

110TH CONGRESS
2D SESSION

S. 3522

To establish a Federal Board of Certification to enhance the transparency, credibility, and stability of financial markets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18 (legislative day, SEPTEMBER 17), 2008

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To establish a Federal Board of Certification to enhance the transparency, credibility, and stability of financial markets, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Board of Cer-
5 tification Act of 2008”.

6 **SEC. 2. PURPOSE.**

7 It is the purpose of this Act to establish a Federal
8 Board of Certification, which shall certify that the mort-
9 gages within a security instrument meet the underlying
10 standards they claim to meet with regards to mortgage

1 characteristics including but not limited to: documenta-
2 tion, loan to value ratios, debt service to income ratios,
3 and borrower credit standards and geographic concentra-
4 tion. The purpose of this certification process is to in-
5 crease the transparency, predictability and reliability of
6 securitized mortgage products.

7 **SEC. 3. DEFINITIONS.**

8 As used in this Act—

9 (1) the term “Board” means the Federal Board
10 of Certification established under this Act;

11 (2) the term “mortgage security” means an in-
12 vestment instrument that represents ownership of an
13 undivided interest in a group of mortgages;

14 (3) the term “insured depository institution”
15 has the same meaning as in section 3 of the Federal
16 Deposit Insurance Act (12 U.S.C. 1803); and

17 (4) the term “Federal financial institutions reg-
18 ulatory agency” has the same meaning as in section
19 1003 of the Federal Financial Institutions Examina-
20 tion Council Act of 1978 (12 U.S.C. 3302).

21 **SEC. 4. VOLUNTARY PARTICIPATION.**

22 Market participants, including firms that package
23 mortgage loans into mortgage securities, may elect to have
24 their mortgage securities evaluated by the Board.

1 **SEC. 5. STANDARDS.**

2 The Board is authorized to promulgate regulations
3 establishing enumerated security standards which the
4 Board shall use to certify mortgage securities. The Board
5 shall promulgate standards which shall certify that the
6 mortgages within a security instrument meet the under-
7 lying standards they claim to meet with regards to docu-
8 mentation, loan to value ratios, debt service to income ra-
9 tions and borrower credit standards. The standards should
10 protect settled investor expectations, and increase the
11 transparency, predictability and reliability of securitized
12 mortgage products.

13 **SEC. 6. COMPOSITION.**

14 (a) ESTABLISHMENT; COMPOSITION.—There is es-
15 tablished the Federal Board of Certification, which shall
16 consist of—

17 (1) the Comptroller of the Currency;

18 (2) the Secretary of Housing and Urban Devel-
19 opment;

20 (3) a Governor of the Board of Governors of
21 the Federal Reserve System designated by the
22 Chairman of the Board;

23 (4) the Undersecretary of the Treasury for Do-
24 mestic Finance; and

25 (5) the Chairman of the Securities and Ex-
26 change Commission.

1 (b) CHAIRPERSON.—The members of the Board shall
2 select the first chairperson of the Board. Thereafter the
3 position of chairperson shall rotate among the members
4 of the Board.

5 (c) TERM OF OFFICE.—The term of each chairperson
6 of the Board shall be 2 years.

7 (d) DESIGNATION OF OFFICERS AND EMPLOYEES.—
8 The members of the Board may, from time to time, des-
9 ignate other officers or employees of their respective agen-
10 cies to carry out their duties on the Board.

11 (e) COMPENSATION AND EXPENSES.—Each member
12 of the Board shall serve without additional compensation,
13 but shall be entitled to reasonable expenses incurred in
14 carrying out official duties as such a member.

15 **SEC. 7. EXPENSES.**

16 The costs and expenses of the Board, including the
17 salaries of its employees, shall be paid for by excise fees
18 collected from applicants for security certification from the
19 Board, according to fee scales set by the Board.

20 **SEC. 8. BOARD RESPONSIBILITIES.**

21 (a) ESTABLISHMENT OF PRINCIPLES AND STAND-
22 ARDS.—The Board shall establish, by rule, uniform prin-
23 ciples and standards and report forms for the regular ex-
24 amination of mortgage securities.

1 (b) DEVELOPMENT OF UNIFORM REPORTING SYS-
 2 TEM.—The Board shall develop uniform reporting systems
 3 for use by the Board in ascertaining mortgage security
 4 risk. The Board shall assess, and publicly publish, how
 5 it evaluates and certifies the composition of mortgage se-
 6 curities.

7 (c) AFFECT ON FEDERAL REGULATORY AGENCY RE-
 8 SEARCH AND DEVELOPMENT OF NEW FINANCIAL INSTI-
 9 TUTIONS SUPERVISORY AGENCIES.—Nothing in this Act
 10 shall be construed to limit or discourage Federal regu-
 11 latory agency research and development of new financial
 12 institutions supervisory methods and tools, nor to preclude
 13 the field testing of any innovation devised by any Federal
 14 regulatory agency.

15 (d) ANNUAL REPORT.—Not later than April 1 of
 16 each year, the Board shall prepare and submit to Congress
 17 an annual report covering its activities during the pre-
 18 ceding year.

19 (e) REPORTING SCHEDULE.—The Board shall deter-
 20 mine whether it wants to evaluate mortgage securities at
 21 issuance, on a regular basis, or upon request.

22 **SEC. 9. BOARD AUTHORITY.**

23 (a) AUTHORITY OF CHAIRPERSON.—The chairperson
 24 of the Board is authorized to carry out and to delegate
 25 the authority to carry out the internal administration of

1 the Board, including the appointment and supervision of
 2 employees and the distribution of business among mem-
 3 bers, employees, and administrative units.

4 (b) USE OF PERSONNEL, SERVICES, AND FACILITIES
 5 OF FEDERAL FINANCIAL INSTITUTIONS REGULATORY
 6 AGENCIES, AND FEDERAL RESERVE BANKS.—In addition
 7 to any other authority conferred upon it by this Act, in
 8 carrying out its functions under this Act, the Board may
 9 utilize, with their consent and to the extent practical, the
 10 personnel, services, and facilities of the Federal financial
 11 institutions regulatory agencies, and Federal Reserve
 12 banks, with or without reimbursement therefor.

13 (c) COMPENSATION, AUTHORITY, AND DUTIES OF
 14 OFFICERS AND EMPLOYEES; EXPERTS AND CONSULT-
 15 ANTS.—The Board may—

16 (1) subject to the provisions of title 5, United
 17 States Code, relating to the competitive service, clas-
 18 sification, and General Schedule pay rates, appoint
 19 and fix the compensation of such officers and em-
 20 ployees as are necessary to carry out the provisions
 21 of this Act, and to prescribe the authority and duties
 22 of such officers and employees; and

23 (2) obtain the services of such experts and con-
 24 sultants as are necessary to carry out this Act.

1 **SEC. 10. BOARD ACCESS TO INFORMATION.**

2 For the purpose of carrying out this Act, the Board
3 shall have access to all books, accounts, records, reports,
4 files, memorandums, papers, things, and property belong-
5 ing to or in use by Federal financial institutions regulatory
6 agencies, including reports of examination of financial in-
7 stitutions, their holding companies, or mortgage lending
8 entities from whatever source, together with work papers
9 and correspondence files related to such reports, whether
10 or not a part of the report, and all without any deletions.

11 **SEC. 11. REGULATORY REVIEW.**

12 (a) IN GENERAL.—Not less frequently than once
13 every 10 years, the Board shall conduct a review of all
14 regulations prescribed by the Board, in order to identify
15 outdated or otherwise unnecessary regulatory require-
16 ments imposed on insured depository institutions.

17 (b) PROCESS.—In conducting the review under sub-
18 section (a), the Board shall—

19 (1) categorize the regulations described in sub-
20 section (a) by type; and

21 (2) at regular intervals, provide notice and so-
22 licit public comment on a particular category or cat-
23 egories of regulations, requesting commentators to
24 identify areas of the regulations that are outdated,
25 unnecessary, or unduly burdensome.

1 (c) COMPLETE REVIEW.—The Board shall ensure
 2 that the notice and comment period described in sub-
 3 section (b)(2) is conducted with respect to all regulations
 4 described in subsection (a), not less frequently than once
 5 every 10 years.

6 (d) REGULATORY RESPONSE.—The Board shall—

7 (1) publish in the Federal Register a summary
 8 of the comments received under this section, identi-
 9 fying significant issues raised and providing com-
 10 ment on such issues; and

11 (2) eliminate unnecessary regulations to the ex-
 12 tent that such action is appropriate.

13 (e) REPORT TO CONGRESS.—Not later than 30 days
 14 after carrying out subsection (d)(1) of this section, the
 15 Board shall submit to the Congress a report, which shall
 16 include a summary of any significant issues raised by pub-
 17 lic comments received by the Board under this section and
 18 the relative merits of such issues.

19 **SEC. 12. LIABILITY.**

20 Any publication, transmission, or webpage containing
 21 an advertisement for or invitation to buy a mortgage secu-
 22 rity shall include the following notice, in conspicuous type:
 23 “Certification by the Federal Board of Certification can
 24 in no way be considered a guarantee of the mortgage secu-
 25 rity. Certification is merely a judgment by the Federal

1 Board of Certification of the degree of risk offered by the
2 security in question. The Federal Board of Certification
3 is not liable for any actions taken in reliance on such judg-
4 ment of risk.”.

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