLIO.—This section and any regulations promulgated under this section do not apply to a residential mortgage loan made by the creditor so long as such loan appears on the balance sheet of such creditor.”; and

(2) in section 129D (15 U.S.C. 1639d), by adding at the end the following:

“(k) MORTGAGE LOANS HELD IN PORTFOLIO.—This section and any regulations promulgated under this section do not apply to a residential mortgage loan made by the creditor so long as such loan appears on the balance sheet of such creditor.”.

SEC. 410. REPEAL OF CERTAIN MORTGAGE-RELATED PROVISIONS.

(a) REPEAL.—Sections 1413, 1431, and 1432 of the Dodd-Frank Wall Street Reform and Consumer Protection Act are hereby repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(b) CLERICAL AMENDMENT.—The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended by striking the items relating to sections 1413, 1431, and 1432.
SEC. 411. AMENDMENTS TO THE TRUTH IN LENDING ACT.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 129 (15 U.S.C. 1639)—

(A) in subsection (b)(3), by adding at the end the following: “The Bureau may not, by regulation or otherwise, prohibit a consumer from modifying or waiving the rights provided to the consumer under this subsection.”; and

(B) in subsection (u), by adding at the end the following:

“(4) Ensuring access to counseling services for rural communities.—Certification described under paragraph (1) may be provided by a person who operates an online or telephone-operated counseling service approved by the Secretary of Housing and Urban Development or by an online or telephone-operated counseling service operated by the Department of Housing and Urban Development.

“(5) Effective date.—Notwithstanding section 1400(c) of the Mortgage Reform and Anti-Predatory Lending Act, this subsection shall take effect after the end of the 1-year period beginning on the earlier of—
“(A) the date on which the first online or telephone-operated counseling service is approved under paragraph (4); and

“(B) the date on which the Department of Housing and Urban Development begins providing online or telephone-operated counseling services described under paragraph (4).”;

(2) in section 129C (15 U.S.C. 1639c)—

(A) in subsection (b)(2)(A)(viii), by striking “30” and inserting “40”;

(B) by striking subsections (c), (d), and (e); and

(C) by redesignating subsections (f), (g), (h), and (i) as subsections (c), (d), (e), and (f), respectively; and

(3) in section 129E(k)(1) (15 U.S.C. 1639e(k)(1)) by inserting after “this section” the following: “, other than subsection (e),”.

SEC. 412. FINANCIAL INSTITUTIONS EXAMINATION FAIRNESS AND REFORM.

(a) Timeliness of Examination Reports.—The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end the following:
“SEC. 1012. TIMELINESS OF EXAMINATION REPORTS.

“(a) IN GENERAL.—

“(1) FINAL EXAMINATION REPORT.—A Federal financial institutions regulatory agency shall provide a final examination report to a financial institution not later than 60 days after the later of—

“(A) the exit interview for an examination of the institution; or

“(B) the provision of additional information by the institution relating to the examination.

“(2) EXIT INTERVIEW.—If a financial institution is not subject to a resident examiner program, the exit interview shall occur not later than the end of the 9-month period beginning on the commencement of the examination, except that such period may be extended by the Federal financial institutions regulatory agency by providing written notice to the institution and the Office of Examination Ombudsman describing with particularity the reasons that a longer period is needed to complete the examination.

“(b) EXAMINATION MATERIALS.—Upon the request of a financial institution, the Federal financial institutions regulatory agency shall include with the final report an appendix listing all examination or other factual informa-
tion relied upon by the agency in support of a material supervisory determination.”.

(b) Examination Standards.—

(1) In general.—The Federal Financial Institutions Examination Council Act of 1978 is further amended by adding after section 1012 the following:

“SEC. 1013. Examination Standards.

“(a) In General.—In the examination of financial institutions—

“(1) a commercial loan shall not be placed in non-accrual status solely because the collateral for such loan has deteriorated in value;

“(2) a modified or restructured commercial loan shall be removed from non-accrual status if the borrower demonstrates the ability to perform on such loan over a maximum period of 6 months, except that with respect to loans on a quarterly, semi-annual, or longer repayment schedule such period shall be a maximum of 3 consecutive repayment periods;

“(3) a new appraisal on a performing commercial loan shall not be required unless an advance of new funds is involved;

“(4) in classifying a commercial loan in which there has been deterioration in collateral value, the
amount to be classified shall be the portion of the deficiency relating to the decline in collateral value and repayment capacity of the borrower.

“(b) WELL CAPITALIZED INSTITUTIONS.—The Federal financial institutions regulatory agencies may not require a financial institution that is well capitalized to raise additional capital in lieu of an action prohibited under subsection (a).

“(c) CONSISTENT LOAN CLASSIFICATIONS.—The Federal financial institutions regulatory agencies shall develop and apply identical definitions and reporting requirements for non-accrual loans.”.


(A) in clause (ii), by striking “and” at the end; and

(B) by inserting after clause (iii) the following:

“(iv) any issue specifically listed in an exam report as a matter requiring attention by the institution’s management or board of directors; and”.

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(c) EXAMINATION OMBUDSMAN.—

(1) IN GENERAL.—The Federal Financial Institutions Examination Council Act of 1978 is further amended by adding after section 1013 the following:

“SEC. 1014. OFFICE OF EXAMINATION OMBUDSMAN.

“(a) ESTABLISHMENT.—There is established in the Council an Office of Examination Ombudsman.

“(b) HEAD OF OFFICE.—There is established the position of the Ombudsman, who shall serve as the head of the Office of Examination Ombudsman, and who shall be hired separately by the Council and shall be independent from any member agency of the Council.

“(c) STAFFING.—The Ombudsman is authorized to hire staff to support the activities of the Office of Examination Ombudsman.

“(d) DUTIES.—The Ombudsman shall—

“(1) receive and, at the Ombudsman’s discretion, investigate complaints from financial institutions, their representatives, or another entity acting on behalf of such institutions, concerning examinations, examination practices, or examination reports;

“(2) hold meetings, at least once every three months and in locations designed to encourage participation from all sections of the United States, with financial institutions, their representatives, or
another entity acting on behalf of such institutions, to discuss examination procedures, examination practices, or examination policies;

“(3) review examination procedures of the Federal financial institutions regulatory agencies to ensure that the written examination policies of those agencies are being followed in practice and adhere to the standards for consistency established by the Council;

“(4) conduct a continuing and regular program of examination quality assurance for all examination types conducted by the Federal financial institutions regulatory agencies;

“(5) process any supervisory appeal initiated under section 1015 or section 309(e) of the Riegle Community Development and Regulatory Improvement Act of 1994; and

“(6) report annually to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Council, on the reviews carried out pursuant to paragraphs (3) and (4), including compliance with the requirements set forth in section 1012 regarding timeliness of examination reports, and the Council’s recommendations for im-
provements in examination procedures, practices, and policies.

“(e) CONFIDENTIALITY.—The Ombudsman shall keep confidential all meetings, discussions, and information provided by financial institutions.”.

(2) DEFINITION.—Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 is amended—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by adding “and” at the end; and

(C) by adding at the end the following:

“(4) the term ‘Ombudsman’ means the Ombudsman established under section 1014(a).”.

(d) RIGHT TO APPEAL BEFORE AN INDEPENDENT ADMINISTRATIVE LAW JUDGE.—The Federal Financial Institutions Examination Council Act of 1978 is further amended by adding after section 1014 the following:

“SEC. 1015. RIGHT TO APPEAL BEFORE AN INDEPENDENT ADMINISTRATIVE LAW JUDGE.

“(a) IN GENERAL.—A financial institution shall have the right to appeal a material supervisory determination contained in a final report of examination.

“(b) NOTICE.—
“(1) Timing.—A financial institution seeking an appeal under this section shall file a written notice with the Ombudsman within 60 days after receiving the final report or examination that is the subject of such appeal.

“(2) Identification of Determination.—The written notice shall identify the material supervisory determination that is the subject of the appeal, and a statement of the reasons why the institution believes that the determination is incorrect or should otherwise be modified.

“(3) Information to be provided to Institution.—Any information relied upon by the agency in the final report that is not in the possession of the financial institution may be requested by the financial institution and shall be delivered promptly by the agency to the financial institution.

“(c) Hearing Before Independent Administrative Law Judge.—

“(1) In general.—The Ombudsman shall determine the merits of the appeal on the record, after an opportunity for a hearing before an independent administrative law judge.
“(2) Hearing procedures.—If a hearing is requested by the financial institution, the hearing shall—

“(A) take place not later than 60 days after the notice of the appeal was received by the Ombudsman; and

“(B) be conducted pursuant to the procedures set forth under sections 556 and 557 of title 5, United States Code.

“(3) Judge recommendation; standard of review.—In any hearing under this subsection—

“(A) the administrative law judge shall recommend to the Ombudsman what determination should be made; and

“(B) in making such recommendation, the administrative law judge shall not defer to the opinions of the examiner or agency, but shall independently determine the appropriateness of the agency’s decision based upon the relevant statutes, regulations, and other appropriate guidance.

“(d) Final decision.—A decision by the Ombudsman on an appeal under this section shall—

“(1) be made not later than 60 days after the record has been closed; and
“(2) be final agency action and shall bind the
agency whose supervisory determination was the
subject of the appeal and the financial institution
making the appeal.

“(e) REPORT.—The Ombudsman shall report annu-
ally to the Committee on Financial Services of the House
of Representatives, the Committee on Banking, Housing,
and Urban Affairs of the Senate on actions taken on ap-
peals under this section, including the types of issues that
financial institutions have appealed and the results of
those appeals. In no case shall such a report contain infor-
mation about individual financial institutions or any con-
fidential or privileged information shared by financial in-
stitutions.

“(f) RETALIATION PROHIBITED.—A Federal finan-
cial institution’s regulatory agency may not—

“(1) retaliate against a financial institution, in-
cluding service providers, or any institution-affiliated
party, for exercising appellate rights under this sec-
tion; or

“(2) delay or deny any agency action that
would benefit a financial institution or any institu-
tion-affiliated party on the basis that an appeal
under this section is pending under this section.”.

(e) ADDITIONAL AMENDMENTS.—
(1) **Riegle Community Development and Regulatory Improvement Act of 1994.**—Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4806), is amended—

(A) in subsection (a), by inserting after “appropriate Federal banking agency” the following: “, the Bureau of Consumer Financial Protection,”;

(B) in subsection (b)—

(i) in paragraph (2), by striking “the appellant from retaliation by agency examiners” and inserting “the insured depository institution or insured credit union from retaliation by the agencies referred to in subsection (a)”;

(ii) by adding at the end the following flush-left text:

“For purposes of this subsection and subsection (e), retaliation includes delaying consideration of, or withholding approval of, any request, notice, or application that otherwise would have been approved, but for the exercise of the institution’s or credit union’s rights under this section.”;

and

(C) in subsection (e)(2)—
(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C), by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(D) ensure that appropriate safeguards exist for protecting the insured depository institution or insured credit union from retaliation by any agency referred to in subsection (a) for exercising its rights under this subsection.”.

(2) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(x) of the Federal Deposit Insurance Act (12 U.S.C. 1828(x)) is amended by inserting “the Bureau of Consumer Financial Protection,” before “any Federal banking agency” each place such term appears.

(3) FEDERAL CREDIT UNION ACT.—Section 205(j) of the Federal Credit Union Act (12 U.S.C. 1785(j)) is amended by inserting “the Bureau of Consumer Financial Protection,” before “the Administration” each place such term appears.

(A) in section 1003(1), by striking “the Office of Thrift Supervision,”; and
(B) in section 1005, by striking “One-fifth” and inserting “One-fourth”.

SEC. 413. NOTICE OF JUNIOR MORTGAGE OR LIEN.

With respect to the dwelling of a borrower that serves as security for a securitized senior mortgage loan, if the borrower enters into any credit transaction that would result in the creation of a new mortgage or other lien on such dwelling, the creditor of such new mortgage or other lien shall notify the servicer of the senior mortgage loan of the existence of the new mortgage or other lien.

SEC. 414. LIMITATION ON MORTGAGES HELD BY LOAN SERVICERS.

(a) LIMITATION.—Neither the servicer of a residential mortgage loan, nor any affiliate of such servicer, may own, or hold any interest in, any other residential mortgage loan that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on the same dwelling or residential real property that is subject to the mortgage, deed of trust, or other security interest that secures the residential mortgage loan serviced by the servicer.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:
(1) **AFFILIATE.**—The term “affiliate” has the meaning given such term under section 104(g) of the Gramm-Leach-Bliley Act (15 U.S.C. 6701(g)).

(2) **RESIDENTIAL MORTGAGE LOAN.**—The term “residential mortgage loan” means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.

(3) **SERVICER.**—The term “servicer” has the meaning provided such term in section 129A of the Truth in Lending Act, except that such term includes a person who makes or holds a residential mortgage loan (including a pool of residential mortgage loans) if such person also services the loan.

(c) **INTERESTS.**—For purposes of subsection (a), ownership of, or holding an interest in, a residential mortgage loan includes ownership of, or holding an interest in—

(1) a pool of residential mortgage loans that contains such residential mortgage loan; or
(2) any security based on or backed by a pool of residential mortgage loans that contains such residential mortgage loan.

(d) EFFECTIVE DATE.—This section shall apply—

(1) with respect to the servicer (or affiliate of the servicer) of a residential mortgage loan that is originated after the date of the enactment of this Act, on such date of enactment; and

(2) with respect to the servicer (or affiliate of the servicer) of a residential mortgage loan that is originated on or before the date of the enactment of this Act, upon the expiration of the 12-month period beginning upon such date of enactment.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. PRESERVING ACCESS TO MANUFACTURED HOUSING.

(a) Amendment to Mortgage Originator Definition.—Section 1401 of the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended, in paragraph (2)(C)(ii) of the matter proposed to be added to section 103 of the Truth in Lending Act, by striking “an employee of a retailer of manufactured homes who is not described in clause (i) or (iii) of subparagraph (A) and who does not advise a consumer on loan terms (in-
including rates, fees, and other costs)” and inserting “a re-
tailer of manufactured or modular homes or its employees
unless such retailer or its employees receive compensation
or gain for engaging in activities described in subpara-
graph (A) that is in excess of any compensation or gain
received in a comparable cash transaction”.

(b) TECHNICAL AMENDMENTS.—Section 1401 of the
Dodd-Frank Wall Street Reform and Consumer Protec-
tion Act is amended, in the matter proposed to be added
to section 103 of the Truth in Lending Act, by redesig-
nating subsection (cc) as subsection (dd).

(c) EFFECTIVE DATE.—The amendments made by
this section shall take effect as if included in the provisions
of the Dodd-Frank Wall Street Reform and Consumer
Protection Act to which they relate.

SEC. 502. COMMON SENSE ECONOMIC RECOVERY.

(a) SHORT TITLE.—This section may be cited as the
“Common Sense Economic Recovery Act of 2013”.

(b) TREATMENT OF CERTAIN LOANS.—

(1) IN GENERAL.—For purposes of determining
capital requirements or measuring capital of an in-
sured depository institution under section 38 of the
Federal Deposit Insurance Act (12 U.S.C. 1831o) or
any other provision of law or regulatory guidance, an
insured depository institution that would otherwise
be required to treat a loan as a non-accrual loan
may treat such loan as an accrual loan, if—

(A) the loan is current;

(B) during the previous 6-month period, no
monthly payment on the loan has been more
than 30 days delinquent; and

(C) the payments on the loan are being
made pursuant to the contractual terms of the
loan agreement and any refinances and modi-
fications that are agreed to by all of the parties.

(2) DEMONSTRATION OF ABILITY TO PERFORM
ON A LOAN.—Notwithstanding paragraph (1), a
modified or restructured loan may not be treated as
a non-accrual loan if the borrower demonstrates the
ability to perform on such a loan—

(A) over a period of 6 months; or

(B) with respect to a loan on a quarterly,
semi-annual, or longer repayment schedule, over
a period of 3 consecutive payments.

(3) NO ADDITIONAL ADVERSE TREATMENT.—
With respect to a loan held by an insured depository
institution and treated as an accrual loan by reason
of paragraph (1), an appropriate Federal banking
agency may not impose any additional accounting
requirements on such institution with respect to
such loan compared to the requirements that would otherwise have been placed on such institution with respect to such loan if such loan were not being treated as an accrual loan by reason of paragraph (1), if the result of such additional requirement would adversely impact the measurement of capital of the institution.

(4) Prohibition on the re-classification of loans based solely on collateral value.—An appropriate Federal banking agency may not require an insured depository institution to treat a loan as a non-accrual loan solely on the basis that the collateral of such loan has reduced in value.

(5) Provisions not applicable to publicly traded institutions.—This subsection shall not apply with respect to any issuer of a security registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l).

(c) Study.—

(1) In general.—The Financial Stability Oversight Council shall conduct a study of how best to prevent contradictory guidance from being issued by appropriate Federal banking agencies to insured depository institutions with respect to loan classifications and capital requirements.
(2) REPORT.—Not later than the end of the 60-day period beginning on the date of the enactment of this Act, the Financial Stability Oversight Council shall issue a report to the Congress containing—

(A) all determinations and conclusions made by the Council in carrying out the study required under paragraph (1); and

(B) legislative recommendations that the Council believe will prevent contradictory guidance from being issued by appropriate Federal banking agencies to insured depository institutions with respect to loan classifications and capital requirements.

(d) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term “appropriate Federal banking agency”—

(A) has the meaning given such term under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(B) means the National Credit Union Administration Board, in the case of a credit union.

(2) INSURED DEPOSITORY INSTITUTION.—The term “insured depository institution” means—
(A) an insured depository institution, as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(B) a credit union.

(e) SUNSET.—Effective after the end of the 2-year period beginning on the date of the enactment of this Act, this section shall cease to have any force or effect.

SEC. 503. TECHNICAL AMENDMENTS TO FEDERAL HOME LOAN BANK ACT.

(a) IN GENERAL.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

“(6) REPORT ON COLLATERAL.—The Director shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the collateral pledged to the Banks, including an analysis of collateral by type and by Bank district.”;

(2) by striking subsection (g); and
(3) in subsection (j)(12), by striking subparagraphs (C) and (D).

(b) Initial Report.—The Director of the Federal Housing Finance Agency shall make the first report required under section 10(a)(7) of the Federal Home Loan Bank Act, as added by subsection (a), not later than the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 504. PRESERVATION OF ATTORNEY-CLIENT PRIVILEGE FOR INFORMATION PROVIDED TO FHFA.

Section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C.4517) is amended by adding at the end the following new subsection:

“(j) Privileges Not Affected by Disclosure to Agency.—

“(1) In General.—The submission by any person of any information to the Agency for any purpose in the course of any supervisory or regulatory process of the Agency shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Agency.
“(2) Rule of construction.—No provision of paragraph (1) may be construed as implying or establishing that—

“(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

“(B) any person would waive any privilege applicable to any information by submitting the information to the Agency, but for this subsection.”.

SEC. 505. FHFA LIAISON MEMBERSHIP IN FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.


(1) in the section heading, by inserting after “STATE” the following: “AND FEDERAL HOUSING FINANCE AGENCY”;

(2) in the first sentence, by inserting after “financial institutions” the following: “, and one representative of the Federal Housing Finance Agency,”; and

(3) in the last sentence, by inserting “State” after “among the”.

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SEC. 506. RECOGNITION OF FHFA ENFORCEMENT AUTHORITY WITH REGARD TO REGULATED ENTITIES.

Section 1125(c) of the Financial Institution Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3354(c); as added by section 1473(q) of the Dodd Frank Wall Street Reform and Consumer Protection Act) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

“(2) with respect to any regulated entity (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502)), the Federal Housing Finance Agency; and”.

SEC. 507. EXCEPTION FROM RIGHT TO FINANCIAL PRIVACY ACT FOR FHFA AS CONSERVATOR OR RECEIVER.

Section 1113(o) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(o)) is amended—

(1) by striking “(o)” and inserting “(o)(1)”;

and
(2) by adding at the end the following new paragraph:

“(2) This title shall not apply to the examination by or disclosure to the Federal Housing Finance Agency or its employees or agents of financial records or information in the exercise of its supervisory or regulatory functions, including conservatorship and receivership functions, with respect to any regulated entity or other person participating in the conduct of the affairs thereof.”.


Section 1368(d) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4618(d)) is amended by striking “Committee on Banking, Finance and Urban Affairs” and inserting “Committee on Financial Services”.

SEC. 509. APPLICATION OF PRESUMPTION TO ENTERPRISE STREAMLINED REFINANCINGS.

Section 129C(b)(3)(B)(ii) of the Truth in Lending Act (15 U.S.C. 1639c(b)(3)(B)(ii); as added by section 1412 of the Dodd Frank Wall Street Reform and Consumer Protection Act) is amended—
(1) by inserting after “administer,” the following: “or that are owned or guaranteed by an entity regulated or supervised by such agency;”; and

(2) by adding at the end the following new subclause:

“(V) The Federal Housing Finance Agency, with regard to mortgages owned or guaranteed by an entity regulated or supervised by such agency.”.

SEC. 510. FHFA AUTHORITY TO REGULATE AND EXAMINE CONTRACTUAL COUNTERPARTIES.

Section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by the preceding provisions of this Act, is further amended (12 U.S.C. 4517) by adding at the end the following new subsection:

“(k) Regulation and Examination of Contractual Counterparties.—

“(1) Authority.—When a regulated entity or the Office of Finance causes to be performed for itself, by contract or otherwise and whether on or off its premises, any services authorized to that regulated entity or the Office of Finance by its author-
izing statute or the Federal Housing Enterprises Fi-

nancial Safety and Soundness Act of 1992—

“(A) such performance shall be subject to

regulation and examination by the Federal

Housing Finance Agency to the same extent as

if such services were being performed by the

regulated entity or the Office of Finance itself

on its own premises, and

“(B) the regulated entity or the Office of

Finance shall notify the Director of the exist-

ence of the service relationship within thirty
days after the making of such service contract

or the performance of the service, whichever oc-
curs first.

“(2) Regulations and Orders.—The Direc-
tor may issue such regulations and orders as may be
necessary to enable the Agency to administer and to carry out the purposes of this subsection and to pre-
vent evasions thereof.”.

SEC. 511. ELECTION OF DIRECTORS OF A MERGED FED-

ERAL HOME LOAN BANK.

Section 7 of the Federal Home Loan Bank Act (12
U.S.C. 1427) is amended—

(1) in subsection (a)(1), by inserting “and sub-
section (d)” after “paragraphs (2) through (4)”;

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(2) in subsection (b)—

(A) in the matter preceding paragraph (2)—

(i) by striking “Each” and inserting “(1)(A) Except as provided in subsection (d), each”;

(ii) by inserting “(B)” before “No person”;

(iii) by inserting “(C)” before “As used”; and

(iv) in the third sentence—

(I) by striking “this subsection” and inserting “subparagraph (A)”;

and

(II) by striking “home loan bank” and inserting “Home Loan Bank”; and

(B) in paragraph (2)(A)(ii), by inserting “or subsection (d)(4), if applicable,” after “paragraph (1)”;

(3) by striking subsections (c), (d), and (h);

(4) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (h), respectively; and
(5) by inserting after subsection (b) the fol-
lowing:

“(c) Allocation of Member Directorships
Among States in Bank District.—

“(1) Designation of Member Location.—
The Director shall designate the State in which each
member of each Federal Home Loan Bank shall be
deemed to be located for the purposes of this sub-
section and subsections (b) and (d), and may from
time to time change any such designation. If the
principal place of business of any Bank member is
located in a State within the district of the Bank of
which it is a member, the Director shall designate
that State as the State in which the member shall
be deemed to be located for those purposes.

“(2) Stock-Based Allocation of Design-
ated Member Directorships.—The number of
member directorships designated as representing the
members located in each separate State in a Federal
Home Loan Bank district shall be determined by the
Director in the approximate ratio of the percentage
of the required stock, as prescribed by regulation of
the Director, of the members located in that State
at the end of the calendar year next preceding the
date of the election to the total required stock, as so
determined, of all members of the Bank as of that same date.

“(3) LIMITATIONS ON STOCK-BASED ALLOCATIONS.—Except as provided in subsection (d), the following provisions shall apply to the allocation of member directorships among the States of a Bank district, notwithstanding the requirements of paragraph (2):

“(A) In the case of each State, the number of member directorships designated as representing the members located in that State shall not be less than one and shall not be more than six.

“(B) If at any time the number of member directorships designated as representing the members located in any State would not be at least equal to the total number of member directorships which, on December 31, 1960, were filled by officers or directors of members whose principal places of business were located in that State, the Director shall add to the board of directors of the Bank of the district in which that State is located such number of member directorships, and shall so designate the directorship or directorships thus added, that the number of
member directorships designated as representing the members located in that State will equal said total number. Any member directorship so added shall exist only until the expiration of its first term.

“(d) BOARD SIZE, COMPOSITION, AND ELECTIONS FOR COMBINED BANKS.—Notwithstanding any other provision of this section, the following requirements shall apply to the size and composition of, and the election of directors to, the board of any Bank created as result of the combination of two or more Banks under section 26:

“(1) BOARD SIZE.—The management of a combined Bank shall be vested in a board of 15 directors, or such lesser number as the Director determines appropriate, consistent with the safe and sound operation of the combined Bank.

“(2) BOARD MAKEUP.—The Director shall establish the respective number of member directorships and independent directorships for the board of the combined Bank such that—

“(A) member directors shall comprise at least the majority of the members of the board of directors; and
“(B) independent directors shall comprise not fewer than 2/5 of the members of the board of directors.

“(3) Allocation of Member Directorships.—The Director shall allocate the member directorships of the board of a combined Bank among the States of the Bank district in accordance with the requirements of subsection (c)(2), except that—

“(A) no State shall be allocated more than two member directorships until every state has been allocated at least one member directorship; and

“(B) if, after the Director has allocated all but one of the member directorships, there remain any States to which no member directorship has yet been allocated, then the Director shall allocate the remaining member directorship to represent the members located in all of the States that have not otherwise been allocated a member directorship.

“(4) Election of Directors.—The directors of a combined Bank shall be nominated and elected as provided in subsection (b), except that, in the case of a member directorship that has been designated as representing the members of two or more
States pursuant to paragraph (3)(B), the following requirements shall apply in lieu of those set forth in subsection (b)(1)(A):

“(A) The directorship shall be filled by a person who is an officer or director of a member located in one of the States represented.

“(B) Each member located in each State represented shall be entitled to nominate an eligible person to fill the directorship, and the member director shall be elected from persons so nominated by a plurality of the votes that those members may cast under subparagraph (C).

“(C) Each member located in each State represented may cast a number of votes equal to the number of shares of stock in the Bank required to be held by the member at the end of the calendar year next preceding the election, but not in excess of the average number of shares of stock in the Bank required to be held at the end of that year by the respective members of the Bank located in those States.

“(5) INITIAL DIRECTORS FOR NEWLY COMBINED BANKS.—The following requirements shall apply to the selection of the individuals to serve as
the initial directors of a combined Bank as of the effective date of the combination:

“(A) The terms of office of any directors of the combining Banks who do not become directors of the combined Bank shall terminate as of the effective date of the combination.

“(B) The individuals to serve as the initial directors of a newly combined Bank shall be chosen from among the incumbent directors of the predecessor Banks serving immediately prior to the effective date of the combination of those Banks and shall be—

“(i) as designated by the Director in the case of a Bank created from a combination of two or more Banks pursuant to a reorganization under section 26(a); and

“(ii) as agreed upon among the merging Banks and approved by the Director in the case of a Bank created from a voluntary merger of two or more Banks pursuant to section 26(b).

“(C) Each initial director of the combined Bank shall be entitled to serve for the remainder of the term of office that the director had with the predecessor Bank. Terms served as a
director of a predecessor Bank shall be counted as being served as a director of the combined Bank for purposes of determining term limits under subsection (e)(3).

“(D) Beginning with the first election of directors occurring after the combination of the predecessor Banks, the Director shall adjust the term of any directorship of the combined Bank as necessary to achieve and maintain the staggering of terms that is required under subsection (e)(2).

“(e) TERMS; RULES AND REGULATIONS GOVERNING NOMINATIONS AND ELECTIONS.—

“(1) TERMS.—Except as provided in paragraph (2), the term of each Federal Home Loan Bank director shall be 4 years.

“(2) ADJUSTMENT OF TERMS.—The Director shall adjust the terms of members from time to time as necessary to ensure that the terms of the members of the board of directors are staggered with approximately ¼ of the terms expiring each year.

“(3) TERM LIMITS.—If any person has been elected to each of three consecutive full terms as a director of a Federal Home Loan Bank and has served for all or part of each of those terms, that
person shall not be eligible for election to a directorship of that Bank for a term which begins earlier than two years after the expiration of the last expiring of the three terms.

“(4) **Rules and regulations governing nominations and elections.**—The Director is hereby authorized to prescribe such rules and regulations as the Director may deem necessary or appropriate for the nomination and election of directors of Federal Home Loan Banks, including, without limitation on the generality of the foregoing, rules and regulations with respect to the breaking of ties and with respect to the inclusion of more than one directorship on a single ballot and the methods of voting and of determining the results of voting in such cases.”;

(6) in subsection (f), as so redesignated, by striking the first and second sentences;

(7) in subsection (h), as so redesignated—

(A) by striking “home loan bank” each place such term appears and inserting “Home Loan Bank”; and

(B) in paragraph (1), by striking “such bank” and “the bank” and inserting “such Bank” and “the Bank”, respectively;
(8) in subsection (i)(1)—

(A) by striking “bank” and inserting “Bank”; and

(B) by striking “board” and inserting “Director”; 

(9) in subsection (j), by striking “bank” and inserting “Bank”; and

(10) by striking the second subsection (l), as added by section 1202(8) of the Housing and Economic Recovery Act of 2008.