

EXPRESSING APPRECIATION TO COMMITTEE ON THE BUDGET STAFF

(Mr. SPRATT asked and was given permission to address the House for 1 minute.)

Mr. SPRATT. Mr. Speaker, I speak for myself, as the chairman of the Budget Committee, and for Mr. RYAN, as the ranking member, expressing our appreciation to our staff, who have done a marvelous job on both sides of the aisle in working together on this budget resolution that ultimately prevailed today.

I place into the RECORD the names of the staffers who have been key participants in the effort on our side of the aisle.

HOUSE BUDGET COMMITTEE STAFF

Tom Kahn
Sarah Abernathy
Ellen Balis
Arthur Burris
Linda Bywaters
Barbara Chow
Marsha Douglas
Stephen Elmore
Chuck Fant
Jose Guillen
Jennifer Hanson-Kilbride
Chris Long
Sheila McDowell
Richard Magee
Diana Meredith
Mark Middaugh
Gail Millar
Morna Miller
Namrata Mujumdar
Ifeoma Okwuje
Kimberly Overbeek
Kitty Richards
Diane Rogers
Scott Russell
Nicole Silver
Naomi Stem
Meaghan Strickland
Lisa Venus
Greg Waring
Andrea Weathers
Jason Weller

LEADERSHIP STAFF

Ed Lorenzen
Wendell Primus

PERMISSION TO REDUCE TIME FOR ELECTRONIC VOTING DURING CONSIDERATION OF H.R. 1427, FEDERAL HOUSING FINANCE REFORM ACT OF 2007

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that, during consideration of H.R. 1427, pursuant to House Resolution 404, the Chair may reduce to 2 minutes the minimum time for electronic voting under clause 6 of rule XVIII and clauses 8 and 9 of rule XX.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend

their remarks on H.R. 1427 and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL HOUSING FINANCE REFORM ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 404 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1427.

□ 1608

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1427) to reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes, with Mr. Ross in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by again asking the indulgence of the House for my less than usual sartorial splendor, but the cast on my left arm would misalign my jacket, and I wouldn't want to wear a suit unless I could do it full justice. So I am wearing a sweater that Mr. ROGERS no longer needs.

The bill before us today is a version of a bill that came before this House in October of 2005 after a lot of work by the former chairman, the gentleman from Ohio (Mr. OXLEY), and many of us now on the committee. That bill passed the House by a vote of 331–90. Many of those who voted in opposition, myself included, were motivated to it by a specific provision regarding the affordable housing fund that is no longer in the bill.

Mr. Chairman, the bill has two major components. First, it significantly increases the strength of the regulator of the two major Federal housing government-sponsored enterprises, Fannie Mae and Freddie Mac. It also deals with the Federal Home Loan System. That was seen as less in need of drastic change. There is, in fact, less change there. There will be an amendment regarding that offered by the gentleman from Pennsylvania (Mr. KANJORSKI), which I strongly support, to increase public participation in that system. But this is a bill fundamentally about Fannie Mae and Freddie Mac.

There is general agreement among a wide range of parties that this bill,

building on the bill that Mr. OXLEY brought to the floor, does do what needs to be done in creating a strong regulator. There are some controversial elements here, but very few deal with the powers of the regulator that we have set up. And I am pleased that the Treasury Department, Under Secretary Paulson and Under Secretary Steel, has agreed. In fact, this is a bill which, with regard to regulation and the regulator, is a little bit stronger than the one we passed a few years ago. We had some negotiations. They were useful, and we have a fully empowered regulator here, independently funded and empowered to do whatever needs to be done to deal with any safety and soundness issues that arise from Fannie Mae and Freddie Mac.

The most controversial areas of the bill involve a provision that was also in the bill when it last passed, and that is an affordable housing fund. A number of people have argued over the years that Fannie Mae and Freddie Mac receive from the Federal Government advantages which help them borrow money cheaply in the market, and that is true. There is a connection between Fannie Mae and Freddie Mac and the Federal Government. Those who borrow that money thinking that the Federal Government guarantees it are wrong. There is no Federal guarantee implicit, explicit, or any other way. But it is the case that the market does see these entities in a very favorable light and lends them money at a somewhat lower rate than other entities can borrow. The reason for its having been set up that way was to try to help housing, especially home ownership because these entities buy the mortgages and help bring down the cost of mortgages, but they have also been given for years goals by the law where they are particularly to help lower income housing.

Now, a number of people have argued over the years that Fannie Mae and Freddie Mac's shareholders, and in the past some of their executives, received too large a share of those benefits. The argument was, with some accuracy, that Fannie Mae and Freddie Mac benefited very much and not enough of that reached the public.

There are two ways you could deal with that. You could reduce the benefits that Fannie Mae and Freddie Mac get. Some people have advocated that. Alternatively, you could do what this bill does: leave the existing situation which provides some benefits to them but increase the share of those benefits that go for public purposes. We do that in two ways in this bill: First of all, and this does not appear to be terribly controversial, Fannie Mae and Freddie Mac have statutorily imposed goals. Some people have said these are private corporations and you shouldn't tell them what to do. Well, we have been doing that for a very long time. They are told that they must, in purchasing mortgages in the secondary market, make certain purchases that

help certain goals, low income housing, et cetera. We increase those goals. Secretary Jackson at HUD had been critical of them for not doing enough. We increase both the mechanism by which they hold to those goals and the goals themselves.

□ 1615

But the newly controversial element to this is the Affordable Housing Fund. I say newly controversial because an affordable housing fund virtually identical to this one, financed through a different formula, but essentially the same in the amount of money and in the function, was in the bill that passed the House in October of 2005. At that time, the Republicans in the House voted for it 209-15. Now Members having once had an opinion are not required to hold it forever. But I do note that in October of 2005, 209 Republicans voted for the bill that had an affordable housing fund. Now that the fund has been, in the minds of some, transmogrified into all kinds of things which it is not. In economic terms, it very likely reduces the return, not by a huge amount, to Fannie and Freddie shareholders. Some have argued that it is going to raise the cost of mortgages. But ironically, many of those who argued that this will raise the cost of mortgages have supported even greater restrictions on Fannie Mae and Freddie Mac, particularly by limiting their portfolios, which would have many, many times greater impact on Fannie Mae and Freddie Mac's profitability, and therefore, their ability to help mortgages, than the Affordable Housing Fund.

The affordable housing fund takes some of the profit that Fannie and Freddie make, arguably a part of what they get from their Federal benefits, and said that it will be used for the construction of affordable housing. We have a serious crisis in America and a lack of affordable housing. We have been dealing with this for years by vouchers. Vouchers add to the demand for housing, but an annual voucher cannot create new housing, it does not add to the supply. We have a mechanism here where, without impinging on the Federal budget, without adding a penny to the deficit, in an entirely self-paid way, we take some money from Fannie and Freddie which reflects some of the benefit they get from their Federal arrangements and we recycle it into affordable housing. In the first year, all of that money, maybe \$500 million, will go to Louisiana and Mississippi under this bill to replace the severe destruction of housing that has not yet been replaced a year and a half after the terrible hurricanes there.

For the future, the bill says it should be used for affordable housing annually, but leads to a later decision by this House and the Senate, I say optimistically, hoping we can get a decision from the Senate, and then to be signed by the President as to how to further distribute it. It creates the con-

cept of an affordable housing fund. But we had in our committee various arguments. Some people wanted it to go through HUD, some through the State housing agencies. I believe that is a decision that we should make collectively, first in our committee, and then on the floor.

But we are not here doing anything other than saying the money will be available for a subsequent decision by the House that it will be spent. We do say that it has to be spent for housing, for bricks and mortar.

And there are going to be amendments that are going to be offered, let me say we tried to put safeguards in here against abuse. There are several amendments being offered, the minority whip has one, the gentleman from Texas, Mr. McCaul, has one, and some others have amendments, that will further tighten the constraints on this fund. I intend to argue for the acceptance of several of those amendments, at least three, that further tighten up the use of the fund. And I believe we will have accomplished that.

The question then will be, given that Fannie and Freddie get great benefits from the Federal Government, given that we have a housing shortage and a budget crunch in this country, does it make sense to take several hundred million dollars of the profits of Fannie and Freddie, which are enhanced by their Federal regulations and rules, and make them available for affordable housing? I believe the answer should be yes.

Virtually every entity involved with housing in America, from low-income housing advocates to the nonprofit and religious groups that help build housing, to the home builders and the realtors and the mortgage bankers, all support the notion of beginning to get the Federal Government back in the business of trying to do some affordable housing.

I hope that we can go forward with the bill. I do note we had 36 amendments; a couple I believe will be ruled nongermane. Nine or 10 I hope will be accepted without any controversy, including about five from each party. I did note that many of the others, about 18 of the others, are various ways of accomplishing three essential goals, making sure that illegal immigrants don't get the housing, either abolishing the fund altogether or restricting it.

I would hope that we could work out among ourselves some kind of representational thing so that we don't have to vote on all 18 amendments, many of which are duplicative of the others. And if we are able to work that out, I believe we will be able to get the bill through.

There is an important decision to be made about affordable housing. I believe many of the other issues the House previously voted on, I don't think there's a lot of controversy. We do have an important, legitimate, philosophic discussion about affordable housing. I am hoping that between us,

we can structure things so we will have a couple of strong votes on that and we can send the bill forward.

Mr. Chairman, I submit the following correspondence:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 25, 2007.

Hon. BARNEY FRANK,
Chairman, Financial Services Committee, Rayburn House Office Building, Washington, DC.

DEAR BARNEY, I am writing regarding H.R. 1427, the Federal Housing Reform Act of 2007, which was reported to the House by the Committee on Financial Services on Wednesday, March 28, 2007.

As you know, a provision within section 144 of H.R. 1427 would provide an exemption for a limited-life enterprise from Federal taxes, an authority which falls within the jurisdiction of the Committee on Ways and Means. The Ways and Means Committee has jurisdiction over all matters concerning taxes and the Internal Revenue Code of 1986.

In order to expedite this legislation for floor consideration, the Committee will forgo action on this bill, and will not oppose the inclusion of tax provisions within H.R. 1427. This is being done with the understanding that it does not in any way prejudice the Committee or its jurisdictional prerogatives on this or similar legislation in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 1427, and would ask that a copy of our exchange of letters on this matter be included in the Record.

Sincerely,

CHARLES B. RANGEL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, April 25, 2007.

Hon. CHARLES B. RANGEL,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR CHARLIE: Thank you for your letter concerning H.R. 1427, the "Federal Housing Finance Reform Act of 2007". This bill was ordered reported by the Committee on Financial Services last month. It is my expectation that this bill will be scheduled for floor consideration in the near future.

I acknowledge your committee's interest in a provision contained in section 144 of the bill which would provide an exemption for a limited-life enterprise from Federal taxes. Such matters concerning Federal taxation fall under the jurisdiction of the Committee on Ways and Means. However, I appreciate your willingness to forego action on H.R. 1427 in order to allow the bill to come to the floor expeditiously. I agree that your decision to forego further action on this bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation.

I will include this exchange of correspondence in the committee report and in Congressional Record when this bill is considered by the House. Thank you again for your assistance.

Sincerely,

BARNEY FRANK,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM, Washington, DC, April 27, 2007.

Hon. BARNEY FRANK, Chairman, Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN FRANK: I am writing about H.R. 1427, the Federal Housing Financing Reform Act of 2007, which the Committee on Financial Services ordered reported to the House on March 29, 2007.

I appreciate your effort to consult with the Committee on Oversight and Government Reform regarding those provisions of H.R. 1427 that fall within the Oversight Committee's jurisdiction. These provisions involve the federal civil service and the Freedom of Information Act.

In the interest of expediting consideration of H.R. 1427, the Oversight Committee will not request a sequential referral of this bill. I would, however, request your support for the appointment of conferees from the Oversight Committee should H.R. 1427 or a similar Senate bill be considered in conference with the Senate.

This letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 1427 that fall within the jurisdiction of the Oversight Committee.

Finally, I request that you include our exchange of letters on this matter in the Financial Services Committee Report on H.R. 1427 and in the Congressional Record during consideration of this legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

HENRY A. WAXMAN,
Chairman.

COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, April 27, 2007.

Hon. HENRY WAXMAN, Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

DEAR CHAIRMAN WAXMAN: Thank you for your letter concerning H.R. 1427, the "Federal Housing Finance Reform Act of 2007," which the Committee on Financial Services has ordered reported. This bill will be considered by the House shortly.

I want to confirm our mutual understanding with respect to the consideration of this bill. I acknowledge that portions of the bill as reported fall within the jurisdiction of the Committee on Oversight and Government Reform and I appreciate your cooperation in moving the bill to the House floor expeditiously. I further agree that your decision to not to proceed on this bill will not prejudice the Committee on Oversight and Government Reform with respect to its prerogatives on this or similar legislation. I would support your request for conferees on those provisions within your jurisdiction in the event of a House-Senate conference.

I will include a copy of this letter and your response in the Congressional Record and in the Committee on Financial Services report on the bill. Thank you again for your assistance.

BARNEY FRANK,
Chairman.

COMMITTEE ON THE JUDICIARY,
Washington, DC, May 16, 2007.

Hon. BARNEY FRANK, Chairman, Committee on Financial Services, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that the Committee on the Judiciary has now had an opportunity to review the provi-

sions in H.R. 1427, the Federal Housing Finance Reform Act of 2007, as approved by your Committee, that fall within our Rule X jurisdiction. I appreciate your consulting with us on those provisions. The Judiciary Committee has no objection to your including them in the bill for consideration on the House floor, and to expedite that consideration is willing to waive sequential referral, with the understanding that we do not thereby waive any future jurisdictional claim over those provisions or their subject matters.

In the event a House-Senate conference on this or similar legislation is convened, the Judiciary Committee reserves the right to request an appropriate number of conferees to address any concerns with these or similar provisions that may arise in conference.

Please place this letter into the Congressional Record during consideration of the measure on the House floor. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our committees.

Sincerely,

JOHN CONYERS, Jr.,

Chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first let me thank the chairman of the Financial Services Committee, Mr. FRANK, for his openness throughout this whole process. We have engaged in committee, in both hearings and in markup, in quite a long discussion. On most occasions, we came together; there was a consensus. And that's good. On other issues in this legislation we parted company, we had disagreements. That was the bad. There were one or two occasions where we had strong disagreements. Let's first talk about the things we agree as a body, both Republicans and Democrats.

I think we all agree that the government-sponsored entities, Fannie Mae, Freddie Mac, Federal home loan banks, that they play an important role in the American economy, and more importantly and more specifically, in homeownership.

Homeownership in America is at an all-time high. You go to any country in the world and homeownership rates come nowhere near what they are in America. I think it was the legislation that this Congress, many, many years ago, passed in setting up these GSEs that has resulted in more affordable housing, readily available opportunities to own a home and realize the American Dream.

Now, in recent years, the growth of our government-sponsored entities has been astounding. In fact, let me give you three figures. And if you hear nothing else that I say out here today in support of establishing a strong independent regulator over these entities, it is this fact: Fannie Mae and Freddie Mac, excluding the Federal home loan banks, but those two entities hold \$3 trillion worth of debt. When you add mortgage base security obligations, it is \$5.2 trillion. Now, you may say well, what is \$5.2 trillion? I can't visualize that. And I don't know

any of us that could get our arms around that. I'm not sure any of us appreciate how big that is. But let me compare it to the public debt held by the U.S. Treasury. The entire public debt of the U.S. treasure is \$4.9 billion. In other words, the debt of Fannie Mae and Freddie Mac is greater than the debt of the U.S. Treasury. That is an astounding number.

We came together, both in 2005 and again this year, and we said we must establish a strong, independent regulator with power to make changes and oversight, and if necessary, forbid it to ever be the case that these entities became illiquid, to step in and prevent what would be, in either occasion, a devastating blow to the U.S. economy.

In 2005, we brought a bill to the floor and we passed a bill establishing a small regulator. Now, the chairman has pointed out that this is almost the same bill that we had in 2005, yet many Republicans who are going to vote no today voted yes then. That appears to be a contradiction. He has pointed that out. The lady from California has mentioned 2 years ago I was in support of the bill that came out of this floor. I voted to send it to the Senate. They pointed out earlier today, in debate on the rule, that the gentleman from Texas (Mr. SESSIONS), he voted for the bill, now he is voting against the bill. There are differences.

Now, the gentleman from Massachusetts says there are no differences. If you are voting against the bill today, why did you vote for it 2 years ago? He asked that question a few minutes ago. Why did we? Why did we vote for it 2 years ago and vote against it today? Different circumstances.

Two years ago, I will remind the chairman, the gentleman from Massachusetts, the gentlelady from California, the ranking member of the subcommittee, the gentleman sitting there from Texas, Mr. GREEN, Mrs. MALONEY, who is here, the gentlelady from New York, they have all said why in the world are you changing your vote? Well, let me say to the entire body, there is a change in circumstances. And let me offer this as proof.

Two years ago, this was "the same bill." The chairman, the gentleman from Massachusetts, voted against the bill 2 years ago. The gentlelady from California, who says why are you changing your position, she voted against the bill 2 years ago. The gentleman from Texas voted against the bill. The gentlewoman from New York voted against the bill. Let me tell you what some of those circumstances are.

Let me say this to the gentleman: This bill, in many respects, is better than the bill 2 years ago, and we need to pass this bill. And I predict, the gentlelady from Massachusetts, the gentlelady, the subcommittee chair from California, this bill is going to go to the Senate. But we do have objections to this bill, and we are going to protest those objections by voting against the bill.

Two years ago, this is exactly, when you all were in the minority, the reason you voted against it. You voted against it. It's not the same bill.

Now, what is it that we find uncomfortable about this bill? It is not that we are establishing a strong regulator. It's that we are doing things that run contradictory, counter to what we are trying to do here today. And what are we trying to do? We are trying to assure the safety and the soundness of Fannie Mae and Freddie Mac. We are also trying to make them more independent and not beholden on the government. We are saying, quote, this implicit guarantee that the government will stand behind the GSEs, that we are going to establish an independent regulator and we are going to try to move in a direction where they are more independent and they function more like a private corporation, which was as originally conceived. But then, right in the midst of saying that, we established additional costs on Fannie and Freddie. And they are opposed to that, they are opposed to the additional costs.

We say we are going to make them sounder, more independent, more stable, and then we put on them an obligation of \$3 billion, a cost. We say that we are going to take this occasion, the reason for this bill is because we are going to establish a strong regulator. We are going to do that to make them safer. And yet at the same time you say, we're going to increase their costs by \$3 billion over the next 5 years.

□ 1630

We are going to make them pay a part of their profits into a fund.

Yes, let me say this: There is a problem in our country, a problem of the lowest income Americans, and I have said this, I have said this in committee, I will say it on the floor of the House; probably the group of Americans most in need of shelter are the lowest income Americans. And they, and the chairman and I are in agreement on this, are the ones who need affordable rental properties. We need to do something about that. We need to address that. We have presently 50 or 60 housing programs, and part of their responsibility is to address that need.

Now, what we ought to do before we establish yet another Affordable Housing Fund, we ought to see why the 50 or 60 that we have that are spending hundreds of billions of dollars, why they are not meeting this need, why money is being wasted, why there is still an unacceptable amount of fraud. Why don't we clean up and make more effective and efficient those housing programs that address those needs, instead of turning around and creating yet another housing program?

Not only do we address a goal that we have 50 or 60 other Federal programs which are supposed to address this, but how do we address it? First, we talk about how important the financial stability of the GSEs are, but yet we say

that over the next 5 years we are going to make you pay \$3 billion, \$500 million a year, into yet another Federal housing program.

Then we do something else, because there is a chain reaction. Where does this money come from? Well, it comes from middle and low income American homeowners that Fannie Mae and Freddie Mac are holding their mortgages or mortgage-backed securities. So where do Fannie and Freddie get that money? Because they don't print money. Well, they will have to get it from only one place, and that is their customers, their clients. That is every low and middle income American that takes out a mortgage. They will pay into this fund.

Now, who won't pay into this fund? Upper class Americans, and many upper-middle class Americans, they won't. There will be no obligation on their part on this \$3 billion. In fact, what is the mission of Fannie and Freddie? It is to promote affordable housing for low and middle income Americans. And yet those are the very Americans that you are going to make it not quite as affordable for, because you create a \$3 billion obligation.

Mr. BLUNT, the gentleman from Missouri, calls it a tax on middle class Americans. Now, I would say it is not a tax on all middle class Americans, it is a tax on middle class American homeowners, and he has said that. But we probably should, in fairness, include the low income Americans who will pay into this fund. We probably ought to include them.

Because we are establishing a \$3 billion obligation, on behalf of American homeowners, low and middle income, we are going to offer an amendment to take out what is really an extraneous provision in this bill, and that is a bill to create yet another Federal Affordable Housing Fund.

We are going to do a second thing. We are going to offer amendments that say if there are benefits to this Affordable Housing Fund, and if it does pass, it ought to inure to the benefit of American citizens, those who live in America and who are citizens of America. There will be four or five amendments to do that.

We are going to oppose this fund. We are going to lose later tonight when the vote is taken. It will move over to the Senate, and, if it passes the Senate, there will be another \$3 billion Federal housing program.

We are particularly concerned about, because when the FHA bill came up 3 weeks after this bill came up and we created in committee a \$3 billion new Federal housing program, we raised FHA fees and we created another placeholder in that bill that will move out here, we created another Federal housing program to add to the tens of programs we have, or maybe it is over 100 programs. I am not sure. I have quit counting.

But in every bill that we bring out of the Financial Services Committee, are

we going to establish a new multi-billion dollar plan to help low income Americans with affordable housing? And if we do, if we do, are we going to raise the cost to low and middle income Americans to purchase a home, the cost of that mortgage? Or are we going to increase their FHA fees when they do use and utilize FHA, have an FHA-backed mortgage?

What we said in committee during this whole subprime situation, and I will say the chairman and I tried to address that last year, and I really wish we had, we both have seen this coming for a long time. He and I are both happy that the regulators have started moving, and we will just see if that is enough.

But with all these problems in subprime lending and a reduction in liquidity in the mortgage market, we have said many times people are going to need to avail themselves of the FHA. But yet, just like we did in this bill, we increase the cost to those homeowners. It simply does not make sense.

Now, the chairman from Massachusetts says, oh, no, we are not increasing the cost to those who avail themselves of an FHA mortgage. We are not increasing the cost for the tens of millions of Americans who depend on Fannie and Freddie to reduce the cost of their mortgage. We are not getting it from them. We are getting it from Fannie. We are getting it from Freddie. We are getting it from the FHA.

Where do they get their money? They get it all from the homeowners. They don't get it from the Treasury. They get it from the homeowners, and these are the people we are going to tax when we pass this bill today.

So we are opposed to this bill. We are protesting the inclusion in this bill of yet another Federal housing assistance program, and we are taxing low and middle income Americans.

Now, in fairness to the chairman, a lot of this money will go to Louisiana and Mississippi over the first 2 or 3 years. In fact, because of that, there were Republicans, particularly 2 years ago, that rushed into helping on this bill because a lot of it was going to Katrina. But just 3 months ago we passed a massive bill in this House in Katrina relief. We agreed on the number it would take and we passed it.

Yet, here we go again with more money for Katrina, if we need more money for Katrina relief, and that relief is going to go into 2009 now, we are going to pay for years in the future for people who are displaced by that to continue to have shelter. We keep saying, well, 6 more months. Then we extend it another 6 months and another 6 months. And here we go again. Three months ago we passed what we said would probably be an amount we pretty much all agreed on, I thought, for Katrina relief. But yet here we go again.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am disappointed frankly at a number of inaccuracies in my colleague's statement. In the first place, with regard to Katrina, the bill that we passed had zero money for new construction, and if he will go back, he apparently forgot, he will see we constantly said during the Katrina bill that we intended to provide the new housing construction money through this bill.

His assertion that there is some duplication could not be more wrong. We were very clear then. The Katrina bill dealt with vouchers. It had one 4,500-unit section with regard to some project vouchers. But throughout the Katrina bill, it was clear that it was a two-step process. This was the second step. There is zero duplication. Nothing in that Katrina bill did any significant increase in housing construction.

Secondly, he notes that I and the gentleman from California and the others voted against the bill last time, as I said earlier today, for one specific reason. The Rules Committee, over the objection of the Committee on Financial Services at that time, injected into the housing fund amendments that would have kept the Catholic Church and the Methodists and all the other religious organizations that were interested in building housing from participating.

We had one very specific objection. At that time the fund was going to be administered directly by Fannie and Freddie. There was a fear that they would use it politically. So one specific amendment was put in by the Rules Committee, we weren't even allowed to vote on it on the floor, and it would have restricted religious groups from participating. For that reason only, we voted against the bill. Since this does not allow Fannie and Freddie to spend the funds, that is out there. That is why we are being perfectly consistent in now voting for it.

The gentleman from Alabama, everything he said about the housing fund was in the bill he and 208 other Republicans voted for in 2005. Every single thing.

The gentleman has told me that he is philosophically opposed to the Housing Trust Fund. Then why did they all vote for it, those who share that opposition, 2 years ago?

The final thing, the gentleman from Illinois is here. The gentleman from Alabama inaccurately said we were raising FHA fees. In fact, the FHA under the Bush administration asked us to raise fees. Last year, the House passed a bill that would have allowed them to raise fees. The gentleman from California and I objected to some of those increases. Our bill restricts the FHA's ability to raise fees above what they wanted. In fact, what we got was an amendment at that markup from the gentleman from Illinois substituting last year's bill that most of the Republicans voted for. That would have allowed the FHA to raise fees far more than us.

So I don't understand how the gentleman from Alabama, who voted with the gentleman from Illinois to allow the FHA to raise fees further now blames us when we passed a bill that would have restricted their ability to raise fees above what they wanted. Maybe people got to go back and look at what they voted for and look at what they offered. The staff will have time. We have time to do that.

Mr. Chairman, I yield 3 minutes to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, I rise in support of this legislation, and I commend the chairman for the work that he has done, the leadership he has provided and the hard work of the Members of this committee to get this bill to the floor.

There are no great issues that separate us on this bill. We have worked out all of those issues. We all agree there should be stronger oversight. We all agree that we had to get rid of OFHEO, we had to have a stronger agency. We were all concerned about the tremendous debt of the GSEs. So that is all behind us. There is only one thing that separates us, and that is the Housing Trust Fund, and that is philosophical.

We believe that given the housing crisis in America we have a responsibility to assist those who cannot afford decent housing, who are living on the streets, who are paying much more than 30 percent of their income. We believe we have a responsibility to assist them, to help them.

□ 1645

The other side of the aisle does not believe that government should play any role in helping the least of these get into public housing.

The generally accepted definition of affordability is for a household to pay no more than 30 percent of its annual income on housing. Families who pay more than 30 percent of their income for housing are considered cost burdened, and often have difficulty affording necessities such as food, clothing, transportation and medical care.

We are not talking about housing for any one section of this country. It is all over this country. In Mr. BOEHNER's district, the Eighth District: 64,759 renter households, including 14,713 extremely low-income households. Of these extremely poor households, 57 percent are paying more than half of their incomes for housing. In the Eighth District, there is a deficit of 7,497 units that are affordable and available to extremely poor households.

In Mr. BLUNT's district, the Seventh District of Missouri: 76,034 rental households, including 13,885 extremely low-income households. Of these extremely poor households, 57 percent are paying more than half of their incomes for housing. In the Seventh District, there is a deficit of 7,580 units that are affordable and available to extremely poor households.

But let's not stop there. In Mr. BACHUS' district, in the Sixth District of Alabama: 55,217 renter households, including 9,525 extremely low-income households. Of these extremely poor households, 50 percent are paying more than half of their incomes for housing. In the Sixth District, there is a deficit of 4,141 units that are affordable and available to extremely poor households.

I could go on and on. This is about the housing trust fund. I would ask my colleagues to support the least of us in America, and reject the argument from the other side of the aisle.

Mr. BACHUS. Mr. Chairman, I yield 5 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I thank the gentleman for yielding. I rise to talk about this bill and I will hold the debate on FHA until that bill comes to the floor.

I would like to thank Chairman FRANK and Mr. BAKER for introducing this year's GSE bill to establish a new and stronger regulator for the GSEs and the Federal Home Loan Banks.

Like last year's legislation, this bill aims to give the new regulator clear direction about its authority, available tools and mission. With this enhanced authority and guidance, the new GSE regulator can guide the GSEs to be most effective for homeowners, market participants, financial institutions, and taxpayers.

The overall purpose of the GSE reform bill is to create a strong, world-class regulator, and I think in this bill we direct the new regulator to review and set portfolio limits, establish minimum capital requirements, and review new programs and products.

However, unlike last year's legislation, I think this year's bill introduces a new, extraneous provision that does not permit the new regulator to focus solely on these very important duties. This bill does not isolate this regulator from political influence, but rather establishes a stream of cash that is financed on the backs of the American homeowners. Why do I say this? What is the affordable housing trust fund; does anyone know? And why would we allow GSE money to be diverted to an unknown, non-existent entity? This was not in last year's bill.

Last year's bill permitted Fannie Mae and Freddie Mac to manage an affordable housing fund. This year's bill permits the new regulator to establish and regulate the fund. I don't think that it is appropriate for this new regulator to manage the affordable housing fund.

The provision establishes a formula to allocate funds to States and Indian tribes which would in turn determine which organizations receive the funds. The new GSE regulator is tasked with establishing regulations to determine the prescription for States to distribute the funds. And as stated in

House Report 110-142, "This bill provides that funds allocated for the affordable housing fund, may be transferred at a later date to a national affordable housing trust fund that may be subsequently enacted into law."

We just don't know what is going to be the amount of money, where it is coming from, except if we determine that it is estimated that it would extract \$3 billion in assessments from Fannie Mae and Freddie Mac over a 5-year period. There is no dollar limit as to how large this fund can become. Where will this money for the fund ultimately come from? It will come from low and middle income Americans seeking to purchase a home or refinance an existing mortgage. Hard-working, low income and middle income Americans who are trying to have their part of the American dream will ultimately be footing the bill for a national housing trust fund, the purpose of which has not yet been determined in law. Taxing hardworking American homeowners is not the way to fund new affordable housing.

I share the chairman's commitment to increasing the stock of affordable housing for low-income Americans, but this fund is the wrong way to achieve this objective.

Therefore, I would urge my colleagues to take a look at the BACHUS amendment to strike the affordable housing fund section of this bill. I think we have a really good bill here. It is similar to last year's bill. I know that we have talked about this in the committee, we should have hearings and further discussions on the need to build more affordable housing in this country, how it can be done and how it can be financed, and particularly what this new affordable housing fund means.

So with that, I urge my colleagues to, at this time, not support this bill.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 3 minutes to the chairman of the Subcommittee on Capital Markets, the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Chairman, I would like to extend my congratulations to Chairman FRANK and to Ranking Member BACHUS, two individuals that may sound more in disagreement today than they really are.

I want to talk about, particularly, the passage of this bill, and let us understand that since March of 2000, we have had hearings and have attempted to get to a new regulator for the government-sponsored enterprises of Fannie Mae and Freddie Mac, and ultimately the Federal Home Loan Banks. We came very close 2 years ago. We passed it through this House. It didn't make it through the other body. We have an opportunity in this Congress to accomplish that.

As a matter of fact, one of the compliments to Mr. FRANK is he didn't run out there wholesale and create all kinds of new gadgets in this bill. Basically, this bill is 99.44 of 100 percent the same as we did in 2005.

What will it accomplish? It is going to get us a world-class independent regulator, as the ranking member said, for \$4.9 trillion worth of securities. I think that is important.

Here the major opposition that is being discussed is really philosophical in nature. I think MAXINE WATERS was very correct in that analysis. We are arguing over \$500 million a year, and we are talking about an institution that has \$4.9 trillion that we have to regulate, and know that in the last several years, there were errors and mistakes and potentially even fraud committed in these organizations as a result of the weakness of our regulators.

So we went to great lengths in a bipartisan way to have these hearings over the last 7 years and to say, let's create a regulator that we can all be proud of. But more than being proud of, that we can be relatively certain that the securities market and the investments of the United States in the real estate area are going to be safe and secure, and I think this bill does that.

Now this little argument that we have over the trust fund, \$500 million a year potentially, if you think about it, it amounts to about a day and a half of what we spend in Iraq every damn day. A day and a half.

Now you can argue that we don't need any housing in the United States, and I think you can credibly make that argument if you are of that philosophical bent. And of course, on this side of the aisle, because we probably are closer to the people who do need that housing, we can make the argument that there is need. But never in anybody's mind should an argument of that minute an amount stop the passage of legislation which will allow us to get control and containment over \$4.9 trillion of American taxpayer money.

Mr. BACHUS. Mr. Chairman, I thank the gentleman from Pennsylvania for his sincerity, and I yield 2 minutes to the gentleman from California (Mr. GARY G. MILLER).

Mr. FRANK of Massachusetts. Mr. Speaker, I will yield an additional 2 minutes to the gentleman from California.

Mr. BACHUS. I appreciate that. That really is evidence again of the bipartisan approach we have had on this committee.

Mr. FRANK of Massachusetts. Well, it will be if you vote with him.

Mr. GARY G. MILLER of California. Mr. Chairman, I want to thank the chairman and Mr. BACHUS for yielding me this time.

I know this has been an issue that they have been working on for years, the same as I have. For the last 3 years, this has been a focus for us dealing with this issue that has been impacting and in many ways very beneficial to the housing market.

I commend Chairman FRANK and Secretary Paulson for their hard work to strike an agreement so we can move this important reform legislation forward.

We must provide for a strong regulator for the GSEs so that investors and the markets are assured that these companies are sound and that their investments in America's housing markets are safe.

This bill recognizes that strong regulation provides a means to achieve our ultimate goal of expanding supply of affordable mortgage credit throughout this Nation.

The goal in the process we have taken today is to preserve the mission while strengthening the authority of the regulator. We have been working on this issue for a number of years. Through this lengthy legislative process, I have asked my colleagues to be mindful that as we addressed deficiencies in GSE supervision, we must not lose sight of Congress's original intent that chartered the GSEs. The mission of Fannie Mae and Freddie Mac is to provide stability and on ongoing assistance to the secondary market for residential mortgages, and to promote access to mortgage credit and homeownership throughout the United States.

The bill before us today builds upon the bill that passed the House under the leadership of former Chairman Oxley in 2005. That bill passed by an overwhelming vote of 331-90. As I was looking back at the RECORD at that point in time, it surprised me that based on the comments made by the administration at that time, they are saying that the bill today creates a stronger regulator than the one we passed in 2005.

And I was surprised to read that the bill before us today, the administration, unlike the bill passed in 2005, which Treasury opposed then because it failed to provide a strong regulator that could protect the safety and soundness of the housing financial system, today the bill they say "provides for a fully empowered, independent world-class regulator that can deal with any safety and soundness issue that might arise." I had no idea back at that time they opposed it; but I knew they supported it today.

The affordable housing fund, I vote repeatedly to strike that. I have never supported it. I didn't support it when Chairman Oxley put it in the original bill. I know many Members on my side oppose this. However, I continue to share the view of former Chairman Oxley that a stronger, more effective regulator of the housing GSEs is absolutely critical and outweighs our philosophical opposition to the fund.

I voted for that bill then, and I am going to vote for this bill tonight. This legislation provides for a strong regulator for the GSEs so that investors and the markets are assured that those companies are sound and an investment in the American housing markets are safe.

Improved regulation will provide a means to achieve our ultimate goal of expanding the supply of affordable mortgage credit across this country.

GSEs have been at the forefront of creating affordable housing opportunities for families, and we must ensure that they are successful in the future.

This bill does something that I am very supportive of, and I worked on for 3 or 4 years now. It deals with conforming loan limits in high-cost areas. If you happen to live in Hawaii, Alaska, Guam or the Virgin Islands, you can get a loan for 150 percent of conforming today. But if you live in a high-cost area of California or other parts of this country, you cannot. If you look at the benefit on the marketplace today, especially in California, we are having severe problems in the jumbo market area where the foreclosures and defaults are excessive, and I believe if the conforming marketplace were there today, we would have less problem than we are seeing today.

□ 1700

The foreclosure rates are out of control. If you look at the jumbo market in California, the problem we're facing is that only 18.1 percent of the jumbo loans that are made are fixed, 30-year loans; compared to conforming marketplace, 82 percent are fixed 30-year loans. In the jumbo marketplace, 34.9 percent of the jumbo loans are interest-only ARMs.

I thank you.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), the chairwoman of the Financial Institutions Subcommittee.

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding and for his strong and creative leadership in the passage of this tremendously important bill for American homeowners and for those who are in desperate need of affordable housing.

I wish to be associated with the comments of Mr. FRANK and Mr. GARY MILLER on these conforming loan limits in high income areas such as the area I represent in New York City. It's very important for affordable housing.

Keeping with the bipartisan spirit of the Financial Services Committee, this bill was reported out with a strong bipartisan vote of 45-19, and when it passes today, it will completely overhaul and strengthen the regulatory oversight of the GSEs, the government-sponsored enterprises, of Fannie Mae, Freddie Mac and the Federal Home Loan Banking System, and it will create a new independent regulator with broad powers, similar to those of current banking regulators.

It also requires Fannie and Freddie to establish an Affordable Housing Fund, something that should have been done long ago. It's important for affordable housing in our country, and I congratulate the leadership of Mr. FRANK and Mr. BAKER and Mr. Oxley in moving this fund forward. Contributions will be based on the average total mortgage portfolio which will include all mortgages, whether held for investment or securitized. It will be distributed through the States.

And very importantly, the first year the money will go to the ravaged area of Katrina and Rita where people are living without housing. It is tremendously important. It is creative and it addresses a desperate need in our country.

In addition to the affordable housing goals that apply to Fannie and Freddie, we enhanced the bill in a number of ways, including a provision that I sponsored along with Mr. BAKER, to encourage the creation of home-based child care centers. My Kiddie Mac amendment will do that. It will make day care more affordable and available.

I congratulate everyone. Please vote for this bill.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Let me close by acknowledging the many positive aspects of this bill and just reiterate that had it not been for the creation of our new Affordable Housing Fund, a new government program, we would have had consensus here. But that should not distract from the fact that we do need a strong independent regulator, as the gentleman from Pennsylvania said.

Mr. Chairman, with that I yield the balance of my time to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the ranking member for yielding, and I thank him for his leadership on this bill.

I also wish to thank our chairman who, although I have deep philosophical differences with, was certainly fair in his deliberations and more than fair in the amendments that he has allowed here this evening.

Indeed, I think that the conflict today comes down to the so-called Affordable Housing Fund. Many on this side of the aisle do not feel that in this bill, which is supposed to provide a strong regulator for Fannie and Freddie, that we need to be expanding big government.

And regardless of the rhetoric on the other side, according to OMB, Federal housing assistance has grown 73.8 percent in the last 10 years. Yet, this bill creates another new housing program on top of the 90 other HUD programs ostensibly designed to make housing more affordable.

Meanwhile, the Democrat majority earlier this afternoon made housing less affordable by imposing the single largest tax increase in American history on the American people, threatening the home ownership of millions.

Next, this fund is supposed to be transferred to some shadowy, amorphous, ill-defined housing trust fund, which to many of us appears nothing less than a new entitlement spending program for the 21st century. This is on top of the entitlement spending that threatens to bankrupt the next generation, will force them to double their taxes, will shatter their dreams of home ownership, and yet we appear to be adding yet another entitlement spending program.

Next, the fund represents a dangerous precedent and another surreptitious tax increase. On top of the single largest tax increase in American history, now our friends from the other side of the aisle are going to impose a home mortgage tax on the American people, using the Federal nexus to levy a special tax on Fannie and Freddie, which due to their duopoly status in the marketplace they can effectively pass on to home buyers in the way of higher mortgage interest so that this can be conducted into third party groups.

This bill ignores the greatest affordable housing program known in this country, a good job and a low tax rate. The bill imposes new mortgage taxes on Americans and must be rejected.

Mr. FRANK of Massachusetts. Mr. Chairman, may I inquire how much time remains on my side?

The CHAIRMAN. The gentleman from Massachusetts has 9 minutes remaining.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT), the Chair of the Oversight and Investigations Subcommittee.

Mr. WATT. Mr. Chairman, I thank the chairman of the committee for yielding time.

I rise in support of the bill. The bill deserves our support for two important reasons. First of all, it establishes a strong regulator in an area that has cried out for greater regulation, and I think we understand that looking back on what has happened at Fannie Mae and Freddie Mac over the last several years.

Second of all, the bill establishes a trust fund that is very similar to the housing trust fund for which over 200 of the Republicans voted last year. So I really am surprised to find that this year all of the sudden there is all of this opposition to the trust fund.

So I want to spend a minute talking about the trust fund. First of all, it is a housing trust fund, and Fannie Mae and Freddie Mac are designed to incentivize more housing for middle income and low income people. So it's absolutely consistent with the purposes for which they were founded.

Second, the ranking member of our committee made it sound like this is going to increase the cost of housing for middle income people and low income people. In fact, what we need to focus on is that this money will either go to the stockholders of Fannie and Freddie or it will go to the purpose for which Fannie and Freddie was originally formed.

So this is not a choice between raising taxes or not. This is fulfilling the purpose of these two entities.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. Sires), a member of the committee.

Mr. Sires. Mr. Chairman, I first would like to thank Chairman FRANK for his efforts in bringing this bill to

the floor today, and it's because of him this bill is supported by the Treasury Department and the very government-sponsored entities the bill impacts.

I rise today in strong support of H.R. 1427. It creates a single regulator of the three government-sponsored entities. By having one regulator, future problems in the housing economy will be prevented by providing real and strong oversight of the secondary mortgage market.

Secondly, this bill creates an Affordable Housing Fund. This fund will provide an opportunity for millions of working Americans to afford housing that will allow them to raise their families in a safe and stable environment. Some will even be able to buy a home because of this new fund.

Hardworking Americans want a safe and stable place to call their own. We have the opportunity here today to support the American dream of home ownership by passing H.R. 1427. And just as important, we can do this with proper oversight.

I urge all my colleagues to join me in supporting H.R. 1427.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from New Hampshire (Mr. HODES), another very able freshman member of the committee.

Mr. HODES. Mr. Chairman, I thank the gentleman for yielding and for his tremendous leadership on this committee.

I rise in support of H.R. 1427. This bill provides an overhaul of the government-sponsored entities, and it creates a much-needed, unified regulator for all GSEs.

Now, it was the high-profile accounting scandals at Fannie and Freddie in recent years that demanded that Congress restore accountability and strengthen oversight in these institutions.

So this bill creates a strong, independent regulator at Fannie Mae, Freddie Mac and the Federal Home Loan Bank System with broad powers comparable to those of Federal bank regulators. The bill also creates an Affordable Housing Fund to be managed by the new GSE regulator.

I want to thank Chairman FRANK for creating the Energy Efficiency Task Force on the Financial Services Committee. I am pleased to serve on this task force, chaired by my colleague from Colorado, Mr. PERLMUTTER. The task force is dedicated to greening the financial services community, and in connection with H.R. 1427, we included an important provision that would incentivize Fannie and Freddie to purchase green mortgages. This provision is a great first step toward our goal.

This is a bipartisan bill, and it is widely supported by financial institutions, lenders, housing industry participants, housing groups and other financial service providers.

So when I hear the colleagues on the other side of the aisle speaking against the unified regulator, they are stand-

ing against accountability and oversight. And when I hear them speaking against an Affordable Housing Fund, they are standing against poor people in this country who need our help.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE), an alumni of our committee who despite having left us still thinks of us from time to time, and she's one of the originators of the notion of an Affordable Housing Trust Fund.

Ms. LEE. Mr. Chairman, let me first of all thank our Chair, Congressman FRANK, for his leadership and for yielding; also, Congresswoman Maxine Waters for her very diligent and hard work in crafting this bill.

The American dream of home ownership is quickly turning into a nightmare for many, and this bill really does begin to turn this around. And yes, as a former member of the Financial Services Committee, I had the opportunity to work with our Chair. This was when I was first elected, probably in my first or second term, to really craft a housing trust fund, along with our former colleague, now-Senator, BERNIE SANDERS, and this bill incorporates and would authorize and create a new Affordable Housing Trust Fund.

For many years, housing has been a big issue for many of us here. Many of our districts are unaffordable, and this American dream of home ownership is turning into a nightmare.

This bill, the Federal Housing Reform Act of 2007, will really help accomplish the objective of our first national housing trust fund. It increases home ownership for extremely low and very low income families. It provides for increasing investment in housing in low income areas; for increasing and preserving the supply of rental and owner-occupied housing for extremely low and very low income families. It also increases investments in our public infrastructure and development in connection with housing assistance. And it also leverages investments from other sources in affordable housing and in public infrastructure development.

I want to commend our colleagues again for engaging with our 5,200 national, State and local organizations and leaders that worked for many, many years to create a national housing trust fund. Just yesterday, I met with my board of realtors from Oakland, California.

I just want to say thank you again to Mr. FRANK for making sure that this is real.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio (Ms. KAPTUR), another dedicated advocate for housing in many capacities.

□ 1715

Ms. KAPTUR. Thank you very much, Mr. Chairman.

Mr. Chairman, I want to express deep appreciation to Chairman FRANK, Ranking Member BACHUS and certainly

to Congresswoman MAXINE WATERS of California and CAROLYN MALONEY of New York, who really fashioned a bill that deals with the prolonged housing market slump, due in large measure to increasing rates of foreclosure.

The State of Ohio welcomes this measure. We have been particularly hard hit. The credit gap in Ohio is estimated between \$14 and \$21 billion, as over 200,000 more mortgages will reset at higher rates over the next 2 years. We don't need any more vacant units depressing the housing market in our region.

Government-sponsored entities can and should play a major role in reversing this trend. This bill does that. I would oppose any amendments designed to weaken or eliminate the much-needed National Housing Trust Fund. Homeownership is the most important savings account that any American family accumulates.

In passing this legislation, we assure that this Congress understands that as well as the necessity of keeping our housing market strong as fundamental to bolstering the economy of our entire country and helping it grow.

Chairman FRANK, I deeply thank you on behalf of the Governor of Ohio and all the people of Ohio who are looking to us for leadership to help them hold on to their most important asset, their home.

Mr. FRANK of Massachusetts. All the people of Ohio are welcome. How much time do I have remaining, Mr. Chairman?

The CHAIRMAN. The gentleman from Massachusetts has 30 seconds remaining.

Mr. FRANK of Massachusetts. Mr. Chairman, I would take it to say that we often focus on what we disagree on. Let's be clear.

We agree on the strongest regulator that you could possibly have and still be workable. The gentleman from Louisiana is here, he was one of those who started on it; the gentleman from Ohio who has left, Mr. Oxley. Many of us worked on this. We will be arguing about the housing fund.

But let's be clear that what this House will be doing overwhelmingly is create a strong regulator. As to the affordable housing fund, I would just say this, the notion that all of this comes out of the mortgages and not out of the shareholders is bad economics. Fannie and Freddie do not have monopoly power such that they can pass on every cost to the customer and absorb none of it themselves.

Mr. HOLDEN. Mr. Chairman, I rise in support of H.R. 1427, the Federal Housing Finance Reform Act of 2007.

Appropriate regulation for Fannie Mae, Freddie Mac and the Federal Home Loan Banks is crucial to the overall health of housing and communities throughout America. I commend both Chairman FRANK and GSE Subcommittee Chairman KANJORSKI for their diligent and thoughtful work on this legislation.

An issue of concern to me and many in my district is the effect of the legislation on the

FHLBank System. Their inclusion in this bill is not due to a perceived lack of proper regulation, but from a widely held desire to place the three housing GSEs under one “world-class” regulator capable of monitoring their complex financial information. Despite their similar benefit to the housing market and use of complex hedging transactions, the GSEs are different, and I believe the new regulator must recognize the differences in their business models, products, and missions.

This legislation recognizes these differences by creating separate divisions within the new regulator: one for the FHLBanks, and for Fannie Mae and Freddie Mac. In fact, the bill also makes clear that the mission of FHLBanks is different, and not only deals with housing finance but economic and community development as well.

In addition to the Affordable Housing Program (AHP), which has provided \$5 million in funds supporting over 1,000 units of housing in my district, the FHLBank of Pittsburgh operates a number of programs that support community and economic development.

Their “Banking on Business” (BOB) program helps eligible small businesses with start-up and expansion costs. Each dollar in BOB funding typically leverages an additional six dollars in financial resources to small businesses in the region, thereby creating or retaining jobs. Since 2000, FHLBank Pittsburgh has funded more than \$27.5 million in BOB funding to assist small businesses in their three-state region, creating or retaining more than 3,821 jobs.

In my district alone, the FHLBank Pittsburgh has provided over \$1.5 million in BOB financing, supporting 18 small businesses and leveraging over \$17 million in additional funding. The BOB program works in partnership with leading community banks in a number of very important efforts. For example, Leesport Bank used BOB to provide \$180,000 for Hamburg Industries, Inc. to assist in expansion costs. Hamburg Industries, Inc. is a manufacturer of brooms, mops and brushes in Hamburg, PA. Legacy Bank used BOB to lend \$21,000 to Math Inc. to assist in start-up costs. Math Inc. is engaged in manufacturing countertops, cabinets and architectural millwork for commercial applications. Further, First National Community Bank provided \$200,000 in BOB funds to Keystone Potato Products, LLC to assist in start-up costs. Keystone Potato Products, LLC. is a dehydrated food producer in Hegins, PA.

The Pittsburgh Bank also operates the Community Lending Program (CLP), an \$825 million non-competitive revolving loan pool that offers loans to member financial institutions for community and economic development projects that create housing, improve business districts, and strengthen neighborhoods. In my district, CLP has provided over \$40 million for 16 projects. One of these involved Mid-Penn Bank, a leading community bank in my district, using the CLP to provide \$4.5 million in low-cost FHLBank funds for the rehabilitation of Cole Crest: a low income elderly, disabled, and family apartment complex in Steelton, PA. The funds were provided through Mid-Penn Bank as an alternative to traditional bond financing, saving the Dauphin County Housing Authority significant costs over the life of the loan.

As a Member of Congress representing a rural region with community and economic de-

velopment needs, I appreciate the partnership between the Federal Home Loan Banks and the community banks of my district. The mission of the Federal Home Loan Banks in the area of economic and community development is vital, and I applaud the clarification of that mission in H.R. 1427.

I want to add my voice to those in the Congress advocating that the new regulator encourage this mission by applying a new emphasis on community and economic development to all Federal Home Loan Banks' activities. I see this language as fostering a statutory and regulatory environment that will support and encourage further development of new ways to support economic development, public finance and infrastructure in a partnership with Federal Home Loan Banks, their members, and local governments that will bring needed help to the small and rural communities of my district.

Mr. CONYERS. Mr. Chairman, I rise in support of passage of H.R. 1427, “The Federal Housing Finance Reform Act.”

I believe this legislation is one of the most cost effective ways to provide cities across the country with desperately needed federal funding so they can construct, or renovate housing stock for working families on public housing waiting lists, homeless veterans, homeless Katrina victims, and homeless working families.

I believe that passage of this legislation is a “historic” moment in this Congress, and makes me proud to be a member of this body.

In Detroit, there are thousands of working individuals and families living in homeless shelters or staying with friends and extended family members because they can not afford the skyrocketing costs of private market housing.

We have a homeless shelter in Detroit where hundreds of veterans live each year, and most are working minimum wage jobs, or work in low to moderate wage employment.

It is a moral outrage that soldiers who have fought in wars and served their country honorably come home to cities like Detroit, only to find out that they can not afford an apartment or a home.

This bill will help reduce these problems, and provide decent affordable housing to more veterans and working families without raising taxes.

It will also help victims of Katrina who are currently living in hotels or homeless shelters in other cities to return to the Gulf Coast, or remain where they are, because there will be expanded housing opportunities due to passage of H.R. 1427.

Passage of “The Federal Housing Finance Reform Act” will provide billions of dollars to cash starved cities across the Nation to successfully build new affordable housing units for working families by utilizing existing non-profit housing developers, public housing agencies, and for-profit housing developers.

Passage of H.R. 1427 will help hundreds of thousands of Americans across this Nation who are currently on waiting lists for public housing to be able to get out of homeless shelters and into homes or apartments, since there will now be more federal funding for affordable housing production.

Passage of “The Federal Housing Finance Reform Act” will provide \$600 million per year to cash starved cities across the Nation and could create approximately 8,000 new afford-

able housing units for working families by utilizing existing non-profit housing developers, public housing agencies, and for-profit housing developers.

If America is ever to be a great nation, we must ensure that all Americans, as a basic human right, have decent and affordable housing. Passage of H.R. 1427 will get our Nation on the road to having a real national affordable housing policy; which we currently do not have.

The United States, the wealthiest country in the world, shamefully has one million homeless children, and over 40% of those living in homeless shelters are working in jobs. Our current affordable housing problem is building more homeless shelters where there is a lack of affordable housing.

I ask this question, Mr. Chairman. How many Members of Congress would want to come home after a hard day's work, and sleep in a homeless shelter? Probably nobody! We need affordable housing for all now.

I urge this body to pass H.R. 1427 with all deliberate speed.

Mr. BACA. Mr. Chairman, I rise to support H.R. 1427 and thank my friend, Chairman FRANK, for leading the bipartisan effort in the Financial Services Committee on this important legislation.

This bill restores accountability by creating a modern, world-class regulator of the GSEs. It will also help us meet the critical shortage of affordable housing across the country through the creation of an Affordable Housing Fund.

In addition, Representatives BEAN, NEUGEBAUER, MOORE and MILLER have offered an amendment which I support. It clarifies that the new GSE regulator does not have the power to reduce the portfolios of Fannie Mae and Freddie Mac based on artificial, so-called “systemic risk.”

This bill already gives the new regulator the FULL authority to supervise the GSE portfolios for safety, soundness and mission. I am not convinced that we should give it powers that bank regulators don't already have. I'm also not convinced that this amendment would in any way weaken the regulator's ability to make sure these companies operate safely and soundly.

It is critical that we do not limit the GSE's ability to provide homeownership for low, middle income, and minority families.

With their help, the GSEs have been able to increase homeownership rates across this country to a record level of 68 percent. That's impressive, but there is still much work to be done.

Homeownership rates in our minority communities are still far below the national average and nearly 2.2 million American families across the country are facing foreclosures.

This issue has a great deal of personal meaning for me. I grew up in a family of 15 children without a lot of money. I have been lucky enough to have worked hard and been able to achieve the American dream of owning a home.

Yet the dream of homeownership remains unattainable for millions of families. And many other families stand to lose their homes this year.

The new affordable housing fund created by H.R. 1427 will go far to help these families. And the new regulator created by this bill will ensure the safety and soundness of the GSEs so that they can continue their important mission in underserved communities for many years to come.

I urge my colleagues to support this bill.

Mr. ENGEL. Mr. Chairman, I rise today in support of H.R. 1427, the Federal Housing Finance Reform Act of 2007. This legislation is many years in the making, and its consideration today is timely, given the problems we face in the mortgage industry.

In recent years, we have seen serious problems in the subprime mortgage market. Without an effective regulator in the mortgage market, these problems will continue to grow, and we will continue to see more families losing their home to foreclosure.

In addition, H.R. 1427 creates an affordable housing fund for low income individuals and families. This fund will receive a percentage of the investments that Fannie Mae and Freddie Mac hold, totaling approximately \$500 million a year. This money will help those with low incomes purchase a new home.

The recent problems in the mortgage market have hit those with low incomes harder than any other income bracket. This is exactly the group of people who will be helped most by this bill. And for the first year, the entire reserve fund will be dedicated to those affected by Hurricane Katrina in Louisiana and Mississippi. These hurricane stricken areas are in desperate need of assistance, and this bill will provide at least a portion of what they need.

Having a strong regulatory body overseeing Fannie Mae, Freddie Mac and the Federal Home Loan Banks will give consumers and markets confidence that the housing market is safe. When housing lenders started going under due to the increased number of foreclosures, consumers became increasingly reluctant to invest hundreds of thousands of dollars into a new home. If people are confident that a strong regulator will be overseeing the GSEs, it will help to increase consumer confidence in the housing market.

This bill is specifically good for my District in the Bronx, Rockland County and Westchester County in New York. The price of purchasing a home there is staggering, and Fannie Mae and Freddie Mac are limited in the amount of money they can loan for a new home. This limitation makes it more difficult for people in my District to buy their first home. This legislation will help to fix this problem by increasing the limit on loans.

Even though H.R. 1427 will put additional money into low low-income housing assistance, I am proud to say that this bill will not add a single dollar to the national deficit. The majority in this Congress has consistently stuck to the pay-as-you-go rules that we created as one of our first acts of the year.

Madam Chairman, the Federal Housing Finance Reform Act is eight years in the making, and it is long overdue. I am happy to support this bill, and I urge my colleagues to support it as well. I yield back the balance of my time.

Mr. LOEBSACK. Mr. Chairman, I rise today in support of H.R. 1427, the Federal Housing Finance Reform Act of 2007. Specifically, I rise in support of Section 139, establishing the Affordable Housing Fund.

In Congress we often talk about the American dream. Many believe that if an individual works hard and plays by the rules they are able to provide for their families, and keep a roof over their heads. Unfortunately, it isn't always that easy. Access to affordable, safe, and clean housing is often difficult to come by. According to the National Low Income Hous-

ing Coalition, in Iowa the Fair Market Rent for a two-bedroom apartment is \$594. The estimated average wage for a renter is \$9.62 per hour, meaning a renter must work 47 hours per week, 52 weeks a year in order to afford a two-bedroom apartment. If you earn the minimum wage, which remains only \$5.15 an hour, you would need to work 89 hours per week, 52 weeks per year to afford a two-bedroom home in Iowa.

Thankfully, this bill establishes the Affordable Housing Fund which provides greater access for our neediest citizens to pursue the American dream and raise their families in a safe environment, which ultimately leads to greater productivity and a better life for themselves and their children.

I was raised in poverty and know first hand the every-day struggle to survive that millions of Americans face on a low or very-low income. Not only will this legislation help those individuals find and afford adequate housing, it will also encourage investment and infrastructure improvements in some of the most underserved areas of our country.

This term "underserved" applies to both low-income urban areas and to the many rural areas in our country. Many rural areas of Iowa have seen good-paying jobs leave our towns at an astonishing rate, in turn devastating our communities. Affordable and accessible housing helps keep communities whole.

In 1949, The U. S. Housing Act established the admirable goal of "a decent home and a suitable living environment for every American Family." I believe the Federal Housing Finance Reform Act remains true to this goal. It is an important step in improving and reviving our cities and rural areas. I urge my colleagues to vote yes on this legislation.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in House Report 110-152, shall be considered as an original bill for the purpose of amendment under the 5-minute rule by title, and each title shall be considered read.

No amendment to that amendment shall be in order except those printed in the portion of the CONGRESSIONAL RECORD designated for that purpose before the beginning of consideration of the bill and pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the bill is as follows:

H.R. 1427

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Federal Housing Finance Reform Act of 2007".

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

Sec. 1. Short title and table of contents.

Sec. 2. Definitions.

TITLE I—REFORM OF REGULATION OF ENTERPRISES AND FEDERAL HOME LOAN BANKS

Subtitle A—Improvement of Safety and Soundness

Sec. 101. Establishment of the Federal Housing Finance Agency.

Sec. 102. Duties and authorities of Director.

Sec. 103. Federal Housing Enterprise Board.

Sec. 104. Authority to require reports by regulated entities.

Sec. 105. Disclosure of income and charitable contributions by enterprises.

Sec. 106. Assessments.

Sec. 107. Examiners and accountants.

Sec. 108. Prohibition and withholding of executive compensation.

Sec. 109. Reviews of regulated entities.

Sec. 110. Inclusion of minorities and women; diversity in Agency workforce.

Sec. 111. Regulations and orders.

Sec. 112. Non-waiver of privileges.

Sec. 113. Risk-Based capital requirements.

Sec. 114. Minimum and critical capital levels.

Sec. 115. Review of and authority over enterprise assets and liabilities.

Sec. 116. Corporate governance of enterprises.

Sec. 117. Required registration under Securities Exchange Act of 1934.

Sec. 118. Liaison with Financial Institutions Examination Council.

Sec. 119. Guarantee fee study.

Sec. 120. Conforming amendments.

Subtitle B—Improvement of Mission Supervision

Sec. 131. Transfer of product approval and housing goal oversight.

Sec. 132. Review of enterprise products.

Sec. 133. Conforming loan limits.

Sec. 134. Annual housing report regarding regulated entities.

Sec. 135. Annual reports by regulated entities on affordable housing stock.

Sec. 136. Revision of housing goals.

Sec. 137. Duty to serve underserved markets.

Sec. 138. Monitoring and enforcing compliance with housing goals.

Sec. 139. Affordable Housing Fund.

Sec. 140. Consistency with mission.

Sec. 141. Enforcement.

Sec. 142. Conforming amendments.

Subtitle C—Prompt Corrective Action

Sec. 151. Capital classifications.

Sec. 152. Supervisory actions applicable to undercapitalized regulated entities.

Sec. 153. Supervisory actions applicable to significantly undercapitalized regulated entities.

Sec. 154. Authority over critically undercapitalized regulated entities.

Sec. 155. Conforming amendments.

Subtitle D—Enforcement Actions

Sec. 161. Cease-and-desist proceedings.

Sec. 162. Temporary cease-and-desist proceedings.

Sec. 163. Prejudgment attachment.

Sec. 164. Enforcement and jurisdiction.

Sec. 165. Civil money penalties.

Sec. 166. Removal and prohibition authority.

Sec. 167. Criminal penalty.

Sec. 168. Subpoena authority.

Sec. 169. Conforming amendments.

Subtitle E—General Provisions

Sec. 181. Boards of enterprises.

Sec. 182. Report on portfolio operations, safety and soundness, and mission of enterprises.

Sec. 183. Conforming and technical amendments.

Sec. 184. Study of alternative secondary market systems.

TITLE II—FEDERAL HOME LOAN BANKS

Sec. 201. Definitions.
 Sec. 202. Directors.
 Sec. 203. Federal Housing Finance Agency oversight of Federal Home Loan Banks.
 Sec. 204. Joint activities of Banks.
 Sec. 205. Sharing of information between Federal Home Loan Banks.
 Sec. 206. Reorganization of Banks and voluntary merger.
 Sec. 207. Securities and Exchange Commission disclosure.
 Sec. 208. Community financial institution members.
 Sec. 209. Technical and conforming amendments.
 Sec. 210. Study of affordable housing program use for long-term care facilities.
 Sec. 211. Effective date.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT, FEDERAL HOUSING FINANCE BOARD, AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of Federal Housing Enterprise Oversight
 Sec. 301. Abolishment of OFHEO.
 Sec. 302. Continuation and coordination of certain regulations.
 Sec. 303. Transfer and rights of employees of OFHEO.
 Sec. 304. Transfer of property and facilities.
 Subtitle B—Federal Housing Finance Board
 Sec. 321. Abolishment of the Federal Housing Finance Board.
 Sec. 322. Continuation and coordination of certain regulations.
 Sec. 323. Transfer and rights of employees of the Federal Housing Finance Board.
 Sec. 324. Transfer of property and facilities.
 Subtitle C—Department of Housing and Urban Development
 Sec. 341. Termination of enterprise-related functions.
 Sec. 342. Continuation and coordination of certain regulations.
 Sec. 343. Transfer and rights of employees of Department of Housing and Urban Development.
 Sec. 344. Transfer of appropriations, property, and facilities.

SEC. 2. DEFINITIONS.

Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) is amended—

(1) in paragraph (7), by striking “an enterprise” and inserting “a regulated entity”;
 (2) by striking “the enterprise” each place that such term appears (except in paragraphs (4) and (18)) and inserting “the regulated entity”;
 (3) in paragraph (5), by striking “Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development” and inserting “Federal Housing Finance Agency”;

(4) in each of paragraphs (8), (9), (10), and (19), by striking “Secretary” each place that term appears and inserting “Director”;

(5) in paragraph (13), by inserting “, with respect to an enterprise,” after “means”;

(6) by redesignating paragraphs (16) through (19) as paragraphs (20) through (23), respectively;

(7) by striking paragraphs (14) and (15) and inserting the following new paragraphs:

“(18) **REGULATED ENTITY.**—The term ‘regulated entity’ means—

“(A) the Federal National Mortgage Association and any affiliate thereof;

“(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof; and

“(C) each Federal home loan bank.

“(19) **REGULATED ENTITY-AFFILIATED PARTY.**—The term ‘regulated entity-affiliated party’ means—

“(A) any director, officer, employee, or agent for, a regulated entity, or controlling shareholder of an enterprise;
 “(B) any shareholder, affiliate, consultant, or joint venture partner of a regulated entity, 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 a regulated entity, except that a shareholder of a regulated entity shall not be considered to have participated in the affairs of that regulated entity solely by reason of being a member or customer of the regulated entity;

“(C) any independent contractor for a regulated entity (including any attorney, appraiser, or accountant), if—

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

“(I) any violation of any law or regulation;
 “(II) any breach of fiduciary duty; or
 “(III) any unsafe or unsound practice; and
 “(ii) such violation, breach, or practice caused, or is likely to cause, more than a minimal financial loss to, or a significant adverse effect on, the regulated entity; and

“(D) any not-for-profit corporation that receives its principal funding, on an ongoing basis, from any regulated entity.”.

(8) by redesignating paragraphs (8) through (13) as paragraphs (12) through (17), respectively; and

(9) by inserting after paragraph (7) the following new paragraph:

“(11) **FEDERAL HOME LOAN BANK.**—The term ‘Federal home loan bank’ means a bank established under the authority of the Federal Home Loan Bank Act.”;

(10) by redesignating paragraphs (2) through (7) as paragraphs (5) through (10), respectively; and

(11) by inserting after paragraph (1) the following new paragraphs:

“(2) **AGENCY.**—The term ‘Agency’ means the Federal Housing Finance Agency.

“(3) **AUTHORIZING STATUTES.**—The term ‘authorizing statutes’ means—

“(A) the Federal National Mortgage Association Charter Act;

“(B) the Federal Home Loan Mortgage Corporation Act; and

“(C) the Federal Home Loan Bank Act.

“(4) **BOARD.**—The term ‘Board’ means the Federal Housing Enterprise Board established under section 1313B.”.

TITLE I—REFORM OF REGULATION OF ENTERPRISES AND FEDERAL HOME LOAN BANKS**Subtitle A—Improvement of Safety and Soundness****SEC. 101. ESTABLISHMENT OF THE FEDERAL HOUSING FINANCE AGENCY.**

(a) **IN GENERAL.**—The Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.) is amended by striking sections 1311 and 1312 and inserting the following:

“SEC. 1311. ESTABLISHMENT OF THE FEDERAL HOUSING FINANCE AGENCY.

“(a) **ESTABLISHMENT.**—There is established the Federal Housing Finance Agency, which shall be an independent agency of the Federal Government.

“(b) **GENERAL SUPERVISORY AND REGULATORY AUTHORITY.**—

“(1) **IN GENERAL.**—Each regulated entity shall, to the extent provided in this title, be subject to the supervision and regulation of the Agency.

“(2) **AUTHORITY OVER FANNIE MAE, FREDDIE MAC, AND FEDERAL HOME LOAN BANKS.**—The Director of the Federal Housing Finance Agency shall have general supervisory and regulatory authority over each regulated entity and shall exercise such general regulatory and supervisory authority, including such duties and au-

thorities set forth under section 1313 of this Act, to ensure that the purposes of this Act, the authorizing statutes, and any other applicable law are carried out. The Director shall have the same supervisory and regulatory authority over any joint office of the Federal home loan banks, including the Office of Finance of the Federal Home Loan Banks, as the Director has over the individual Federal home loan banks.

“(c) **SAVINGS PROVISION.**—The authority of the Director to take actions under subtitles B and C shall not in any way limit the general supervisory and regulatory authority granted to the Director.

“SEC. 1312. DIRECTOR.

“(a) **ESTABLISHMENT OF POSITION.**—There is established the position of the Director of the Federal Housing Finance Agency, who shall be the head of the Agency.

“(b) **APPOINTMENT; TERM.**—

“(1) **APPOINTMENT.**—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of capital markets, including the mortgage securities markets and housing finance.

“(2) **TERM AND REMOVAL.**—The Director shall be appointed for a term of 5 years and may be removed by the President only for cause.

“(3) **VACANCY.**—A vacancy in the position of Director that occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established under paragraph (1), and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

“(4) **SERVICE AFTER END OF TERM.**—An individual may serve as the Director after the expiration of the term for which appointed until a successor has been appointed.

“(5) **TRANSITIONAL PROVISION.**—Notwithstanding paragraphs (1) and (2), the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development shall serve as the Director until a successor has been appointed under paragraph (1).

“(c) **DEPUTY DIRECTOR OF THE DIVISION OF ENTERPRISE REGULATION.**—

“(1) **IN GENERAL.**—The Agency shall have a Deputy Director of the Division of Enterprise Regulation, who shall be appointed by the Director from among individuals who are citizens of the United States, and have a demonstrated understanding of financial management or oversight and of mortgage securities markets and housing finance.

“(2) **FUNCTIONS.**—The Deputy Director of the Division of Enterprise Regulation shall have such functions, powers, and duties with respect to the oversight of the enterprises as the Director shall prescribe.

“(d) **DEPUTY DIRECTOR OF THE DIVISION OF FEDERAL HOME LOAN BANK REGULATION.**—

“(1) **IN GENERAL.**—The Agency shall have a Deputy Director of the Division of Federal Home Loan Bank Regulation, who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight and of the Federal Home Loan Bank System and housing finance.

“(2) **FUNCTIONS.**—The Deputy Director of the Division of Federal Home Loan Bank Regulation shall have such functions, powers, and duties with respect to the oversight of the Federal home loan banks as the Director shall prescribe.

“(e) **DEPUTY DIRECTOR FOR HOUSING.**—

“(1) **IN GENERAL.**—The Agency shall have a Deputy Director for Housing, who shall be appointed by the Director from among individuals who are citizens of the United States, and have a demonstrated understanding of the housing markets and housing finance and of community and economic development.

“(2) FUNCTIONS.—The Deputy Director for Housing shall have such functions, powers, and duties with respect to the oversight of the housing mission and goals of the enterprises, and with respect to oversight of the housing finance and community and economic development mission of the Federal home loan banks, as the Director shall prescribe.

“(f) LIMITATIONS.—The Director and each of the Deputy Directors may not—

“(1) have any direct or indirect financial interest in any regulated entity or regulated entity-affiliated party;

“(2) hold any office, position, or employment in any regulated entity or regulated entity-affiliated party; or

“(3) have served as an executive officer or director of any regulated entity, or regulated entity-affiliated party, at any time during the 3-year period ending on the date of appointment of such individual as Director or Deputy Director.

“(g) OMBUDSMAN.—The Director shall establish the position of the Ombudsman in the Agency. The Director shall provide that the Ombudsman will consider complaints and appeals from any regulated entity and any person that has a business relationship with a regulated entity and shall specify the duties and authority of the Ombudsman.”

(b) APPOINTMENT OF DIRECTOR.—Notwithstanding any other provision of law or of this Act, the President may, any time after the date of the enactment of this Act, appoint an individual to serve as the Director of the Federal Housing Finance Agency, as such office is established by the amendment made by subsection (a). This subsection shall take effect on the date of the enactment of this Act.

SEC. 102. DUTIES AND AUTHORITIES OF DIRECTOR.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 (12 U.S.C. 4513) is amended by striking section 1313 and inserting the following new sections:

SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.

“(a) DUTIES.—

“(1) PRINCIPAL DUTIES.—The principal duties of the Director shall be—

“(A) to oversee the operations of each regulated entity and any joint office of the Federal Home Loan Banks; and

“(B) to ensure that—

“(i) each regulated entity operates in a safe and sound manner, including maintenance of adequate capital and internal controls;

“(ii) the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets that minimize the cost of housing finance (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities);

“(iii) each regulated entity complies with this title and the rules, regulations, guidelines, and orders issued under this title and the authorizing statutes; and

“(iv) each regulated entity carries out its statutory mission only through activities that are consistent with this title and the authorizing statutes.

“(2) SCOPE OF AUTHORITY.—The authority of the Director shall include the authority—

“(A) to review and, if warranted based on the principal duties described in paragraph (1), reject any acquisition or transfer of a controlling interest in an enterprise; and

“(B) to exercise such incidental powers as may be necessary or appropriate to fulfill the duties and responsibilities of the Director in the supervision and regulation of each regulated entity.

“(b) DELEGATION OF AUTHORITY.—The Director may delegate to officers or employees of the

Agency, including each of the Deputy Directors, any of the functions, powers, or duties of the Director, as the Director considers appropriate.

“(c) LITIGATION AUTHORITY.—

“(1) IN GENERAL.—In enforcing any provision of this title, any regulation or order prescribed under this title, or any other provision of law, rule, regulation, or order, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys, or request that the Attorney General of the United States act on behalf of the Director.

“(2) CONSULTATION WITH ATTORNEY GENERAL.—The Director shall provide notice to, and consult with, the Attorney General of the United States before taking an action under paragraph (1) of this subsection or under section 1344(a), 1345(d), 1348(c), 1372(e), 1375(a), 1376(d), or 1379D(c), except that, if the Director determines that any delay caused by such prior notice and consultation may adversely affect the safety and soundness responsibilities of the Director under this title, the Director shall notify the Attorney General as soon as reasonably possible after taking such action.

“(3) SUBJECT TO SUIT.—Except as otherwise provided by law, the Director shall be subject to suit (other than suits on claims for money damages) by a regulated entity or director or officer thereof with respect to any matter under this title or any other applicable provision of law, rule, order, or regulation under this title, in the United States district court for the judicial district in which the regulated entity has its principal place of business, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

SEC. 1313A. PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS.

“(a) STANDARDS.—The Director shall establish standards, by regulation, guideline, or order, for each regulated entity relating to—

“(1) adequacy of internal controls and information systems, including information security and privacy policies and practices, taking into account the nature and scale of business operations;

“(2) independence and adequacy of internal audit systems;

“(3) management of credit and counterparty risk, including systems to identify concentrations of credit risk and prudential limits to restrict exposure of the regulated entity to a single counterparty or groups of related counterparties;

“(4) management of interest rate risk exposure;

“(5) management of market risk, including standards that provide for systems that accurately measure, monitor, and control market risks and, as warranted, that establish limitations on market risk;

“(6) adequacy and maintenance of liquidity and reserves;

“(7) management of any asset and investment portfolio;

“(8) investments and acquisitions by a regulated entity, to ensure that they are consistent with the purposes of this Act and the authorizing statutes;

“(9) maintenance of adequate records, in accordance with consistent accounting policies and practices that enable the Director to evaluate the financial condition of the regulated entity;

“(10) issuance of subordinated debt by that particular regulated entity, as the Director considers necessary;

“(11) overall risk management processes, including adequacy of oversight by senior management and the board of directors and of processes and policies to identify, measure, monitor,

and control material risks, including reputational risks, and for adequate, well-tested business resumption plans for all major systems with remote site facilities to protect against disruptive events; and

“(12) such other operational and management standards as the Director determines to be appropriate.

“(b) FAILURE TO MEET STANDARDS.—

“(1) PLAN REQUIREMENT.—

“(A) IN GENERAL.—If the Director determines that a regulated entity fails to meet any standard established under subsection (a)—

“(i) if such standard is established by regulation, the Director shall require the regulated entity to submit an acceptable plan to the Director within the time allowed under subparagraph (C); and

“(ii) if such standard is established by guideline, the Director may require the regulated entity to submit a plan described in clause (i).

“(B) CONTENTS.—Any plan required under subparagraph (A) shall specify the actions that the regulated entity will take to correct the deficiency. If the regulated entity is undercapitalized, the plan may be a part of the capital restoration plan for the regulated entity under section 1369C.

“(C) DEADLINES FOR SUBMISSION AND REVIEW.—The Director shall by regulation establish deadlines that—

“(i) provide the regulated entities with reasonable time to submit plans required under subparagraph (A), and generally require a regulated entity to submit a plan not later than 30 days after the Director determines that the entity fails to meet any standard established under subsection (a); and

“(ii) require the Director to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

“(2) REQUIRED ORDER UPON FAILURE TO SUBMIT OR IMPLEMENT PLAN.—If a regulated entity fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the Director, the following shall apply:

“(A) REQUIRED CORRECTION OF DEFICIENCY.—The Director shall, by order, require the regulated entity to correct the deficiency.

“(B) OTHER AUTHORITY.—The Director may, by order, take one or more of the following actions until the deficiency is corrected:

“(i) Prohibit the regulated entity from permitting its average total assets (as such term is defined in section 1316(b)) during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the entity may increase from one calendar quarter to another.

“(ii) Require the regulated entity—

“(I) in the case of an enterprise, to increase its ratio of core capital to assets.

“(II) in the case of a Federal home loan bank, to increase its ratio of total capital (as such term is defined in section 6(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(5)) to assets.

“(iii) Require the regulated entity to take any other action that the Director determines will better carry out the purposes of this section than any of the actions described in this subparagraph.

“(3) MANDATORY RESTRICTIONS.—In complying with paragraph (2), the Director shall take one or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

“(A) the Director determines that the regulated entity fails to meet any standard prescribed under subsection (a);

“(B) the regulated entity has not corrected the deficiency; and

“(C) during the 18-month period before the date on which the regulated entity first failed to meet the standard, the entity underwent extraordinary growth, as defined by the Director.

“(C) OTHER ENFORCEMENT AUTHORITY NOT AFFECTED.—The authority of the Director under

this section is in addition to any other authority of the Director.”.

(b) INDEPENDENCE IN CONGRESSIONAL TESTIMONY AND RECOMMENDATIONS.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking “the Federal Housing Finance Board” and inserting “the Director of the Federal Housing Finance Agency”.

SEC. 103. FEDERAL HOUSING ENTERPRISE BOARD.

(a) IN GENERAL.—Title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.) is amended by inserting after section 1313A, as added by section 102 of this Act, the following new section:

“SEC. 1313B. FEDERAL HOUSING ENTERPRISE BOARD.

“(a) IN GENERAL.—There is established the Federal Housing Enterprise Board, which shall advise the Director with respect to overall strategies and policies in carrying out the duties of the Director under this title.

“(b) LIMITATIONS.—The Board may not exercise any executive authority, and the Director may not delegate to the Board any of the functions, powers, or duties of the Director.

“(c) COMPOSITION.—The Board shall be comprised of 5 members, of whom—

“(1) one member shall be the Secretary of the Treasury;

“(2) one member shall be the Secretary of Housing and Urban Development;

“(3) one member shall be the Director, who shall serve as the Chairperson of the Board; and

“(4) two members, who shall be appointed by the President, by and with the advise and consent of the Senate, who are experts or experienced in the field of financial services, housing finance, affordable housing, or mortgage lending.

The members pursuant to paragraph (4) shall be appointed for a term of four years. The Board may not, at any time, have more than three members of the same political party.

“(d) MEETINGS.—

“(1) IN GENERAL.—The Board shall meet upon notice by the Director, but in no event shall the Board meet less frequently than once every 3 months.

“(2) SPECIAL MEETINGS.—Either the Secretary of the Treasury or the Secretary of Housing and Urban Development may, upon giving written notice to the Director, require a special meeting of the Board.

“(e) TESTIMONY.—On an annual basis, the Board shall testify before Congress regarding—

“(1) the safety and soundness of the regulated entities;

“(2) any material deficiencies in the conduct of the operations of the regulated entities;

“(3) the overall operational status of the regulated entities;

“(4) an evaluation of the performance of the regulated entities in carrying out their respective missions;

“(5) operations, resources, and performance of the Agency; and

“(6) such other matters relating to the Agency and its fulfillment of its mission, as the Board determines appropriate.”.

(b) ANNUAL REPORT OF THE DIRECTOR.—Section 1319B(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4521 (a)) is amended—

(1) in paragraph (3), by striking “and” at the end; and

(2) by striking paragraph (4) and inserting the following new paragraphs:

“(4) an assessment of the Board or any of its members with respect to—

“(A) the safety and soundness of the regulated entities;

“(B) any material deficiencies in the conduct of the operations of the regulated entities;

“(C) the overall operational status of the regulated entities; and

“(D) an evaluation of the performance of the regulated entities in carrying out their missions;

“(5) operations, resources, and performance of the Agency;

“(6) a description of the demographic makeup of the workforce of the Agency and the actions taken pursuant to section 1319A(b) to provide for diversity in the workforce; and

“(7) such other matters relating to the Agency and its fulfillment of its mission.”.

SEC. 104. AUTHORITY TO REQUIRE REPORTS BY REGULATED ENTITIES.

Section 1314 of the Housing and Community Development Act of 1992 (12 U.S.C. 4514) is amended—

(1) in the section heading, by striking “ENTERPRISES” and inserting “REGULATED ENTITIES”;

(2) in subsection (a)—

(A) in the subsection heading, by striking “SPECIAL REPORTS AND REPORTS OF FINANCIAL CONDITION” and inserting “REGULAR AND SPECIAL REPORTS”;

(B) in paragraph (1)—

(i) in the paragraph heading, by striking “FINANCIAL CONDITION” and inserting “REGULAR REPORTS”; and

(ii) by striking “reports of financial condition and operations” and inserting “regular reports on the condition (including financial condition), management, activities, or operations of the regulated entity, as the Director considers appropriate”; and

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

“(c) REPORTS OF FRAUDULENT FINANCIAL TRANSACTIONS.—

“(1) REQUIREMENT TO REPORT.—The Director shall require a regulated entity to submit to the Director a timely report upon discovery by the regulated entity that it has purchased or sold a fraudulent loan or financial instrument or suspects a possible fraud relating to a purchase or sale of any loan or financial instrument. The Director shall require the regulated entities to establish and maintain procedures designed to discover any such transactions.

“(2) PROTECTION FROM LIABILITY FOR REPORTS.—

“(A) IN GENERAL.—If a regulated entity makes a report pursuant to paragraph (1), or a regulated entity-affiliated party makes, or requires another to make, such a report, and such report is made in a good faith effort to comply with the requirements of paragraph (1), such regulated entity or regulated entity-affiliated party shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such report or for any failure to provide notice of such report to the person who is the subject of such report or any other person identified in the report.

“(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as creating—

“(i) any inference that the term ‘person’, as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

“(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.”.

SEC. 105. DISCLOSURE OF INCOME AND CHARITABLE CONTRIBUTIONS BY ENTERPRISES.

Section 1314 of the Housing and Community Development Act of 1992 (12 U.S.C. 4514), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

“(d) DISCLOSURE OF CHARITABLE CONTRIBUTIONS BY ENTERPRISES.—

“(1) REQUIRED DISCLOSURE.—The Director shall, by regulation, require each enterprise to submit a report annually, in a format designated by the Director, containing the following information:

“(A) TOTAL VALUE.—The total value of contributions made by the enterprise to nonprofit organizations during its previous fiscal year.

“(B) SUBSTANTIAL CONTRIBUTIONS.—If the value of contributions made by the enterprise to any nonprofit organization during its previous fiscal year exceeds the designated amount, the name of that organization and the value of contributions.

“(C) SUBSTANTIAL CONTRIBUTIONS TO INSIDER-AFFILIATED CHARITIES.—Identification of each contribution whose value exceeds the designated amount that were made by the enterprise during the enterprise’s previous fiscal year to any nonprofit organization of which a director, officer, or controlling person of the enterprise, or a spouse thereof, was a director or trustee, the name of such nonprofit organization, and the value of the contribution.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘designated amount’ means such amount as may be designated by the Director by regulation, consistent with the public interest and the protection of investors for purposes of this subsection; and

“(B) the Director may, by such regulations as the Director deems necessary or appropriate in the public interest, define the terms officer and controlling person.

“(3) PUBLIC AVAILABILITY.—The Director shall make the information submitted pursuant to this subsection publicly available.

“(e) DISCLOSURE OF INCOME.—Each enterprise shall include, in each annual report filed under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), the income reported by the issuer to the Internal Revenue Service for the most recent taxable year. Such income shall—

“(1) be presented in a prominent location in each such report and in a manner that permits a ready comparison of such income to income otherwise required to be included in such reports under regulations issued under such section; and

“(2) be submitted to the Securities and Exchange Commission in a form and manner suitable for entry into the EDGAR system of such Commission for public availability under such system.”.

SEC. 106. ASSESSMENTS.

Section 1316 of the Housing and Community Development Act of 1992 (12 U.S.C. 4516) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) ANNUAL ASSESSMENTS.—The Director shall establish and collect from the regulated entities annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Agency, including—

“(1) the expenses of any examinations under section 1317 of this Act and under section 20 of the Federal Home Loan Bank Act;

“(2) the expenses of obtaining any reviews and credit assessments under section 1319;

“(3) such amounts in excess of actual expenses for any given year as deemed necessary by the Director to maintain a working capital fund in accordance with subsection (e); and

“(4) the wind up of the affairs of the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board under title III of the Federal Housing Finance Reform Act of 2007.”;

(2) in subsection (b)—

(A) in the subsection heading, by striking “ENTERPRISES” and inserting “REGULATED ENTITIES”;

(B) by realigning paragraph (2) two ems from the left margin, so as to align the left margin of

such paragraph with the left margins of paragraph (1);

(C) in paragraph (1)—

- (i) by striking “Each enterprise” and inserting “Each regulated entity”;
- (ii) by striking “each enterprise” and inserting “each regulated entity”; and
- (iii) by striking “both enterprises” and inserting “all of the regulated entities”; and

(D) in paragraph (3)—

- (i) in subparagraph (B), by striking “subparagraph (A)” and inserting “clause (i)”;
- (ii) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii) and (ii), respectively, and realigning such clauses, as so redesignated, so as to be indented 6 ems from the left margin;

(iii) by striking the matter that precedes clause (i), as so redesignated, and inserting the following:

“(3) DEFINITION OF TOTAL ASSETS.—For purposes of this section, the term ‘total assets’ means as follows:

“(A) ENTERPRISES.—With respect to an enterprise, the sum of—”; and

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

“(B) FEDERAL HOME LOAN BANKS.—With respect to a Federal home loan bank, the total assets of the Bank, as determined by the Director in accordance with generally accepted accounting principles.”;

(3) by striking subsection (c) and inserting the following new subsection:

(c) INCREASED COSTS OF REGULATION.—

“(1) INCREASE FOR INADEQUATE CAPITALIZATION.—The semiannual payments made pursuant to subsection (b) by any regulated entity that is not classified (for purposes of subtitle B) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the regulated entity.

“(2) ADJUSTMENT FOR ENFORCEMENT ACTIVITIES.—The Director may adjust the amounts of any semiannual payments for an assessment under subsection (a) that are to be paid pursuant to subsection (b) by a regulated entity, as necessary in the discretion of the Director, to ensure that the costs of enforcement activities under this Act for a regulated entity are borne only by such regulated entity.

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

(4) in subsection (d), by striking “If” and inserting “Except with respect to amounts collected pursuant to subsection (a)(3), if”; and

(5) by striking subsections (e) through (g) and inserting the following new subsections:

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

(f) TREATMENT OF ASSESSMENTS.—

“(1) DEPOSIT.—Amounts received by the Director from assessments under this section may be deposited by the Director in the manner pro-

vided in section 5234 of the Revised Statutes (12 U.S.C. 192) for monies deposited by the Comptroller of the Currency.

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

“(3) NO APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of law, the amounts received by the Director from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

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

“(5) AVAILABILITY OF OVERSIGHT FUND AMOUNTS.—Notwithstanding any other provision of law, any amounts remaining in the Federal Housing Enterprises Oversight Fund established under this section (as in effect before the effective date under section 185 of the Federal Housing Finance Reform Act of 2007), and any amounts remaining from assessments on the Federal Home Loan banks pursuant to section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)), shall, upon such effective date, be treated for purposes of this subsection as amounts received from assessments under this section.

“(6) TREASURY INVESTMENTS.—

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

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

“(g) BUDGET AND FINANCIAL MANAGEMENT.—

“(1) FINANCIAL OPERATING PLANS AND FORECASTS.—The Director shall provide to the Director of the Office of Management and Budget copies of the Director’s financial operating plans and forecasts as prepared by the Director in the ordinary course of the Agency’s operations, and copies of the quarterly reports of the Agency’s financial condition and results of operations as prepared by the Director in the ordinary course of the Agency’s operations.

“(2) FINANCIAL STATEMENTS.—The Agency shall prepare annually a statement of assets and liabilities and surplus or deficit; a statement of income and expenses; and a statement of sources and application of funds.

“(3) FINANCIAL MANAGEMENT SYSTEMS.—The Agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and that uses a general ledger system that accounts for activity at the transaction level.

“(4) ASSERTION OF INTERNAL CONTROLS.—The Director shall provide to the Comptroller General an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Agency, using the standards established in section 3512(c) of title 31, United States Code.

“(5) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director

of the Office of Management and Budget with respect to any reports, plans, forecasts, or other information referred to in paragraph (1) or any jurisdiction or oversight over the affairs or operations of the Agency.

“(h) AUDIT OF AGENCY.—

“(1) IN GENERAL.—The Comptroller General shall annually audit the financial transactions of the Agency in accordance with the U.S. generally accepted government auditing standards as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Agency are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Agency pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Agency shall remain in possession and custody of the Agency. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General and the Comptroller General’s right of access to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

“(2) REPORT.—The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Agency, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Agency at the time submitted to the Congress.

“(3) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 5 of title 41, United States Code, professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Agency shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.”.

SEC. 107. EXAMINERS AND ACCOUNTANTS.

(a) EXAMINATIONS.—Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended—

(1) in subsection (a), by adding after the period at the end the following: “Each examination under this subsection of a regulated entity shall include a review of the procedures required to be established and maintained by the regulated entity pursuant to section 1314(c) (relating to fraudulent financial transactions) and the report regarding each such examination shall describe any problems with such procedures maintained by the regulated entity.”;

(2) in subsection (b)—

(A) by inserting “of a regulated entity” after “under this section”; and
 (B) by striking “to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness” and inserting “or appropriate”; and
 (3) in subsection (c)—

(A) in the second sentence, by inserting “to conduct examinations under this section” before the period; and
 (B) in the third sentence, by striking “from amounts available in the Federal Housing Enterprises Oversight Fund”.

(b) ENHANCED AUTHORITY TO HIRE EXAMINERS AND ACCOUNTANTS.—Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended by adding at the end the following new subsection:

“(g) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, SPECIALISTS, AND EXAMINERS.—

“(1) APPLICABILITY.—This section applies with respect to any position of examiner, accountant, specialist in financial markets, specialist in information technology, and economist at the Agency, with respect to supervision and regulation of the regulated entities, that is in the competitive service.

“(2) APPOINTMENT AUTHORITY.—The Director may appoint candidates to any position described in paragraph (1)—

“(A) in accordance with the statutes, rules, and regulations governing appointments in the excepted service; and

“(B) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.

“(3) RULE OF CONSTRUCTION.—The appointment of a candidate to a position under the authority of this subsection shall not be considered to cause such position to be converted from the competitive service to the excepted service.”.

(c) REPEAL.—Section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440) is amended—

(1) by striking the section heading and inserting the following: “EXAMINATIONS AND GAO AUDITS”;

(2) in the third sentence, by striking “the Board and” each place such term appears; and

(3) by striking the first two sentences and inserting the following: “The Federal home loan banks shall be subject to examinations by the Director to the extent provided in section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517).”.

SEC. 108. PROHIBITION AND WITHHOLDING OF EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Section 1318 of the Housing and Community Development Act of 1992 (12 U.S.C. 4518) is amended—

(1) in the section heading, by striking “OF EXCESSIVE” and inserting “AND WITHHOLDING OF EXECUTIVE”;

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following new subsections:

“(b) FACTORS.—In making any determination under subsection (a), the Director may take into consideration any factors the Director considers relevant, including any wrongdoing on the part of the executive officer, and such wrongdoing shall include any fraudulent act or omission, breach of trust or fiduciary duty, violation of law, rule, regulation, order, or written agreement, and insider abuse with respect to the regulated entity. The approval of an agreement or contract pursuant to section 309(d)(3)(B) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)(3)(B)) or section 303(h)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)(2)) shall not preclude the Director from making any subsequent determination under subsection (a).

“(c) WITHHOLDING OF COMPENSATION.—In carrying out subsection (a), the Director may require a regulated entity to withhold any payment, transfer, or disbursement of compensation

to an executive officer, or to place such compensation in an escrow account, during the review of the reasonableness and comparability of compensation.”.

(b) CONFORMING AMENDMENTS.—

(1) FANNIE MAE.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended by adding at the end the following new paragraph:

“(4) Notwithstanding any other provision of this section, the corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).”.

(2) FREDDIE MAC.—Section 303(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)) is amended by adding at the end the following new paragraph:

“(4) Notwithstanding any other provision of this section, the Corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).”.

(3) FEDERAL HOME LOAN BANKS.—Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended by adding at the end the following new subsection:

“(l) WITHHOLDING OF COMPENSATION.—Notwithstanding any other provision of this section, a Federal home loan bank shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).”.

SEC. 109. REVIEWS OF REGULATED ENTITIES.

Section 1319 of the Housing and Community Development Act of 1992 (12 U.S.C. 4519) is amended—

(1) by striking the section designation and heading and inserting the following:

“**SEC. 1319. REVIEWS OF REGULATED ENTITIES.**”, and

(2) by striking “is a nationally recognized” and all that follows through “1934” and inserting the following: “the Director considers appropriate, including an entity that is registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78a) as a nationally registered statistical rating organization”.

SEC. 110. INCLUSION OF MINORITIES AND WOMEN; DIVERSITY IN AGENCY WORKFORCE.

Section 1319A of the Housing and Community Development Act of 1992 (12 U.S.C. 4520) is amended—

(1) in the section heading, by striking “EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS” and inserting “MINORITY AND WOMEN INCLUSION; DIVERSITY REQUIREMENTS”;

(2) in subsection (a), by striking “(a) IN GENERAL.—Each enterprise” and inserting “(e) OUTREACH.—Each regulated entity”; and

(3) by striking subsection (b);

(4) by inserting before subsection (e), as so redesignated by paragraph (2) of this section, the following new subsections:

“(a) OFFICE OF MINORITY AND WOMEN INCLUSION.—Each regulated entity shall establish an Office of Minority and Women Inclusion, or designate an office of the entity, that shall be responsible for carrying out this section and all matters of the entity relating to diversity in

management, employment, and business activities in accordance with such standards and requirements as the Director shall establish.

“(b) INCLUSION IN ALL LEVELS OF BUSINESS ACTIVITIES.—Each regulated entity shall develop and implement standards and procedures to ensure, to the maximum extent possible, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)) (including financial institutions, investment banking firms, mortgage banking firms, asset management firms, broker-dealers, financial services firms, underwriters, accountants, brokers, investment consultants, and providers of legal services) in all business and activities of the regulated entity at all levels, including in procurement, insurance, and all types of contracts (including contracts for the issuance or guarantee of any debt, equity, or mortgage-related securities, the management of its mortgage and securities portfolios, the making of its equity investments, the purchase, sale and servicing of single- and multi-family mortgage loans, and the implementation of its affordable housing program and initiatives). The processes established by each regulated entity for review and evaluation for contract proposals and to hire service providers shall include a component that gives consideration to the diversity of the applicant.

“(c) APPLICABILITY.—This section shall apply to all contracts of a regulated entity for services of any kind, including services that require the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services.

“(d) INCLUSION IN ANNUAL REPORTS.—Each regulated entity shall include, in the annual report submitted by the entity to the Director pursuant to section 309(k) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(k)), section 307(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(c)), and section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440), as applicable, detailed information describing the actions taken by the entity pursuant to this section, which shall include a statement of the total amounts paid by the entity to third party contractors since the last such report and the percentage of such amounts paid to businesses described in subsection (b) of this section.”; and

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

“(f) DIVERSITY IN AGENCY WORKFORCE.—The Agency shall take affirmative steps to seek diversity in its workforce at all levels of the agency consistent with the demographic diversity of the United States, which shall include—

“(1) heavily recruiting at historically Black colleges and universities, Hispanic-serving institutions, women’s colleges, and colleges that typically serve majority minority populations;

“(2) sponsoring and recruiting at job fairs in urban communities, and placing employment advertisements in newspapers and magazines oriented toward women and people of color;

“(3) partnering with organizations that are focused on developing opportunities for minorities and women in place talented young minorities and women in industry internships, summer employment, and full-time positions; and

“(4) where feasible, partnering with inner-city high schools, girls’ high schools, and high schools with majority minority populations to establish or enhance financial literacy programs and provide mentoring.”.

SEC. 111. REGULATIONS AND ORDERS.

Section 1319G of the Housing and Community Development Act of 1992 (12 U.S.C. 4526) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) AUTHORITY.—The Director shall issue any regulations, guidelines, and orders necessary to carry out the duties of the Director

under this title and each of the authorizing statutes to ensure that the purposes of this title and such statutes are accomplished.”;

(2) in subsection (b), by inserting “, this title, or any of the authorizing statutes” after “under this section”; and

(3) by striking subsection (c).

SEC. 112. NON-WAIVER OF PRIVILEGES.

Part 1 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4511) is amended by adding at the end the following new section:

“SEC. 1319H. PRIVILEGES NOT AFFECTED BY DISCLOSURE.

“(a) 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 the Agency.

“(b) RULE OF CONSTRUCTION.—No provision of subsection (a) may be construed as implying or establishing that—

“(1) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which subsection (a) does not apply; or

“(2) any person would waive any privilege applicable to any information by submitting the information to the Agency, but for this subsection.”.

SEC. 113. RISK-BASED CAPITAL REQUIREMENTS.

(a) IN GENERAL.—Section 1361 of the Housing and Community Development Act of 1992 (12 U.S.C. 4611) is amended to read as follows:

“SEC. 1361. RISK-BASED CAPITAL LEVELS FOR REGULATED ENTITIES.

“(a) IN GENERAL.—

“(1) ENTERPRISES.—The Director shall, by regulation, establish risk-based capital requirements for the enterprises to ensure that the enterprises operate in a safe and sound manner, maintaining sufficient capital and reserves to support the risks that arise in the operations and management of the enterprises.

“(2) FEDERAL HOME LOAN BANKS.—The Director shall establish risk-based capital standards under section 6 of the Federal Home Loan Bank Act for the Federal home loan banks.

“(b) CONFIDENTIALITY OF INFORMATION.—Any person that receives any book, record, or information from the Director or a regulated entity to enable the risk-based capital requirements established under this section to be applied shall—

“(1) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the regulated entity; and

“(2) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

“(c) NO LIMITATION.—Nothing in this section shall limit the authority of the Director to require other reports or undertakings, or take other action, in furtherance of the responsibilities of the Director under this Act.”.

(b) FEDERAL HOME LOAN BANKS RISK-BASED CAPITAL.—Section 6(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) RISK-BASED CAPITAL STANDARDS.—The Director shall, by regulation, establish risk-based capital standards for the Federal home loan banks to ensure that the Federal home loan banks operate in a safe and sound manner, with sufficient permanent capital and reserves to support the risks that arise in the operations and management of the Federal home loans banks.”; and

(2) in subparagraph (B), by striking “(A)(ii)” and inserting “(A)”.

SEC. 114. MINIMUM AND CRITICAL CAPITAL LEVELS.

(a) MINIMUM CAPITAL LEVEL.—Section 1362 of the Housing and Community Development Act of 1992 (12 U.S.C. 4612) is amended—

(1) in subsection (a), by striking “IN GENERAL” and inserting “ENTERPRISES”; and

(2) by striking subsection (b) and inserting the following new subsections:

“(b) FEDERAL HOME LOAN BANKS.—For purposes of this subtitle, the minimum capital level for each Federal home loan bank shall be the minimum capital required to be maintained to comply with the leverage requirement for the bank established under section 6(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(2)).

“(c) ESTABLISHMENT OF REVISED MINIMUM CAPITAL LEVELS.—Notwithstanding subsections (a) and (b) and notwithstanding the capital classifications of the regulated entities, the Director may, by regulations issued under section 1319G, establish a minimum capital level for the enterprises, for the Federal home loan banks, or for both the enterprises and the banks, that is higher than the level specified in subsection (a) for the enterprises or the level specified in subsection (b) for the Federal home loan banks, to the extent needed to ensure that the regulated entities operate in a safe and sound manner.

“(d) AUTHORITY TO REQUIRE TEMPORARY INCREASE.—Notwithstanding subsections (a) and (b) and any minimum capital level established pursuant to subsection (c), the Director may, by order, increase the minimum capital level for a regulated entity on a temporary basis for such period as the Director may provide if the Director—

“(1) makes any determination specified in subparagraphs (A) through (C) of section 1364(c)(1);

“(2) determines that the regulated entity has violated any of the prudential standards established pursuant to section 1313A and, as a result of such violation, determines that an unsafe and unsound condition exists; or

“(3) determines that an unsafe and unsound condition exists, except that a temporary increase in minimum capital imposed on a regulated entity pursuant to this paragraph shall not remain in place for a period of more than 6 months unless the Director makes a renewed determination of the existence of an unsafe and unsound condition.

“(e) AUTHORITY TO ESTABLISH ADDITIONAL CAPITAL AND RESERVE REQUIREMENTS FOR PARTICULAR PROGRAMS.—The Director may, at any time by order or regulation, establish such capital or reserve requirements with respect to any program or activity of a regulated entity as the Director considers appropriate to ensure that the regulated entity operates in a safe and sound manner, with sufficient capital and reserves to support the risks that arise in the operations and management of the regulated entity.

“(f) PERIODIC REVIEW.—The Director shall periodically review the amount of core capital maintained by the enterprises, the amount of capital retained by the Federal home loan banks, and the minimum capital levels established for such regulated entities pursuant to this section. The Director shall rescind any temporary minimum capital level increase if the Director determines that the circumstances or facts justifying the temporary increase are no longer present.”.

(b) CRITICAL CAPITAL LEVELS.—

(1) IN GENERAL.—Section 1363 of the Housing and Community Development Act of 1992 (12 U.S.C. 4613) is amended—

(A) by striking “For” and inserting “(a) ENTERPRISES.—FOR”; and

(B) by adding at the end the following new subsection:

“(b) FEDERAL HOME LOAN BANKS.—

(1) IN GENERAL.—For purposes of this subtitle, the critical capital level for each Federal home loan bank shall be such amount of capital as the Director shall, by regulation require.

“(2) CONSIDERATION OF OTHER CRITICAL CAPITAL LEVELS.—In establishing the critical capital level under paragraph (1) for the Federal home loan banks, the Director shall take due consideration of the critical capital level established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises.”.

(2) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the effective date under section 185, the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1363(b) of the Housing and Community Development Act of 1992 (as added by paragraph (1) of this subsection) establishing the critical capital level under such section.

SEC. 115. REVIEW OF AND AUTHORITY OVER ENTERPRISE ASSETS AND LIABILITIES.

(a) IN GENERAL.—Subtitle B of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4611 et seq.) is amended—

(1) by striking the subtitle designation and heading and inserting the following:

“Subtitle B—Required Capital Levels for Regulated Entities, Special Enforcement Powers, and Reviews of Assets and Liabilities”;

and

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

“SEC. 1369E. REVIEWS OF ENTERPRISE ASSETS AND LIABILITIES.

(a) IN GENERAL.—The Director shall, by regulation, establish standards by which the portfolio holdings, or rate of growth of the portfolio holdings, of the enterprises will be deemed to be consistent with the mission and the safe and sound operations of the enterprises. In developing such standards, the Director shall consider—

“(1) the size or growth of the mortgage market;

“(2) the need for the portfolio in maintaining liquidity or stability of the secondary mortgage market (including the market for the mortgage-backed securities the enterprises issue);

“(3) the need for an inventory of mortgages in connection with securitizations;

“(4) the need for the portfolio to directly support the affordable housing mission of the enterprises;

“(5) the liquidity needs of the enterprises;

“(6) any potential risks posed by the nature of the portfolio holdings; and

“(7) any additional factors that the Director determines to be necessary to carry out the purpose under the first sentence of this subsection to establish standards for assessing whether the portfolio holdings are consistent with the mission and safe and sound operations of the enterprises.

(b) TEMPORARY ADJUSTMENTS.—The Director may, by order, make temporary adjustments to the established standards for an enterprise or both enterprises, such as during times of economic distress or market disruption.

(c) AUTHORITY TO REQUIRE DISPOSITION OR ACQUISITION.—The Director shall monitor the portfolio of each enterprise. Pursuant to subsection (a) and notwithstanding the capital classifications of the enterprises, the Director may, by order, require an enterprise, under such terms and conditions as the Director determines to be appropriate, to dispose of or acquire any asset, if the Director determines that such action is consistent with the purposes of this Act or any of the authorizing statutes.”.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the effective date under section 185, the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1369E(a) of the Housing and Community Development Act of 1992 (as added by subsection (a) of this section) establishing the portfolio holdings standards under such section.

SEC. 116. CORPORATE GOVERNANCE OF ENTERPRISES.

The Housing and Community Development Act of 1992 is amended by inserting before section 1323 (12 U.S.C. 4543) the following new section:

“SEC. 1322A. CORPORATE GOVERNANCE OF ENTERPRISES.**“(a) BOARD OF DIRECTORS.**

“(1) INDEPENDENCE.—A majority of seated members of the board of directors of each enterprise shall be independent board members, as defined under rules set forth by the New York Stock Exchange, as such rules may be amended from time to time.

“(2) FREQUENCY OF MEETINGS.—To carry out its obligations and duties under applicable laws, rules, regulations, and guidelines, the board of directors of an enterprise shall meet at least eight times a year and not less than once a calendar quarter.

“(3) NON-MANAGEMENT BOARD MEMBER MEETINGS.—The non-management directors of an enterprise shall meet at regularly scheduled executive sessions without management participation.

“(4) QUORUM; PROHIBITION ON PROXIES.—For the transaction of business, a quorum of the board of directors of an enterprise shall be at least a majority of the seated board of directors and a board member may not vote by proxy.

“(5) INFORMATION.—The management of an enterprise shall provide a board member of the enterprise with such adequate and appropriate information that a reasonable board member would find important to the fulfillment of his or her fiduciary duties and obligations.

“(6) ANNUAL REVIEW.—At least annually, the board of directors of each enterprise shall review, with appropriate professional assistance, the requirements of laws, rules, regulations, and guidelines that are applicable to its activities and duties.

“(b) COMMITTEES OF BOARDS OF DIRECTORS.

“(1) FREQUENCY OF MEETINGS.—Any committee of the board of directors of an enterprise shall meet with sufficient frequency to carry out its obligations and duties under applicable laws, rules, regulations, and guidelines.

“(2) REQUIRED COMMITTEES.—Each enterprise shall provide for the establishment, however styled, of the following committees of the board of directors:

“(A) Audit committee.**“(B) Compensation committee.**

“(C) Nominating/corporate governance committee.

Such committees shall be in compliance with the charter, independence, composition, expertise, duties, responsibilities, and other requirements set forth under section 10A(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(m)), with respect to the audit committee, and under rules issued by the New York Stock Exchange, as such rules may be amended from time to time.

“(c) COMPENSATION.

“(1) IN GENERAL.—The compensation of board members, executive officers, and employees of an enterprise—

“(A) shall not be in excess of that which is reasonable and appropriate;

“(B) shall be commensurate with the duties and responsibilities of such persons;

“(C) shall be consistent with the long-term goals of the enterprise;

“(D) shall not focus solely on earnings performance, but shall take into account risk management, operational stability and legal and regulatory compliance as well; and

“(E) shall be undertaken in a manner that complies with applicable laws, rules, and regulations.

“(2) REIMBURSEMENT.—If an enterprise is required to prepare an accounting restatement due to the material noncompliance of the enterprise, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the enterprise shall reimburse the

enterprise as provided under section 304 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7243). This provision does not otherwise limit the authority of the Agency to employ remedies available to it under its enforcement authorities.

“(d) CODE OF CONDUCT AND ETHICS.

“(1) IN GENERAL.—An enterprise shall establish and administer a written code of conduct and ethics that is reasonably designed to assure the ability of board members, executive officers, and employees of the enterprise to discharge their duties and responsibilities, on behalf of the enterprise, in an objective and impartial manner, and that includes standards required under section 406 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7264) and other applicable laws, rules, and regulations.

“(2) REVIEW.—Not less than once every three years, an enterprise shall review the adequacy of its code of conduct and ethics for consistency with practices appropriate to the enterprise and make any appropriate revisions to such code.

“(e) CONDUCT AND RESPONSIBILITIES OF BOARD OF DIRECTORS.—The board of directors of an enterprise shall be responsible for directing the conduct and affairs of the enterprise in furtherance of the safe and sound operation of the enterprise and shall remain reasonably informed of the condition, activities, and operations of the enterprise. The responsibilities of the board of directors shall include having in place adequate policies and procedures to assure its oversight of, among other matters, the following:

“(1) Corporate strategy, major plans of action, risk policy, programs for legal and regulatory compliance and corporate performance, including prudent plans for growth and allocation of adequate resources to manage operations risk.

“(2) Hiring and retention of qualified executive officers and succession planning for such executive officers.

“(3) Compensation programs of the enterprise.

“(4) Integrity of accounting and financial reporting systems of the enterprise, including independent audits and systems of internal control.

“(5) Process and adequacy of reporting, disclosures, and communications to shareholders, investors, and potential investors.

“(6) Extensions of credit to board members and executive officers.

“(7) Responsiveness of executive officers in providing accurate and timely reports to Federal regulators and in addressing the supervisory concerns of Federal regulators in a timely and appropriate manner.

“(f) PROHIBITION OF EXTENSIONS OF CREDIT.—An enterprise may not directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any board member or executive officer of the enterprise, as provided by section 13(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(k)).

“(g) CERTIFICATION OF DISCLOSURES.—The chief executive officer and the chief financial officer of an enterprise shall review each quarterly report and annual report issued by the enterprise and such reports shall include certifications by such officers as required by section 302 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241).

“(h) CHANGE OF AUDIT PARTNER.—An enterprise may not accept audit services from an external auditing firm if the lead or coordinating audit partner who has primary responsibility for the external audit of the enterprise, or the external audit partner who has responsibility for reviewing the external audit has performed audit services for the enterprise in each of the five previous fiscal years.

“(i) COMPLIANCE PROGRAM.

“(1) REQUIREMENT.—Each enterprise shall establish and maintain a compliance program that is reasonably designed to assure that the enterprise complies with applicable laws, rules, regulations, and internal controls.

“(2) COMPLIANCE OFFICER.—The compliance program of an enterprise shall be headed by a compliance officer, however styled, who reports directly to the chief executive officer of the enterprise. The compliance officer shall report regularly to the board of directors or an appropriate committee of the board of directors on compliance with and the adequacy of current compliance policies and procedures of the enterprise, and shall recommend any adjustments to such policies and procedures that the compliance officer considers necessary and appropriate.

“(j) RISK MANAGEMENT PROGRAM.

“(1) REQUIREMENT.—Each enterprise shall establish and maintain a risk management program that is reasonably designed to manage the risks of the operations of the enterprise.

“(2) RISK MANAGEMENT OFFICER.—The risk management program of an enterprise shall be headed by a risk management officer, however styled, who reports directly to the chief executive officer of the enterprise. The risk management officer shall report regularly to the board of directors or an appropriate committee of the board of directors on compliance with and the adequacy of current risk management policies and procedures of the enterprise, and shall recommend any adjustments to such policies and procedures that the risk management officer considers necessary and appropriate.

“(k) COMPLIANCE WITH OTHER LAWS.

“(1) Deregistered or Unregistered Common Stock.—If an enterprise deregisters or has not registered its common stock with the Securities and Exchange Commission under the Securities Exchange Act of 1934, the enterprise shall comply or continue to comply with sections 10A(m) and 13(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(m), 78m(k)) and sections 302, 304, and 406 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241, 7243, 7264), subject to such requirements as provided by subsection (l) of this section.

“(2) REGISTERED COMMON STOCK.—An enterprise that has its common stock registered with the Securities and Exchange Commission shall maintain such registered status, unless it provides 60 days prior written notice to the Director stating its intent to deregister and its understanding that it will remain subject to the requirements of the sections of the Securities Exchange Act of 1934 and the Sarbanes-Oxley Act of 2002, subject to such requirements as provided by subsection (l) of this section.

“(l) OTHER MATTERS.—The Director may from time to time establish standards, by regulation, order, or guideline, regarding such other corporate governance matters of the enterprises as the Director considers appropriate.

“(m) MODIFICATION OF STANDARDS.—In connection with standards of Federal or State law (including the Revised Model Corporation Act) or New York Stock Exchange rules that are made applicable to an enterprise by section 1710.10 of the Director’s rules (12 C.F.R. 1710.10) and by subsections (a), (b), (g), (i), (j), and (k) of this section, the Director, in the Director’s sole discretion, may modify the standards contained in this section or in part 1710 of the Director’s rules (12 C.F.R. Part 1710) in accordance with section 553 of title 5, United States Code, and upon written notice to the enterprise.”

SEC. 117. REQUIRED REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934.

The Housing and Community Development Act of 1992 is amended by adding after section 1322A, as added by the preceding provisions of this Act, the following new section:

“SEC. 1322B. REQUIRED REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934.

“(a) IN GENERAL.—Each regulated entity shall register at least one class of the capital stock of such regulated entity, and maintain such registration with the Securities and Exchange Commission, under the Securities Exchange Act of 1934.

“(b) ENTERPRISES.—Each enterprise shall comply with sections 14 and 16 of the Securities Exchange Act of 1934.”.

SEC. 118. LIAISON WITH FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

Section 1007 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3306) is amended—

(1) in the section heading, by inserting after “STATE” the following: “AND FEDERAL HOUSING FINANCE AGENCY”; and

(2) by inserting after “financial institutions” the following: “, and one representative of the Federal Housing Finance Agency.”.

SEC. 119. GUARANTEE FEE STUDY.

(a) IN GENERAL.—The Director of the Federal Housing Finance Agency, in consultation with the heads of the federal banking agencies, shall, not later than 18 months after the date of the enactment of this Act, submit to the Congress a study concerning the pricing, transparency and reporting of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal home loan banks with regard to guarantee fees and concerning analogous practices, transparency and reporting requirements (including advances pricing practices by the Federal Home Loan Banks) of other participants in the business of mortgage purchases and securitization.

(b) FACTORS.—The study required by this section shall examine various factors such as credit risk, counterparty risk considerations, economic value considerations, and volume considerations used by the regulated entities (as such term is defined in section 1303 of the Housing and Community Development Act of 1992) included in the study in setting the amount of fees they charge.

(c) CONTENTS OF REPORT.—The report required under subsection (a) shall identify and analyze—

(1) the factors used by each enterprise (as such term is defined in section 1303 of the Housing and Community Development Act of 1992) in determining the amount of the guarantee fees it charges;

(2) the total revenue the enterprises earn from guarantee fees;

(3) the total costs incurred by the enterprises for providing guarantees;

(4) the average guarantee fee charged by the enterprises;

(5) an analysis of how and why the guarantee fees charged differ from such fees charged during the previous year;

(6) a breakdown of the revenue and costs associated with providing guarantees, based on product type and risk classifications; and

(7) other relevant information on guarantee fees with other participants in the mortgage and securitization business.

(d) PROTECTION OF INFORMATION.—Nothing in this section may be construed to require or authorize the Director of the Federal Housing Finance Agency, in connection with the study mandated by this section, to disclose information of the enterprises or other organization that is confidential or proprietary.

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

SEC. 120. CONFORMING AMENDMENTS.

(a) 1992 ACT.—Part 1 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4511 et seq.), as amended by the preceding provisions of this Act, is further amended—

(1) by striking “an enterprise” each place such term appears in such part (except in sections 1313(a)(2)(A), 1313A(b)(2)(B)(ii)(I), and 1316(b)(3)) and inserting “a regulated entity”;

(2) by striking “the enterprise” each place such term appears in such part (except in section 1316(b)(3)) and inserting “the regulated entity”;

(3) by striking “the enterprises” each place such term appears in such part (except in sections 1312(c)(2), and 1312(e)(2)) and inserting “the regulated entities”;

(4) by striking “each enterprise” each place such term appears in such part and inserting “each regulated entity”;

(5) by striking “Office” each place such term appears in such part (except in sections 1311(b)(2), 1312(b)(5), 1315(b), and 1316(a)(4), (g), and (h), 1317(c), and 1319A(a)) and inserting “Agency”;

(6) in section 1315 (12 U.S.C. 4515)—

(A) in subsection (a)—

(i) in the subsection heading, by striking “OFFICE PERSONNEL” and inserting “IN GENERAL”; and

(ii) by striking “The” and inserting “Subject to title III of the Federal Housing Finance Reform Act of 2007, the”;

(B) by striking subsections (d) and (f); and

(C) by redesignating subsection (e) as subsection (d);

(7) in section 1319B (12 U.S.C. 4521), by striking “Committee on Banking, Finance and Urban Affairs” each place such term appears and inserting “Committee on Financial Services”; and

(8) in section 1319F (12 U.S.C. 4525), striking all that follows “United States Code” and inserting “, the Agency shall be considered an agency responsible for the regulation or supervision of financial institutions.”.

(b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—The Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is amended—

(1) by striking “Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development” each place such term appears, and inserting “Director of the Federal Housing Finance Agency”, in—

(A) section 303(c)(2) (12 U.S.C. 1718(c)(2));

(B) section 309(d)(3)(B) (12 U.S.C.

1723a(d)(3)(B)); and

(C) section 309(k)(1); and

(2) in section 309—

(A) in subsections (d)(3)(A) and (n)(1), by striking “Banking, Finance and Urban Affairs” each place such term appears and inserting “Financial Services”; and

(B) in subsection (m)—

(i) in paragraph (1), by striking “Secretary” the second place such term appears and inserting “Director”;

(ii) in paragraph (2), by striking “Secretary” the second place such term appears and inserting “Director”; and

(iii) by striking “Secretary” each other place such term appears and inserting “Director of the Federal Housing Finance Agency”; and

(C) in subsection (n), by striking “Secretary”, each place such term appears and inserting “Director of the Federal Housing Finance Agency”.

(c) AMENDMENTS TO FREDDIE MAC ACT.—The Federal Home Loan Mortgage Corporation Act is amended—

(1) by striking “Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development” each place such term appears, and inserting “Director of the Federal Housing Finance Agency”, in—

(A) section 303(b)(2) (12 U.S.C. 1452(b)(2));

(B) section 303(h)(2) (12 U.S.C. 1452(h)(2)); and

(C) section 307(c)(1) (12 U.S.C. 1456(c)(1));

(2) in sections 303(h)(1) and 307(f)(1) (12 U.S.C. 1452(h)(1), 1456(f)(1)), by striking “Banking, Finance and Urban Affairs” each place such term appears and inserting “Financial Services”;

(3) in section 306(i) (12 U.S.C. 1455(i))—

(A) by striking “1316(c)” and inserting “306(c)”; and

(B) by striking “section 106” and inserting “section 1316”; and

(4) in section 307 (12 U.S.C. 1456))—

(A) in subsection (e)—

(i) in paragraph (1), by striking “Secretary” the second place such term appears and inserting “Director”;

(ii) in paragraph (2), by striking “Secretary” the second place such term appears and inserting “Director”; and

(iii) by striking “Secretary” each other place such term appears and inserting “Director of the Federal Housing Finance Agency”; and

(B) in subsection (f), by striking “Secretary” each place such term appears and inserting “Director of the Federal Housing Finance Agency”.

Subtitle B—Improvement of Mission Supervision

SEC. 131. TRANSFER OF PRODUCT APPROVAL AND HOUSING GOAL OVERSIGHT.

Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking the designation and heading for the part and inserting the following:

“PART 2—PRODUCT APPROVAL BY DIRECTOR, CORPORATE GOVERNANCE, AND ESTABLISHMENT OF HOUSING GOALS”; and

(2) by striking sections 1321 and 1322.

SEC. 132. REVIEW OF ENTERPRISE PRODUCTS.

(a) IN GENERAL.—Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 is amended by inserting before section 1323 (12 U.S.C. 4543) the following new section:

“SEC. 1321. PRIOR APPROVAL AUTHORITY FOR PRODUCTS OF ENTERPRISES.

“(a) IN GENERAL.—The Director shall require each enterprise to obtain the approval of the Director for any product of the enterprise before initially offering the product.

“(b) STANDARD FOR APPROVAL.—In considering any request for approval of a product pursuant to subsection (a), the Director shall make a determination that—

“(1) in the case of a product of the Federal National Mortgage Association, the Director determines that the product is authorized under paragraph (2), (3), (4), or (5) of section 302(b) or section 304 of the Federal National Mortgage Association Charter Act, (12 U.S.C. 1717(b), 1719);

“(2) in the case of a product of the Federal Home Loan Mortgage Corporation, the Director determines that the product is authorized under paragraph (1), (4), or (5) of section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a));

“(3) the product is in the public interest;

“(4) the product is consistent with the safety and soundness of the enterprise or the mortgage finance system; and

“(5) the product does not materially impair the efficiency of the mortgage finance system.

“(c) PROCEDURE FOR APPROVAL.—

“(1) SUBMISSION OF REQUEST.—An enterprise shall submit to the Director a written request for approval of a product that describes the product in such form as prescribed by order or regulation of the Director.

“(2) REQUEST FOR PUBLIC COMMENT.—Immediately upon receipt of a request for approval of a product, as required under paragraph (1), the Director shall publish notice of such request and of the period for public comment pursuant to paragraph (3) regarding the product, and a description of the product proposed by the request. The Director shall give interested parties the opportunity to respond in writing to the proposed product.

“(3) PUBLIC COMMENT PERIOD.—During the 30-day period beginning on the date of publication pursuant to paragraph (2) of a request for approval of a product, the Director shall receive public comments regarding the proposed product.

“(4) OFFERING OF PRODUCT.—

“(A) IN GENERAL.—Not later than 30 days after the close of the public comment period described in paragraph (3), the Director shall approve or deny the product, specifying the grounds for such decision in writing.

“(B) FAILURE TO ACT.—If the Director fails to act within the 30-day period described in subparagraph (A), the enterprise may offer the product.

“(d) EXPEDITED REVIEW.—

“(1) DETERMINATION AND NOTICE.—If an enterprise determines that any new activity, service, undertaking, or offering is not a product, as defined in subsection (f), the enterprise shall provide written notice to the Director prior to the commencement of such activity, service, undertaking, or offering.

“(2) DIRECTOR DETERMINATION OF APPLICABLE PROCEDURE.—Immediately upon receipt of any notice pursuant to paragraph (1), the Director shall make a determination under paragraph (3).

“(3) DETERMINATION AND TREATMENT AS PRODUCT.—If the Director determines that any new activity, service, undertaking, or offering consists of, relates to, or involves a product—

“(A) the Director shall notify the enterprise of the determination;

“(B) the new activity, service, undertaking, or offering described in the notice under paragraph (1) shall be considered a product for purposes of this section; and

“(C) the enterprise shall withdraw its request or submit a written request for approval of the product pursuant to subsection (c).

“(e) CONDITIONAL APPROVAL.—The Director may conditionally approve the offering of any product by an enterprise, and may establish terms, conditions, or limitations with respect to such product with which the enterprise must comply in order to offer such product.

“(f) DEFINITION OF PRODUCT.—For purposes of this section, the term ‘product’ does not include—

“(1) the automated loan underwriting system of an enterprise in existence as of the date of the enactment of the Federal Housing Finance Reform Act of 2007, including any upgrade to the technology, operating system, or software to operate the underwriting system; or

“(2) any modification to the mortgage terms and conditions or mortgage underwriting criteria relating to the mortgages that are purchased or guaranteed by an enterprise: Provided, That such modifications do not alter the underlying transaction so as to include services or financing, other than residential mortgage financing, or create significant new exposure to risk for the enterprise or the holder of the mortgage.

“(g) NO LIMITATION.—Nothing in this section shall be deemed to restrict—

“(1) the safety and soundness authority of the Director over all new and existing products or activities; or

“(2) the authority of the Director to review all new and existing products or activities to determine that such products or activities are consistent with the statutory mission of the enterprise.”

“(b) CONFORMING AMENDMENTS.—

“(1) FANNIE MAE.—Section 302(b)(6) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(6)) is amended—

(A) by striking “implement any new program” and inserting “initially offer any product”;

(B) by striking “section 1303” and inserting “section 1321(f)”;

(C) by striking “before obtaining the approval of the Secretary under section 1322” and inserting “except in accordance with section 1321”.

“(2) FREDDIE MAC.—Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is amended—

(A) by striking “implement any new program” and inserting “initially offer any product”;

(B) by striking “section 1303” and inserting “section 1321(f)”;

(C) by striking “before obtaining the approval of the Secretary under section 1322” and inserting “except in accordance with section 1321”.

“(3) 1992 ACT.—Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C.

4502), as amended by section 2 of this Act, is further amended—

(A) by striking paragraph (17) (relating to the definition of “new program”); and

(B) by redesignating paragraphs (18) through (23) as paragraphs (17) through (22), respectively.

SEC. 133. CONFORMING LOAN LIMITS.

(a) FANNIE MAE.—

(1) GENERAL LIMIT.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(A) in the 4th sentence, by striking “the Resolution Trust Corporation”; and

(B) by striking the 7th and 8th sentences and inserting the following new sentences: “For

2007, such limitations shall not exceed \$417,000 for a mortgage secured by a single-family residence, \$533,850 for a mortgage secured by a 2-family residence, \$645,300 for a mortgage secured by a 3-family residence, and \$801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recent 12-month or four-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 1322 of the Housing and Community Development Act of 1992 (12 U.S.C. 4541)).”

(2) HIGH-COST AREA LIMIT.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act is (12 U.S.C. 1717(b)(2)) is amended by adding after the period at the end the following: “Such foregoing limitations shall also be increased with respect to properties of a particular size located in any area for which the median price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such foregoing limitation for such size residence or the amount that is equal to the median price in such area for such size residence, except that, subject to the order, if any, issued by the Director of the Federal Housing Finance Agency pursuant to section 133(d)(3) of the Federal Housing Finance Reform Act of 2007, such increase shall apply only with respect to mortgages on which are based securities issued and sold by the Corporation.”

(b) FREDDIE MAC.—

(1) GENERAL LIMIT.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended—

(A) in the 3rd sentence, by striking “the Resolution Trust Corporation”; and

(B) by striking the 6th and 7th sentences and inserting the following new sentences: “For

2007, such limitations shall not exceed \$417,000 for a mortgage secured by a single-family residence, \$533,850 for a mortgage secured by a 2-family residence, \$645,300 for a mortgage secured by a 3-family residence, and \$801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with

2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recent 12-month or

four-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 1322 of the Housing and Community Development Act of 1992 (12 U.S.C. 4541)).”

(2) HIGH-COST AREA LIMIT.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by adding after the period

at the end the following: “Such foregoing limitations shall also be increased with respect to properties of a particular size located in any area for which the median price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such foregoing limitation for such size residence or the amount that is equal to the median price in such area for such size residence, except that, subject to the order, if any, issued by the Director of the Federal Housing Finance Agency pursuant to section 133(d)(3) of the Federal Housing Finance Reform Act of 2007, such increase shall apply only with respect to mortgages on which are based securities issued and sold by the Corporation.”

(c) HOUSING PRICE INDEX.—Subpart A of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (as amended by the preceding provisions of this Act) is amended by inserting after section 1321 (as added by section 132 of this Act) the following new section:

“SEC. 1322. HOUSING PRICE INDEX.

“(a) IN GENERAL.—The Director shall establish and maintain a method of assessing the national average 1-family house price for use for adjusting the conforming loan limitations of the enterprises. In establishing such method, the Director shall take into consideration the monthly survey of all major lenders conducted by the Federal Housing Finance Agency to determine the national average 1-family house price, the House Price Index maintained by the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development before the effective date under section 185 of the Federal Housing Finance Reform Act of 2007, any appropriate house price indexes of the Bureau of the Census of the Department of Commerce, and any other indexes or measures that the Director considers appropriate.

“(b) GAO AUDIT.—

“(1) IN GENERAL.—At such times as are required under paragraph (2), the Comptroller General of the United States shall conduct an audit of the methodology established by the Director under subsection (a) to determine whether the methodology established is an accurate and appropriate means of measuring changes to the national average 1-family house price.

“(2) TIMING.—An audit referred to in paragraph (1) shall be conducted and completed not later than the expiration of the 180-day period that begins upon each of the following dates:

“(A) ESTABLISHMENT.—The date upon which such methodology is initially established under subsection (a) in final form by the Director.

“(B) MODIFICATION OR AMENDMENT.—Each date upon which any modification or amendment to such methodology is adopted in final form by the Director.

“(3) REPORT.—Within 30 days of the completion of any audit conducted under this subsection, the Comptroller General shall submit a report detailing the results and conclusions of the audit to the Director, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate.”

“(d) CONDITIONS ON CONFORMING LOAN LIMIT FOR HIGH-COST AREAS.—

“(1) STUDY.—The Director of the Federal Housing Finance Agency shall conduct a study under this subsection during the six-month period beginning on the effective date under section 185 of this Act.

“(2) ISSUES.—The study under this subsection shall determine—

(A) the effect that restricting the conforming loan limits for high-cost areas only to mortgages on which are based securities issued and sold by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (as provided in the last sentence of section

302(b)(2) of the Federal National Mortgage Association Charter Act and the last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, pursuant to the amendments made by subsections (a)(2) and (b)(2) of this section) would have on the cost to borrowers for mortgages on housing in such high-cost areas;

(B) the effects that such restrictions would have on the availability of mortgages for housing in such high-cost areas; and

(C) the extent to which the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation will be able to issue and sell securities based on mortgages for housing located in such high-cost areas.

(3) DETERMINATION.—

(A) IN GENERAL.—Not later than the expiration of the six-month period specified in paragraph (1), the Director of the Federal Housing Finance Agency shall make a determination, based on the results of the study under this subsection, of whether the restriction of conforming loan limits for high-cost areas only to mortgages on which are based securities issued and sold by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (as provided in the amendments made by subsections (a)(2) and (b)(2) of this section) will result in an increase in the cost to borrowers for mortgages on housing in such high-cost areas.

(B) ORDER.—If such determination is that costs to borrowers on housing in such high-cost areas will be increased by such restrictions, the Director may issue an order terminating such restrictions, in whole or in part.

(4) PUBLICATION.—Not later than the expiration of the six-month period specified in paragraph (1), the Director of the Federal Housing Finance Agency shall cause to be published in the Federal Register—

(A) a report that—

(i) describes the study under this subsection; and

(ii) sets forth the conclusions of the study regarding the issues to be determined under paragraph (2); and

(B) notice of the determination of the Director under paragraph (3); and

(C) the order of the Director under paragraph (3).

(5) DEFINITION.—For purposes of this subsection, the term “conforming loan limits for high-cost areas” means the dollar amount limitations applicable under the section 302(b)(2) of the Federal National Mortgage Association Charter Act and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as amended by subsections (a) and (b) of this section) for areas described in the last sentence of such sections (as so amended).

SEC. 134. ANNUAL HOUSING REPORT REGARDING REGULATED ENTITIES.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 is amended by striking section 1324 (12 U.S.C. 4544) and inserting the following new section:

SEC. 1324. ANNUAL HOUSING REPORT REGARDING REGULATED ENTITIES.

“(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act, section 307(f) of the Federal Home Loan Mortgage Corporation Act, and section 10(j)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)(11)), the Director shall submit a report, not later than October 30 of each year, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on the activities of each regulated entity.

“(b) CONTENTS.—The report shall—

(1) discuss the extent to which—

(A) each enterprise is achieving the annual housing goals established under subpart B of this part;

“(B) each enterprise is complying with section 1337;

“(C) each Federal home loan bank is complying with section 10(j) of the Federal Home Loan Bank Act; and

“(D) each regulated entity is achieving the purposes of the regulated entity established by law;

“(2) aggregate and analyze relevant data on income to assess the compliance by each enterprise with the housing goals established under subpart B;

“(3) aggregate and analyze data on income, race, and gender by census tract and other relevant classifications, and compare such data with larger demographic, housing, and economic trends;

“(4) examine actions that—

“(A) each enterprise has undertaken or could undertake to promote and expand the annual goals established under subpart B and the purposes of the enterprise established by law; and

“(B) each Federal home loan bank has taken or could undertake to promote and expand the community investment program and affordable housing program of the bank established under section subsections (i) and (j) of section 10 of the Federal Home Loan Bank Act;

“(5) examine the primary and secondary multifamily housing mortgage markets and describe—

“(A) the availability and liquidity of mortgage credit;

“(B) the status of efforts to provide standard credit terms and underwriting guidelines for multifamily housing and to securitize such mortgage products; and

“(C) any factors inhibiting such standardization and securitization;

“(6) examine actions each regulated entity has undertaken and could undertake to promote and expand opportunities for first-time homebuyers, including the use of alternative credit scoring;

“(7) describe any actions taken under section 1325(5) with respect to originators found to violate fair lending procedures;

“(8) discuss and analyze existing conditions and trends, including conditions and trends relating to pricing, in the housing markets and mortgage markets; and

“(9) identify the extent to which each enterprise is involved in mortgage purchases and secondary market activities involving subprime loans (as identified in accordance with the regulations issued pursuant to section 134(b) of the Federal Housing Finance Reform Act of 2007) and compare the characteristics of subprime loans purchased and securitized by the enterprises to other loans purchased and securitized by the enterprises.

“(c) DATA COLLECTION AND REPORTING.—

“(1) IN GENERAL.—To assist the Director in analyzing the matters described in subsection (b) and establishing the methodology described in section 1322, the Director shall conduct, on a monthly basis, a survey of mortgage markets in accordance with this subsection.

“(2) DATA POINTS.—Each monthly survey conducted by the Director under paragraph (1) shall collect data on—

“(A) the characteristics of individual mortgages that are eligible for purchase by the enterprises and the characteristics of individual mortgages that are not eligible for purchase by the enterprises including, in both cases, information concerning—

“(i) the price of the house that secures the mortgage;

“(ii) the loan-to-value ratio of the mortgage, which shall reflect any secondary liens on the relevant property;

“(iii) the terms of the mortgage;

“(iv) the creditworthiness of the borrower or borrowers; and

“(v) whether the mortgage, in the case of a conforming mortgage, was purchased by an enterprise; and

“(B) such other matters as the Director determines to be appropriate.

“(3) PUBLIC AVAILABILITY.—The Director shall make any data collected by the Director in connection with the conduct of a monthly survey available to the public in a timely manner, provided that the Director may modify the data released to the public to ensure that the data is not released in an identifiable form.

“(4) DEFINITION.—For purposes of this subsection, the term ‘identifiable form’ means any representation of information that permits the identity of a borrower to which the information relates to be reasonably inferred by either direct or indirect means.”.

(b) STANDARDS FOR SUBPRIME LOANS.—The Director shall, not later than one year after the effective date under section 185, by regulations issued under section 1316G of the Housing and Community Development Act of 1992, establish standards by which mortgages purchased and mortgages purchased and securitized shall be characterized as subprime for the purpose of, and only for the purpose of, complying with the reporting requirement under section 1324(b)(9) of such Act.

SEC. 135. ANNUAL REPORTS BY REGULATED ENTITIES ON AFFORDABLE HOUSING STOCK.

The Housing and Community Development Act of 1992 is amended by inserting after section 1328 (12 U.S.C. 4548) the following new section:

“SEC. 1329. ANNUAL REPORTS ON AFFORDABLE HOUSING STOCK.

“(a) IN GENERAL.—To obtain information helpful in applying the formula under section 1337(c)(2) for the affordable housing program under such section and for other appropriate uses, the regulated entities shall conduct, or provide for the conducting of, a study on an annual basis to determine the levels of affordable housing inventory, and the changes in such levels, in communities throughout the United States.

“(b) CONTENTS.—The annual study under this section shall determine, for the United States, each State, and each community within each State—

“(1) the level of affordable housing inventory, including affordable rental dwelling units and affordable homeownership dwelling units;

“(2) any changes to the level of such inventory during the 12-month period of the study under this section, including—

“(A) any additions to such inventory, disaggregated by the category of such additions (including new construction or housing conversion);

“(B) any subtractions from such inventory, disaggregated by the category of such subtractions (including abandonment, demolition, or upgrade to market-rate housing);

“(C) the number of new affordable dwelling units placed in service; and

“(D) the number of affordable housing dwelling units withdrawn from service;

“(3) the types of financing used to build any dwelling units added to such inventory level and the period during which such units are required to remain affordable;

“(4) any excess demand for affordable housing, including the number of households on rental housing waiting lists and the tenure of the wait on such lists; and

“(5) such other information as the Director may require.

“(c) REPORT.—For each annual study conducted pursuant to this section, the regulated entities shall submit to the Congress, and make publicly available, a report setting forth the findings of the study.

“(d) REGULATIONS AND TIMING.—The Director shall, by regulation, establish requirements for the studies and reports under this section, including deadlines for the submission of such annual reports and standards for determining affordable housing.”.

SEC. 136. REVISION OF HOUSING GOALS.

(a) **HOUSING GOALS.**—The Housing and Community Development Act of 1992 is amended by striking sections 1331 through 1334 (12 U.S.C. 4561–4) and inserting the following new sections:

“SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.

“(a) **IN GENERAL.**—The Director shall establish, effective for the first year that begins after the effective date under section 185 of the Federal Housing Finance Reform Act of 2007 and each year thereafter, annual housing goals, with respect to the mortgage purchases by the enterprises, as follows:

“(1) **SINGLE FAMILY HOUSING GOALS.**—Three single-family housing goals under section 1332.

“(2) **MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOALS.**—A multifamily special affordable housing goal under section 1333.

“(b) **ELIMINATING INTEREST RATE DISPARITIES.**—

“(1) **IN GENERAL.**—Upon request by the Director, an enterprise shall provide to the Director, in a form determined by the Director, data the Director may review to determine whether there exist disparities in interest rates charged on mortgages to borrowers who are minorities as compared with comparable mortgages to borrowers of similar creditworthiness who are not minorities.

“(2) **REMEDIAL ACTIONS UPON PRELIMINARY FINDING.**—Upon a preliminary finding by the Director that a pattern of disparities in interest rates with respect to any lender or lenders exists pursuant to the data provided by an enterprise in paragraph (1), the Director shall—

“(A) refer the preliminary finding to the appropriate regulatory or enforcement agency for further review;

“(B) require the enterprise to submit additional data with respect to any lender or lenders, as appropriate and to the extent practicable, to the Director who shall submit any such additional data to the regulatory or enforcement agency for appropriate action; and

“(C) require the enterprise to undertake remedial actions, as appropriate, pursuant to section 1325(5) (12 U.S.C. 4545(5)).

“(3) **ANNUAL REPORT TO CONGRESS.**—The Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the actions taken, and being taken, by the Director to carry out this subsection. No such report shall identify any lender or lenders who have not been found to have engaged in discriminatory lending practices pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code.

“(4) **PROTECTION OF IDENTITY OF INDIVIDUALS.**—In carrying out this subsection, the Director shall ensure that no property-related or financial information that would enable a borrower to be identified shall be made public.

“(c) **TIMING.**—The Director shall establish an annual deadline by which the Director shall establish the annual housing goals under this subpart for each year, taking into consideration the need for the enterprises to reasonably and sufficiently plan their operations and activities in advance, including operations and activities necessary to meet such annual goals.

“SEC. 1332. SINGLE-FAMILY HOUSING GOALS.

(a) **IN GENERAL.**—The Director shall establish annual goals for the purchase by each enterprise of conventional, conforming, single-family, purchase money mortgages financing owner-occupied and rental housing for each of the following categories of families:

“(1) Low-income families.

“(2) Families that reside in low-income areas.

“(3) Very low-income families.

“(b) **REFINANCE SUBGOAL.**—

“(1) **IN GENERAL.**—The Director shall establish a separate subgoal within each goal under sub-

section (a)(1) for the purchase by each enterprise of mortgages for low-income families on single family housing given to pay off or prepay an existing loan secured by the same property. The Director shall, for each year, determine whether each enterprise has complied with the subgoal under this subsection in the same manner provided under this section for determining compliance with the housing goals.

“(2) **ENFORCEMENT.**—For purposes of section 1336, the subgoal established under paragraph (1) of this subsection shall be considered to be a housing goal established under this section. Such subgoal shall not be enforceable under any other provision of this title (including subpart C of this part) other than section 1336 or under any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

“(c) **DETERMINATION OF COMPLIANCE.**—The Director shall determine, for each year that the housing goals under this section are in effect pursuant to section 1331(a), whether each enterprise has complied with the single-family housing goals established under this section for such year. An enterprise shall be considered to be in compliance with such a goal for a year only if, for each of the types of families described in subsection (a), the percentage of the number of conventional, conforming, single-family, owner-occupied or rental, as applicable, purchase money mortgages purchased by each enterprise in such year that serve such families, meets or exceeds the target for the year for such type of family that is established under subsection (d).

“(d) **ANNUAL TARGETS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), for each of the types of families described in subsection (a), the target under this subsection for a year shall be the average percentage, for the three years that most recently precede such year and for which information under the Home Mortgage Disclosure Act of 1975 is publicly available, of the number of conventional, conforming, single-family, owner-occupied or rental, as applicable, purchase money mortgages originated in such year that serves such type of family, as determined by the Director using the information obtained and determined pursuant to paragraphs (3) and (4).

“(2) **AUTHORITY TO INCREASE TARGETS.**—

“(A) **IN GENERAL.**—The Director may, for any year, establish by regulation, for any or all of the types of families described in subsection (a), percentage targets that are higher than the percentages for such year determined pursuant to paragraph (1), to reflect expected changes in market performance related to such information under the Home Mortgage Disclosure Act of 1975.

“(B) **FACTORS.**—In establishing any targets pursuant to subparagraph (A), the Director shall consider the following factors:

“(i) National housing needs.

“(ii) Economic, housing, and demographic conditions.

“(iii) The performance and effort of the enterprises toward achieving the housing goals under this section in previous years.

“(iv) The size of the conventional mortgage market serving each of the types of families described in subsection (a) relative to the size of the overall conventional mortgage market.

“(v) The ability of the enterprise to lead the industry in making mortgage credit available.

“(vi) The need to maintain the sound financial condition of the enterprises.

“(3) **HMDA INFORMATION.**—The Director shall annually obtain information submitted in compliance with the Home Mortgage Disclosure Act of 1975 regarding conventional, conforming, single-family, owner-occupied or rental, as applicable, purchase money mortgages originated and purchased for the previous year.

“(4) **CONFORMING MORTGAGES.**—In determining whether a mortgage is a conforming mortgage for purposes of this paragraph, the Director shall consider the original principal bal-

ance of the mortgage loan to be the principal balance as reported in the information referred to in paragraph (3), as rounded to the nearest thousand dollars.

“(e) **NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.**—

“(1) **NOTICE.**—Within 30 days of making a determination under subsection (c) regarding a compliance of an enterprise for a year with a housing goal established under this section and before any public disclosure thereof, the Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the targets for the year under subsection (d).

“(2) **COMMENT PERIOD.**—The Director shall provide each enterprise an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.

“(f) **USE OF BORROWER INCOME.**—In monitoring the performance of each enterprise pursuant to the housing goals under this section and evaluating such performance (for purposes of section 1336), the Director shall consider a mortgagor's income to be such income at the time of origination of the mortgage.

“(g) **CONSIDERATION OF UNITS IN SINGLE-FAMILY RENTAL HOUSING.**—In establishing any goal under this subpart, the Director may take into consideration the number of housing units financed by any mortgage on single-family rental housing purchased by an enterprise

“SEC. 1333. MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOAL.

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—The Director shall establish, by regulation, an annual goal for the purchase by each enterprise of each of the following types of mortgages on multifamily housing:

“(A) Mortgages that finance dwelling units for low-income families.

“(B) Mortgages that finance dwelling units for very low-income families.

“(C) Mortgages that finance dwelling units assisted by the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986.

“(2) **ADDITIONAL REQUIREMENTS FOR SMALLER PROJECTS.**—The Director shall establish, within the goal under this section, additional requirements for the purchase by each enterprise of mortgages described in paragraph (1) for multifamily housing projects of a smaller or limited size, which may be based on the number of dwelling units in the project or the amount of the mortgage, or both, and shall include multifamily housing projects of such smaller sizes as are typical among such projects that serve rural areas.

“(3) **FACTORS.**—In establishing the goal under this section relating to mortgages on multifamily housing for an enterprise for a year, the Director shall consider—

“(A) national multifamily mortgage credit needs;

“(B) the performance and effort of the enterprise in making mortgage credit available for multifamily housing in previous years;

“(C) the size of the multifamily mortgage market;

“(D) the ability of the enterprise to lead the industry in making mortgage credit available, especially for underserved markets, such as for small multifamily projects of 5 to 50 units, multifamily properties in need of rehabilitation, and multifamily properties located in rural areas; and

“(E) the need to maintain the sound financial condition of the enterprise.

“(b) **UNITS FINANCED BY HOUSING FINANCE AGENCY BONDS.**—The Director shall give credit toward the achievement of the multifamily special affordable housing goal under this section (for purposes of section 1336) to dwelling units in multifamily housing that otherwise qualifies

under such goal and that is financed by tax-exempt or taxable bonds issued by a State or local housing finance agency, but only if such bonds—

“(1) are secured by a guarantee of the enterprise; or

“(2) are not investment grade and are purchased by the enterprise.

“(c) USE OF TENANT INCOME OR RENT.—The Director shall monitor the performance of each enterprise in meeting the goals established under this section and shall evaluate such performance (for purposes of section 1336) based on—

“(1) the income of the prospective or actual tenants of the property, where such data are available; or

“(2) where the data referred to in paragraph (1) are not available, rent levels affordable to low-income and very low-income families.

A rent level shall be considered to be affordable for purposes of this subsection for an income category referred to in this subsection if it does not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.

“(d) DETERMINATION OF COMPLIANCE.—The Director shall, for each year that the housing goal under this section is in effect pursuant to section 1331(a), determine whether each enterprise has complied with such goal and the additional requirements under subsection (a)(2).

SEC. 1334. DISCRETIONARY ADJUSTMENT OF HOUSING GOALS.

“(a) AUTHORITY.—An enterprise may petition the Director in writing at any time during a year to reduce the level of any goal for such year established pursuant to this subpart.

“(b) STANDARD FOR REDUCTION.—The Director may reduce the level for a goal pursuant to such a petition only if—

“(1) market and economic conditions or the financial condition of the enterprise require such action; or

“(2) efforts to meet the goal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of this subpart, or section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716(3)) or section 301(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note), as applicable.

“(c) DETERMINATION.—The Director shall make a determination regarding any proposed reduction within 30 days of receipt of the petition regarding the reduction. The Director may extend such period for a single additional 15-day period, but only if the Director requests additional information from the enterprise. A denial by the Director to reduce the level of any goal under this section may be appealed to the United States District Court for the District of Columbia or the United States district court in the jurisdiction in which the headquarters of an enterprise is located.”.

(b) CONFORMING AMENDMENTS.—The Housing and Community Development Act of 1992 is amended—

(1) in section 1335(a) (12 U.S.C. 4565(a)), in the matter preceding paragraph (1), by striking “low- and moderate-income housing goal” and all that follows through “section 1334” and inserting “housing goals established under this subpart”; and

(2) in section 1336(a)(1) (12 U.S.C. 4566(a)(1)), by striking “sections 1332, 1333, and 1334,” and inserting “this subpart”.

(c) DEFINITIONS.—Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502), as amended by the preceding provisions of this Act, is further amended—

(1) in paragraph (22) (relating to the definition of “very low-income”), by striking “60 percent” each place such term appears and inserting “50 percent”;

(2) by redesignating paragraphs (19) through (22) as paragraphs (23) through (26), respectively;

(3) by inserting after paragraph (18) the following new paragraph:

“(22) RURAL AREA.—The term ‘rural area’ has the meaning given such term in section 520 of the Housing Act of 1949 (42 U.S.C. 1490), except that such term includes micropolitan areas and tribal trust lands.”.

(4) by redesignating paragraphs (13) through (18) as paragraphs (16) through (21), respectively;

(5) by inserting after paragraph (12) the following new paragraph:

“(15) LOW-INCOME AREA.—The term ‘low-income area’ means a census tract or block numbering area in which the median income does not exceed 80 percent of the median income for the area in which such census tract or block numbering area is located, and, for the purposes of section 1332(a)(2), shall include families having incomes not greater than 100 percent of the area median income who reside in minority census tracts.”;

(6) by redesignating paragraphs (11) and (12) as paragraphs (13) and (14), respectively;

(7) by inserting after paragraph (10) the following new paragraph:

“(12) EXTREMELY LOW-INCOME.—The term ‘extremely low-income’ means—

“(A) in the case of owner-occupied units, income not in excess of 30 percent of the area median income; and

“(B) in the case of rental units, income not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.”;

(8) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and

(9) by inserting after paragraph (6) the following new paragraph:

“(7) CONFORMING MORTGAGE.—The term ‘conforming mortgage’ means, with respect to an enterprise, a conventional mortgage having an original principal obligation that does not exceed the dollar limitation, in effect at the time of such origination, under, as applicable—

“(A) section 302(b)(2) of the Federal National Mortgage Association Charter Act; or

“(B) section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act.”.

SEC. 137. DUTY TO SERVE UNDERSERVED MARKETS.

(a) ESTABLISHMENT AND EVALUATION OF PERFORMANCE.—Section 1335 of the Housing and Community Development Act of 1992 (12 U.S.C. 4565) is amended—

(1) in the section heading, by inserting “**DUTY TO SERVE UNDERSERVED MARKETS AND**” before “**OTHER**”;

(2) by striking subsection (b);

(3) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting “and to carry out the duty under subsection (a) of this section” before “, each enterprise shall”;

(B) in paragraph (3), by inserting “and” after the semicolon at the end;

(C) in paragraph (4), by striking “; and” and inserting a period;

(D) by striking paragraph (5); and

(E) by redesignating such subsection as subsection (b);

(4) by inserting before subsection (b) (as so redesignated by paragraph (3)(E) of this subsection) the following new subsection:

“(a) **DUTY TO SERVE UNDERSERVED MARKETS.**—

“(1) DUTY.—In accordance with the purpose of the enterprises under section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) to undertake activities relating to mortgages on housing for very low-, low-, and moderate-income families involving a

reasonable economic return that may be less than the return earned on other activities, each enterprise shall have the duty to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets.

“(2) UNDERSERVED MARKETS.—To meet its duty under paragraph (1), each enterprise shall comply with the following requirements with respect to the following underserved markets:

“(A) MANUFACTURED HOUSING.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families.

“(B) AFFORDABLE HOUSING PRESERVATION.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market to preserve housing affordable to very low-, low-, and moderate-income families, including housing projects subsidized under—

“(i) the project-based and tenant-based rental assistance programs under section 8 of the United States Housing Act of 1937;

“(ii) the program under section 236 of the National Housing Act;

“(iii) the below-market interest rate mortgage program under section 221(d)(4) of the National Housing Act;

“(iv) the supportive housing for the elderly program under section 202 of the Housing Act of 1959;

“(v) the supportive housing program for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

“(vi) the programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), but only permanent supportive housing projects subsidized under such programs; and

“(vii) the rural rental housing program under section 515 of the Housing Act of 1949.

“(C) RURAL AND OTHER UNDERSERVED MARKETS.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families in rural areas, and for mortgages for housing for any other underserved market for very low-, low-, and moderate-income families that the Secretary identifies as lacking adequate credit through conventional lending sources. Such underserved markets may be identified by borrower type, market segment, or geographic area.”; and

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

“(c) EVALUATION AND REPORTING OF COMPLIANCE.—

“(1) IN GENERAL.—Not later than 6 months after the effective date under section 185 of the Federal Housing Finance Reform Act of 2007, the Director shall establish a manner for evaluating whether, and the extent to which, the enterprises have complied with the duty under subsection (a) to serve underserved markets and for rating the extent of such compliance. Using such method, the Director shall, for each year, evaluate such compliance and rate the performance of each enterprise as to extent of compliance. The Director shall include such evaluation and rating for each enterprise for a year in the report for that year submitted pursuant to section 1319B(a).

“(2) SEPARATE EVALUATIONS.—In determining whether an enterprise has complied with the duty referred to in paragraph (1), the Director shall separately evaluate whether the enterprise has complied with such duty with respect to each of the underserved markets identified in subsection (a), taking into consideration—

“(A) the development of loan products and more flexible underwriting guidelines;

“(B) the extent of outreach to qualified loan sellers in each of such underserved markets; and

“(C) the volume of loans purchased in each of such underserved markets.”

“(3) MANUFACTURED HOUSING MARKET.—In determining whether an enterprise has complied with the duty under subparagraph (A) of subsection (a)(2), the Director may consider loans secured by both real and personal property.”.

(b) ENFORCEMENT.—Subsection (a) of section 1336 of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (1), by inserting “and with the duty under section 1335(a) of each enterprise with respect to underserved markets,” before “as provided in this section”; and

(2) by adding at the end of such subsection, as amended by the preceding provisions of this title, the following new paragraph:

“(4) ENFORCEMENT OF DUTY TO PROVIDE MORTGAGE CREDIT TO UNDERSERVED MARKETS.—The duty under section 1335(a) of each enterprise to serve underserved markets (as determined in accordance with section 1335(c)) shall be enforceable under this section to the same extent and under the same provisions that the housing goals established under this subpart are enforceable. Such duty shall not be enforceable under any other provision of this title (including subpart C of this part) other than this section or under any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.”.

SEC. 138. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

(a) ADDITIONAL CREDIT FOR CERTAIN MORTGAGES.—Section 1336(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (2), by inserting “, except as provided in paragraph (4),” after “which”; and

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

“(5) ADDITIONAL CREDIT.—The Director shall assign more than 125 percent credit toward achievement, under this section, of the housing goals for mortgage purchase activities of the enterprises that comply with the requirements of such goals and support—

“(A) housing that meets energy efficiency or other environmental standards that are established by a Federal, State, or local governmental authority with respect to the geographic area where the housing is located or are otherwise widely recognized; or

“(B) housing that includes a licensed childcare center.

The availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.”.

(b) MONITORING AND ENFORCEMENT.—Section 1336 of the Housing and Community Development Act of 1992 (12 U.S.C. 4566) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting “PRELIMINARY” before “DETERMINATION”;

(B) by striking paragraph (1) and inserting the following new paragraph:

“(1) NOTICE.—If the Director preliminarily determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under this subpart, the Director shall provide written notice to the enterprise of such a preliminary determination, the reasons for such determination, and the information on which the Director based the determination.”;

(C) in paragraph (2)—

(i) in subparagraph (A), by inserting “finally” before “determining”;

(ii) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

“(B) EXTENSION OR SHORTENING OF PERIOD.—

The Director may—

(i) extend the period under subparagraph (A) for good cause for not more than 30 additional days; and

“(ii) shorten the period under subparagraph (A) for good cause.”; and

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(D) in paragraph (3)—

(i) in subparagraph (A), by striking “determine” and inserting “issue a final determination of”;

(ii) in subparagraph (B), by inserting “final” before “determinations”; and

(iii) in subparagraph (C)—

(I) by striking “Committee on Banking, Finance and Urban Affairs” and inserting “Committee on Financial Services”; and

(II) by inserting “final” before “determination” each place such term appears; and

(2) in subsection (c)—

(A) by striking the subsection designation and heading and all that follows through the end of paragraph (1) and inserting the following:

“(c) CEASE AND DESIST ORDERS, CIVIL MONEY PENALTIES, AND REMEDIES INCLUDING HOUSING PLANS.—

“(1) REQUIREMENT.—If the Director finds, pursuant to subsection (b), that there is a substantial probability that an enterprise will fail, or has actually failed, to meet any housing goal under this subpart and that the achievement of the housing goal was or is feasible, the Director may require that the enterprise submit a housing plan under this subsection. If the Director makes such a finding and the enterprise refuses to submit such a plan, submits an unacceptable plan, fails to comply with the plan or the Director finds that the enterprise has failed to meet any housing goal under this subpart, in addition to requiring an enterprise to submit a housing plan, the Director may issue a cease and desist order in accordance with section 1341, impose civil money penalties in accordance with section 1345, or order other remedies as set forth in paragraph (7) of this subsection.”;

(B) in paragraph (2)—

(i) by striking “CONTENTS.—Each housing plan” and inserting “HOUSING PLAN.—If the Director requires a housing plan under this section, such a plan”; and

(ii) in subparagraph (B), by inserting “and changes in its operations” after “improvements”;

(C) in paragraph (3)—

(i) by inserting “comply with any remedial action or” before “submit a housing plan”; and

(ii) by striking “under subsection (b)(3) that a housing plan is required”;

(D) in paragraph (4), by striking the first two sentences and inserting the following: “The Director shall review each submission by an enterprise, including a housing plan submitted under this subsection, and not later than 30 days after submission, approve or disapprove the plan or other action. The Director may extend the period for approval or disapproval for a single additional 30-day period if the Director determines such extension necessary.”; and

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

“(7) ADDITIONAL REMEDIES FOR FAILURE TO MEET GOALS.—In addition to ordering a housing plan under this section, issuing cease and desist orders under section 1341, and ordering civil money penalties under section 1345, the Director may seek other actions when an enterprise fails to meet a goal, and exercise appropriate enforcement authority available to the Director under this Act to prohibit the enterprise from initially offering any product (as such term is defined in section 1321(f)) or engaging in any new activities, services, undertakings, and offerings and to order the enterprise to suspend products and activities, services, undertakings, and offerings pending its achievement of the goal.”.

SEC. 139. AFFORDABLE HOUSING FUND.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 is amended by striking sections 1337 and 1338 (12 U.S.C. 4562 note) and inserting the following new section:

“SEC. 1337. AFFORDABLE HOUSING FUND.

“(a) ESTABLISHMENT AND PURPOSE.—The Director, in consultation with the Secretary of Housing and Urban Development, shall establish and manage an affordable housing fund in accordance with this section, which shall be funded with amounts allocated by the enterprises under subsection (b). The purpose of the affordable housing fund shall be to provide formula grants to grantees for use—

“(1) to increase homeownership for extremely low-and very low-income families;

“(2) to increase investment in housing in low-income areas, and areas designated as qualified census tracts or an area of chronic economic distress pursuant to section 143(j) of the Internal Revenue Code of 1986 (26 U.S.C. 143(j));

“(3) to increase and preserve the supply of rental and owner-occupied housing for extremely low- and very low-income families;

“(4) to increase investment in public infrastructure development in connection with housing assisted under this section; and

“(5) to leverage investments from other sources in affordable housing and in public infrastructure development in connection with housing assisted under this section.

“(b) ALLOCATION OF AMOUNTS BY ENTERPRISES.—

“(1) IN GENERAL.—In accordance with regulations issued by the Director under subsection (m) and subject to paragraph (2) of this subsection and subsection (i)(5), each enterprise shall allocate to the affordable housing fund established under subsection (a), in each of the years 2007 through 2011, an amount equal to 1.2 basis points for each dollar of the average total mortgage portfolio of the enterprise during the preceding year.

“(2) SUSPENSION OF CONTRIBUTIONS.—The Director shall temporarily suspend the allocation under paragraph (1) by an enterprise to the affordable housing fund upon a finding by the Director that such allocations—

“(A) are contributing, or would contribute, to the financial instability of the enterprise;

“(B) are causing, or would cause, the enterprise to be classified as undercapitalized; or

“(C) are preventing, or would prevent, the enterprise from successfully completing a capital restoration plan under section 1369C.

“(3) 5-YEAR SUNSET AND REPORT.—

“(A) SUNSET.—The enterprises shall not be required to make allocations to the affordable housing fund in 2012 or in any year thereafter.

“(B) REPORT ON PROGRAM CONTINUANCE.—Not later than June 30, 2011, the Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report making recommendations on whether the program under this section, including the requirement for the enterprises to make allocations to the affordable housing fund, should be extended and on any modifications for the program.

“(c) AFFORDABLE HOUSING NEEDS FORMULAS.—

“(1) ALLOCATION FOR 2007.—

“(A) ALLOCATION PERCENTAGES FOR LOUISIANA AND MISSISSIPPI.—For purposes of subsection (d)(1)(A), the allocation percentages for 2007 for the grantees under this section for such year shall be as follows:

“(i) The allocation percentage for the Louisiana Housing Finance Agency shall be 75 percent.

“(ii) The allocation percentage for the Mississippi Development Authority shall be 25 percent.

“(B) USE IN DISASTER AREAS.—Affordable housing grant amounts for 2007 shall be used only as provided in subsection (g) only for such eligible activities in areas that were subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina or Rita of 2005.

“(2) ALLOCATION FORMULA FOR OTHER YEARS.—The Secretary of Housing and Urban Development shall, by regulation, establish a formula to allocate, among the States (as such term is defined in section 1303) and federally recognized Indian tribes, the amounts provided by the enterprises in each year referred to subsection (b)(1), other than 2007, to the affordable housing fund established under this section. The formula shall be based on the following factors, with respect to each State and tribe:

“(A) The ratio of the population of the State or federally recognized Indian tribe to the aggregate population of all the States and tribes.

“(B) The percentage of families in the State or federally recognized Indian tribe that pay more than 50 percent of their annual income for housing costs.

“(C) The percentage of persons in the State or federally recognized Indian tribe that are members of extremely low- or very low-income families.

“(D) The cost of developing or carrying out rehabilitation of housing in the State or for the federally recognized Indian tribe.

“(E) The percentage of families in the State or federally recognized Indian tribe that live in substandard housing.

“(F) The percentage of housing stock in the State or for the federally recognized Indian tribe that is extremely old housing.

“(G) Any other factors that the Secretary determines to be appropriate.

“(3) FAILURE TO ESTABLISH.—If, in any year referred to in subsection (b)(1), other than 2007, the regulations establishing the formula required under paragraph (2) of this subsection have not been issued by the date that the Director determines the amounts described in subsection (d)(1) to be available for affordable housing fund grants in such year, for purposes of such year any amounts for a State (as such term is defined in section 1303 of this Act) that would otherwise be determined under subsection (d) by applying the formula established pursuant to paragraph (2) of this subsection shall be determined instead by applying, for such State, the percentage that is equal to the percentage of the total amounts made available for such year for allocation under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12741 et seq.) that are allocated in such year, pursuant to such subtitle, to such State (including any insular area or unit of general local government, as such terms are defined in section 104 of such Act (42 U.S.C. 12704), that is treated as a State under section 1303 of this Act) and to participating jurisdictions and other eligible entities within such State.

“(d) ALLOCATION OF FORMULA AMOUNT; GRANTS.—

“(1) FORMULA AMOUNT.—For each year referred to in subsection (b)(1), the Director shall determine the formula amount under this section for each grantee, which shall be the amount determined for such grantee.

“(A) for 2007, by applying the allocation percentages under subparagraph (A) of subsection (c)(1) to the sum of the total amounts allocated by the enterprises to the affordable housing fund for such year, less any amounts used pursuant to subsection (i)(1); and

“(B) for any other year referred to in subsection (b)(1) (other than 2007), by applying the formula established pursuant to paragraph (2) of subsection (c) to the sum of the total amounts allocated by the enterprises to the affordable housing fund for such year and any recaptured amounts available pursuant to subsection (i)(4), less any amounts used pursuant to subsection (i)(1).

“(2) NOTICE.—In each year referred to in subsection (b)(1), not later than 60 days after the date that the Director determines the amounts described in paragraph (1) to be available for affordable housing fund grants to grantees in such year, the Director shall cause to be published in the Federal Register a notice that such amounts shall be so available.

“(3) GRANT AMOUNT.—

“(A) IN GENERAL.—For each year referred to in subsection (b)(1), the Director shall make a grant from amounts in the affordable housing fund to each grantee in an amount that is, except as provided in subparagraph (B), equal to the formula amount under this section for the grantee. A grantee may designate a State housing finance agency, housing and community development entity, tribally designated housing entity (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1997 (25 U.S.C. 4103)) or other qualified instrumentality of the grantee to receive such grant amounts.

“(B) REDUCTION FOR FAILURE TO OBTAIN RETURN OF MISUSED FUNDS.—If in any year a grantee fails to obtain reimbursement or return of the full amount required under subsection (j)(1)(B) to be reimbursed or returned to the grantee during such year—

“(i) except as provided in clause (ii)—

“(I) the amount of the grant for the grantee for the succeeding year, as determined pursuant to subparagraph (A), shall be reduced by the amount by which such amounts required to be reimbursed or returned exceed the amount actually reimbursed or returned; and

“(II) the amount of the grant for the succeeding year for each other grantee whose grant is not reduced pursuant to subclause (I) shall be increased by the amount determined by applying the formula established pursuant to subsection (c)(2) to the total amount of all reductions for all grantees for such year pursuant to subclause (I); or

“(ii) in any case in which such failure to obtain reimbursement or return occurs during a year immediately preceding a year in which grants under this subsection will not be made, the grantee shall pay to the Director for reallocation among the other grantees an amount equal to the amount of the reduction for the grantee that would otherwise apply under clause (i)(I).

“(e) GRANTEE ALLOCATION PLANS.—

“(1) IN GENERAL.—For each year that a grantee receives affordable housing fund grant amounts, the grantee shall establish an allocation plan in accordance with this subsection, which shall be a plan for the distribution of such grant amounts of the grantee for such year that—

“(A) is based on priority housing needs, as determined by the grantee in accordance with the regulations established under subsection (m)(2)(C);

“(B) complies with subsection (f); and

“(C) includes performance goals, benchmarks, and timetables for the grantee for the production, preservation, and rehabilitation of affordable rental and homeownership housing with such grant amounts that comply with the requirements established by the Director pursuant to subsection (m)(2)(F).

“(2) ESTABLISHMENT.—In establishing an allocation plan, a grantee shall notify the public of the establishment of the plan, provide an opportunity for public comments regarding the plan, consider any public comments received, and make the completed plan available to the public.

“(3) CONTENTS.—An allocation plan of a grantee shall set forth the requirements for eligible recipients under subsection (h) to apply to the grantee to receive assistance from affordable housing fund grant amounts, including a requirement that each such application include—

“(A) a description of the eligible activities to be conducted using such assistance; and

“(B) a certification by the eligible recipient applying for such assistance that any housing units assisted with such assistance will comply with the requirements under this section.

“(f) SELECTION OF ACTIVITIES FUNDED USING AFFORDABLE HOUSING FUND GRANT AMOUNTS.—Affordable housing fund grant amounts of a grantee may be used, or committed for use, only for activities that—

“(1) are eligible under subsection (g) for such use;

“(2) comply with the applicable allocation plan under subsection (e) of the grantee; and

“(3) are selected for funding by the grantee in accordance with the process and criteria for such selection established pursuant to subsection (m)(2)(C).

“(g) ELIGIBLE ACTIVITIES.—Affordable housing fund grant amounts of a grantee shall be eligible for use, or for commitment for use, only for assistance for—

“(1) the production, preservation, and rehabilitation of rental housing, including housing under the programs identified in section 1335(a)(2)(B), except that such grant amounts may be used for the benefit only of extremely low- and very low-income families;

“(2) the production, preservation, and rehabilitation of housing for homeownership, including such forms as downpayment assistance, closing cost assistance, and assistance for interest-rate buy-downs, that—

“(A) is available for purchase only for use as a principal residence by families that qualify both as—

“(i) extremely low- and very-low income families at the times described in subparagraphs (A) through (C) of section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)); and

“(ii) first-time homebuyers, as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), except that any reference in such section to assistance under title II of such Act shall for purposes of this section be considered to refer to assistance from affordable housing fund grant amounts;

“(B) has an initial purchase price that meets the requirements of section 215(b)(1) of the Cranston-Gonzalez National Affordable Housing Act;

“(C) is subject to the same resale restrictions established under section 215(b)(3) of the Cranston-Gonzalez National Affordable Housing Act and applicable to the participating jurisdiction that is the State in which such housing is located; and

“(D) is made available for purchase only by, or in the case of assistance under this paragraph, is made available only to, homebuyers who have, before purchase, completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Director; and

“(3) public infrastructure development activities in connection with housing activities funded under paragraph (1) or (2).

“(h) ELIGIBLE RECIPIENTS.—Affordable housing fund grant amounts of a grantee may be provided only to a recipient that is an organization, agency, or other entity (including a for-profit entity, a nonprofit entity, and a faith-based organization) that—

“(1) has demonstrated experience and capacity to conduct an eligible activity under (g), as evidenced by its ability to—

“(A) own, construct or rehabilitate, manage, and operate an affordable multifamily rental housing development;

“(B) design, construct or rehabilitate, and market affordable housing for homeownership;

“(C) provide forms of assistance, such as downpayments, closing costs, or interest-rate buy-downs, for purchasers; or

“(D) construct related public infrastructure development activities in connection with such housing activities;

“(2) demonstrates the ability and financial capacity to undertake, comply, and manage the eligible activity;

“(3) demonstrates its familiarity with the requirements of any other Federal, State or local housing program that will be used in conjunction with such grant amounts to ensure compliance with all applicable requirements and regulations of such programs; and

“(4) makes such assurances to the grantee as the Director shall, by regulation, require to ensure that the recipient will comply with the requirements of this section during the entire period that begins upon selection of the recipient to receive such grant amounts and ending upon the conclusion of all activities under subsection (g) that are engaged in by the recipient and funded with such grant amounts.

“(i) LIMITATIONS ON USE.—

“(1) REQUIRED AMOUNT FOR REFCORP.—Of the aggregate amount allocated pursuant to subsection (b) in each year to the affordable housing fund, 25 percent shall be used as provided in section 21B(f)(2)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(E)).

“(2) REQUIRED AMOUNT FOR HOMEOWNERSHIP ACTIVITIES.—Of the aggregate amount of affordable housing fund grant amounts provided in each year to a grantee, not less than 10 percent shall be used for activities under paragraph (2) of subsection (g).

“(3) MAXIMUM AMOUNT FOR PUBLIC INFRASTRUCTURE DEVELOPMENT ACTIVITIES IN CONNECTION WITH AFFORDABLE HOUSING ACTIVITIES.—Of the aggregate amount of affordable housing fund grant amounts provided in each year to a grantee, not more than 12.5 percent may be used for activities under paragraph (3) of subsection (g).

“(4) DEADLINE FOR COMMITMENT OR USE.—Any affordable housing fund grant amounts of a grantee shall be used or committed for use within two years of the date of that such grant amounts are made available to the grantee. The Director shall recapture into the affordable housing fund any such amounts not so used or committed for use and allocate such amounts under subsection (d)(1) in the first year after such recapture.

“(5) USE OF RETURNS.—The Director shall, by regulation provide that any return on a loan or other investment of any affordable housing fund grant amounts of a grantee shall be treated, for purposes of availability to and use by the grantee, as affordable housing fund grant amounts.

“(6) PROHIBITED USES.—The Director shall—

“(A) by regulation, set forth prohibited uses of affordable housing fund grant amounts, which shall include use for—

“(i) political activities;

“(ii) advocacy;

“(iii) lobbying, whether directly or through other parties;

“(iv) counseling services;

“(v) travel expenses; and

“(vi) preparing or providing advice on tax returns;

“(B) by regulation, provide that, except as provided in subparagraph (C), affordable housing fund grant amounts of a grantee may not be used for administrative, outreach, or other costs of—

“(i) the grantee; or

“(ii) any recipient of such grant amounts; and

“(C) by regulation, limit the amount of any affordable housing fund grant amounts of the grantee for a year that may be used for administrative costs of the grantee of carrying out the program required under this section to a percentage of such grant amounts of the grantee for such year, which may not exceed 10 percent.

“(7) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—In determining compliance with the housing goals under this subpart and the duty to serve underserved markets under section 1335, the Director may not consider any affordable housing fund grant amounts used under this section for eligible activities under subsection (g). The Director shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from affordable housing fund grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

“(j) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

“(1) RECIPIENTS.—

“(A) TRACKING OF FUNDS.—The Director shall—

“(i) require each grantee to develop and maintain a system to ensure that each recipient of assistance from affordable housing fund grant amounts of the grantee uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and—

“(ii) establish minimum requirements for agreements, between the grantee and recipients, regarding assistance from the affordable housing fund grant amounts of the grantee, which shall include—

“(I) appropriate continuing financial and project reporting, record retention, and audit requirements for the duration of the grant to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

“(II) any other requirements that the Director determines are necessary to ensure appropriate grant administration and compliance.

“(B) MISUSE OF FUNDS.—

“(i) REIMBURSEMENT REQUIREMENT.—If any recipient of assistance from affordable housing fund grant amounts of a grantee is determined, in accordance with clause (ii), to have used any such amounts in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such amounts were provided, the grantee shall require that, within 12 months after the determination of such misuse, the recipient shall reimburse the grantee for such misused amounts and return to the grantee any amounts from the affordable housing fund grant amounts of the grantee that remain unused or uncommitted for use. The remedies under this clause are in addition to any other remedies that may be available under law.

“(ii) DETERMINATION.—A determination is made in accordance with this clause if the determination is—

“(I) made by the Director; or

“(II)(aa) made by the grantee;

“(bb) the grantee provides notification of the determination to the Director for review, in the discretion of the Director, of the determination; and

“(cc) the Director does not subsequently reverse the determination.

“(2) GRANTEES.—

“(A) REPORT.—

“(i) IN GENERAL.—The Director shall require each grantee receiving affordable housing fund grant amounts for a year to submit a report, for such year, to the Director that—

“(I) describes the activities funded under this section during such year with the affordable housing fund grant amounts of the grantee; and

“(II) the manner in which the grantee complied during such year with the allocation plan established pursuant to subsection (e) for the grantee.

“(ii) PUBLIC AVAILABILITY.—The Director shall make such reports pursuant to this subparagraph publicly available.

“(B) MISUSE OF FUNDS.—If the Director determines, after reasonable notice and opportunity for hearing, that a grantee has failed to comply substantially with any provision of this section and until the Director is satisfied that there is no longer any such failure to comply, the Director shall—

“(i) reduce the amount of assistance under this section to the grantee by an amount equal to the amount affordable housing fund grant amounts which were not used in accordance with this section;

“(ii) require the grantee to repay the Director an amount equal to the amount of the amount affordable housing fund grant amounts which were not used in accordance with this section;

“(iii) limit the availability of assistance under this section to the grantee to activities or recipients not affected by such failure to comply; or

“(iv) terminate any assistance under this section to the grantee.

“(k) CAPITAL REQUIREMENTS.—The utilization or commitment of amounts from the affordable housing fund shall not be subject to the risk-based capital requirements established pursuant to section 1361(a).

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

“(1) AFFORDABLE HOUSING FUND GRANT AMOUNTS.—The term ‘affordable housing fund grant amounts’ means amounts from the affordable housing fund established under subsection (a) that are provided to a grantee pursuant to subsection (d)(3).

“(2) GRANTEE.—The term ‘grantee’ means—

“(A) with respect to 2007, the Louisiana Housing Finance Agency and the Mississippi Development Authority; and

“(B) with respect to the years referred to in subsection (b)(1), other than 2007, each State (as such term is defined in section 1303) and each federally recognized Indian tribe.

“(3) RECIPIENT.—The term ‘recipient’ means an entity meeting the requirements under subsection (h) that receives assistance from a grantee from affordable housing fund grant amounts of the grantee.

“(4) TOTAL MORTGAGE PORTFOLIO.—The term ‘total mortgage portfolio’ means, with respect to a year, the sum, for all mortgages outstanding during that year in any form, including whole loans, mortgage-backed securities, participation certificates, or other structured securities backed by mortgages, of the dollar amount of the unpaid outstanding principal balances under such mortgages. Such term includes all such mortgages or securitized obligations, whether retained in portfolio, or sold in any form. The Director is authorized to promulgate rules further defining such term as necessary to implement this section and to address market developments.

“(5) VERY-LOW INCOME FAMILY.—The term ‘very low-income family’ has the meaning given such term in section 1303, except that such term includes any family that resides in a rural area that has an income that does not exceed the poverty line (as such term is defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))), including any revision required by such section) applicable to a family of the size involved.

“(m) REGULATIONS.—

“(1) IN GENERAL.—The Director, in consultation with the Secretary of Housing and Urban Development, shall issue regulations to carry out this section.

“(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

“(A) a requirement that the Director ensure that the program of each grantee for use of affordable housing fund grant amounts of the grantee is audited not less than annually to ensure compliance with this section;

“(B) authority for the Director to audit, provide for an audit, or otherwise verify a grantee’s activities, to ensure compliance with this section;

“(C) requirements for a process for application to, and selection by, each grantee for activities meeting the grantee’s priority housing needs to be funded with affordable housing fund grant amounts of the grantee, which shall provide for priority in funding to be based upon—

“(i) greatest impact;

“(ii) geographic diversity;

“(iii) ability to obligate amounts and undertake activities so funded in a timely manner;

“(iv) in the case of rental housing projects under subsection (g)(1), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families;

“(v) in the case of rental housing projects under subsection (g)(1), the extent of the duration for which such rents will remain affordable;

“(vi) the extent to which the application makes use of other funding sources; and

“(vii) the merits of an applicant’s proposed eligible activity;

“(D) requirements to ensure that amounts provided to a grantee from the affordable housing fund that are used for rental housing under subsection (g)(1) are used only for the benefit of extremely low- and very-low income families;

“(E) limitations on public infrastructure development activities that are eligible pursuant to subsection (g)(3) for funding with affordable housing fund grant amounts and requirements for the connection between such activities and housing activities funded under paragraph (1) or (2) of subsection (g); and

“(F) requirements and standards for establishment, by grantees (including the grantees for 2007 pursuant to subsection (l)(2)(A)), of performance goals, benchmarks, and timetables for the production, preservation, and rehabilitation of affordable rental and homeownership housing with affordable housing fund grant amounts.

“(n) ENFORCEMENT OF REQUIREMENTS ON ENTERPRISE.—Compliance by the enterprises with the requirements under this section shall be enforceable under subpart C. Any reference in such subpart to this part or to an order, rule, or regulation under this part specifically includes this section and any order, rule, or regulation under this section.

“(o) AFFORDABLE HOUSING TRUST FUND.—If, after the enactment of this Act, in any year, there is enacted any provision of Federal law establishing an affordable housing trust fund other than under this title for use only for grants to provide affordable rental housing and affordable homeownership opportunities, and the subsequent year is a year referred to in subsection (b)(1), the Director shall in such subsequent year and any remaining years referred to in subsection (b)(1) transfer to such affordable housing trust fund the aggregate amount allocated pursuant to subsection (b) in such year to the affordable housing fund under this section, less any amounts used pursuant to subsection (i)(1). For such subsequent and remaining years, the provisions of subsections (c) and (d) shall not apply. Nothing in this subsection shall be construed to alter the terms and conditions of the affordable housing fund under this section or to extend the life of such fund.”.

(b) TIMELY ESTABLISHMENT OF AFFORDABLE HOUSING NEEDS FORMULA.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall, not later than the effective date under section 185 of this Act, issue the regulations establishing the affordable housing needs formulas in accordance with the provisions of section 1337(c)(2) of the Housing and Community Development Act of 1992, as such section is amended by subsection (a) of this section.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act.

(c) REFCORP PAYMENTS.—Section 21B(f)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)) is amended—

(1) in subparagraph (E), by striking “and (D)” and inserting “(D), and (E)”; and

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) PAYMENTS BY FANNIE MAE AND FREDDIE MAC.—To the extent that the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, each enterprise (as such term is defined in section 1303 of the Housing and Community Development Act of 1992 (42 U.S.C. 4502)) shall transfer to the Funding Corporation in each calendar year the amounts allocated for use under this subparagraph pursuant to section 1337(l)(1) of such Act.”

(d) GAO REPORT.—The Comptroller General shall conduct a study to determine the effects

that the affordable housing fund established under section 1337 of the Housing and Community Development Act of 1992, as added by the amendment made by subsection (a) of this section, will have on the availability and affordability of credit for homebuyers, including the effects on such credit of the requirement under such section 1337(b) that the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation make allocations of amounts to such fund based on the average total mortgage portfolios, and the extent to which the costs of such allocation requirement will be borne by such entities or will be passed on to homebuyers. Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress setting forth the results and conclusions of such study. This subsection shall take effect on the date of the enactment of this Act.

SEC. 140. CONSISTENCY WITH MISSION.

Subpart B of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4561 et seq.) is amended by adding after section 1337, as added by section 139 of this Act, the following new section:

“SEC. 1338. CONSISTENCY WITH MISSION.

“This subpart may not be construed to authorize an enterprise to engage in any program or activity that contravenes or is inconsistent with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.”.

SEC. 141. ENFORCEMENT.

(a) CEASE-AND-DESIST PROCEEDINGS.—Section 1341 of the Housing and Community Development Act of 1992 (12 U.S.C. 4581) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines—

“(1) the enterprise has failed to meet any housing goal established under subpart B, following a written notice and determination of such failure in accordance with section 1336; or

“(2) the enterprise has failed to submit a report under section 1314, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

“(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

“(4) the enterprise has violated any provision of this part or any order, rule or regulation under this part;

“(5) the enterprise has failed to submit a housing plan that complies with section 1336(c) within the applicable period; or

“(6) the enterprise has failed to comply with a housing plan under section 1336(c).”;

(2) in subsection (b)(2), by striking “requiring the enterprise to” and all that follows through the end of the paragraph and inserting the following: “requiring the enterprise to—

“(A) comply with the goal or goals;

“(B) submit a report under section 1314;

“(C) comply with any provision this part or any order, rule or regulation under such part; or

“(D) submit a housing plan in compliance with section 1336(c); or

“(E) comply with a housing plan submitted under section 1336(c); or

“(F) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, as applicable.”;

(3) in subsection (c), by inserting “date of the” before “service of the order”; and

(4) by striking subsection (d).

(b) AUTHORITY OF DIRECTOR TO ENFORCE NOTICES AND ORDERS.—Section 1344 of the Housing and Community Development Act of 1992 (12 U.S.C. 4584) is amended by striking subsection (a) and inserting the following new subsection:

“(a) ENFORCEMENT.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the enterprise is located, for the enforcement of any effective and outstanding notice or order issued under section 1341 or 1345, or request that the Attorney General of the United States bring such an action. Such court shall have jurisdiction and power to order and require compliance with such notice or order.”.

(c) CIVIL MONEY PENALTIES.—Section 1345 of the Housing and Community Development Act of 1992 (12 U.S.C. 4585) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

“(a) AUTHORITY.—The Director may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed to—

“(1) meet any housing goal established under subpart B, following a written notice and determination of such failure in accordance with section 1336(b);

“(2) submit a report under section 1314, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

“(3) submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

“(4) comply with any provision of this part or any order, rule or regulation under this part;

“(5) submit a housing plan pursuant to section 1336(c) within the required period; or

“(6) comply with a housing plan for the enterprise under section 1336(c).”.

(b) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Director, may not exceed—

“(1) for any failure described in paragraph (1), (5), or (6) of subsection (a), \$50,000 for each day that the failure occurs; and

“(2) for any failure described in paragraph (2), (3), or (4) of subsection (a), \$20,000 for each day that the failure occurs.”;

(2) in subsection (c)—

(A) in paragraph (1)—

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

(ii) in subparagraph (B), by striking “; and” and inserting a period; and

(iii) by striking subparagraph (C); and

(B) in paragraph (2), by inserting after the period at the end the following: “In determining the penalty under subsection (a)(1), the Director shall give consideration to the length of time the enterprise should reasonably take to achieve the goal.”;

(3) in the first sentence of subsection (d)—

(A) by striking “request the Attorney General of the United States to” and inserting “, in the discretion of the Director.”; and

(B) by inserting “, or request that the Attorney General of the United States bring such an action” before the period at the end;

(4) by striking subsection (f); and

(5) by redesignating subsection (g) as subsection (f).

(d) ENFORCEMENT OF SUBPOENAS.—Section 1348(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 4588(c)) is amended—

(1) by striking “request the Attorney General of the United States to” and inserting “, in the discretion of the Director.”; and

(2) by inserting “or request that the Attorney General of the United States bring such an action,” after “District of Columbia.”

(e) CONFORMING AMENDMENT.—The heading for subpart C of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 is amended to read as follows:

“Subpart C—Enforcement”.

SEC. 142. CONFORMING AMENDMENTS.

Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking “Secretary” each place such term appears in such part and inserting “Director”;

(2) in the section heading for section 1323 (12 U.S.C. 4543), by inserting “**OF ENTERPRISES**” before the period at the end;

(3) by striking section 1327 (12 U.S.C. 4547);

(4) by striking section 1328 (12 U.S.C. 4548);

(5) by redesignating section 1329 (as amended by section 135) as section 1327;

(6) in sections 1345(c)(1)(A), 1346(a), and 1346(b) (12 U.S.C. 4585(c)(1)(A), 4586(a), and 4586(b)), by striking “Secretary’s” each place such term appears and inserting “Director’s”; and

(7) by striking section 1349 (12 U.S.C. 4589).

Subtitle C—Prompt Corrective Action

SEC. 151. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—Section 1364 of the Housing and Community Development Act of 1992 (12 U.S.C. 4614) is amended—

(1) in the heading for subsection (a), by striking “IN GENERAL” and inserting “ENTERPRISES”;

(2) in subsection (c)—

(A) by striking “subsection (b)” and inserting “subsection (c)”;

(B) by striking “enterprises” and inserting “regulated entities”; and

(C) by striking the last sentence;

(3) by redesignating subsections (c) (as so amended by paragraph (2) of this subsection) and (d) as subsections (d) and (f), respectively;

(4) by striking subsection (b) and inserting the following new subsections:

“(b) FEDERAL HOME LOAN BANKS.—

“(1) ESTABLISHMENT AND CRITERIA.—For purposes of this subtitle, the Director shall, by regulation—

“(A) establish the capital classifications specified under paragraph (2) for the Federal home loan banks;

“(B) establish criteria for each such capital classification based on the amount and types of capital held by a bank and the risk-based, minimum, and critical capital levels for the banks and taking due consideration of the capital classifications established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises; and

“(C) shall classify the Federal home loan banks according to such capital classifications.

“(2) CLASSIFICATIONS.—The capital classifications specified under this paragraph are—

“(A) adequately capitalized;

“(B) undercapitalized;

“(C) significantly undercapitalized; and

“(D) critically undercapitalized.

“(c) DISCRETIONARY CLASSIFICATION.—

“(1) GROUNDS FOR RECLASSIFICATION.—The Director may reclassify a regulated entity under paragraph (2) if—

“(A) at any time, the Director determines in writing that the regulated entity is engaging in conduct that could result in a rapid depletion of core or total capital or, in the case of an enterprise, that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly;

“(B) after notice and an opportunity for hearing, the Director determines that the regulated entity is in an unsafe or unsound condition; or

“(C) pursuant to section 1371(b), the Director deems the regulated entity to be engaging in an unsafe or unsound practice.

“(2) RECLASSIFICATION.—In addition to any other action authorized under this title, including the reclassification of a regulated entity for any reason not specified in this subsection, if the Director takes any action described in paragraph (1) the Director may classify a regulated entity—

“(A) as undercapitalized, if the regulated entity is otherwise classified as adequately capitalized;

“(B) as significantly undercapitalized, if the regulated entity is otherwise classified as undercapitalized; and

“(C) as critically undercapitalized, if the regulated entity is otherwise classified as significantly undercapitalized.”; and

(5) by inserting after subsection (d) (as so redesignated by paragraph (3) of this subsection), the following new subsection:

“(e) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

“(1) IN GENERAL.—A regulated entity shall make no capital distribution if, after making the distribution, the regulated entity would be undercapitalized.

“(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may permit a regulated entity, to the extent appropriate or applicable, to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

“(A) is made in connection with the issuance of additional shares or obligations of the regulated entity in at least an equivalent amount; and

“(B) will reduce the financial obligations of the regulated entity or otherwise improve the financial condition of the entity.”.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the effective date under section 185, the Director of the Federal Housing Finance Agency shall issue regulations to carry out section 1364(b) of the Housing and Community Development Act of 1992 (as added by paragraph (4) of this subsection), relating to capital classifications for the Federal home loan banks.

SEC. 152. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED REGULATED ENTITIES.

Section 1365 of the Housing and Community Development Act of 1992 (12 U.S.C. 4615) is amended—

(1) in the section heading, by striking “**ENTERPRISES**” and inserting “**REGULATED ENTITIES**”;

(2) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A) of this paragraph, the following paragraph:

“(1) REQUIRED MONITORING.—The Director shall—

“(A) closely monitor the condition of any regulated entity that is classified as undercapitalized;

“(B) closely monitor compliance with the capital restoration plan, restrictions, and requirements imposed under this section; and

“(C) periodically review the plan, restrictions, and requirements applicable to the undercapitalized regulated entity to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.”; and

(C) by inserting at the end the following new paragraphs:

“(4) RESTRICTION OF ASSET GROWTH.—A regulated entity that is classified as undercapitalized shall not permit its average total assets (as such term is defined in section 1316(b) during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

“(A) the Director has accepted the capital restoration plan of the regulated entity;

“(B) any increase in total assets is consistent with the plan; and

“(C) the ratio of total capital to assets for the regulated entity increases during the calendar quarter at a rate sufficient to enable the entity to become adequately capitalized within a reasonable time.

“(5) PRIOR APPROVAL OF ACQUISITIONS, NEW PRODUCTS, AND NEW ACTIVITIES.—A regulated entity that is classified as undercapitalized shall not, directly or indirectly, acquire any interest in any entity or initially offer any new product (as such term is defined in section 1321(f)) or engage in any new activity, service, undertaking, or offering unless—

“(A) the Director has accepted the capital restoration plan of the regulated entity, the entity is implementing the plan, and the Director determines that the proposed action is consistent with and will further the achievement of the plan; or

“(B) the Director determines that the proposed action will further the purpose of this section.”;

(3) in the subsection heading for subsection (b), by striking “**FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED**”; and

(4) by striking subsection (c) and inserting the following new subsection:

“(c) OTHER DISCRETIONARY SAFEGUARDS.—The Director may take, with respect to a regulated entity that is classified as undercapitalized, any of the actions authorized to be taken under section 1366 with respect to a regulated entity that is classified as significantly undercapitalized, if the Director determines that such actions are necessary to carry out the purpose of this subtitle.”.

SEC. 153. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED REGULATED ENTITIES.

Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended—

(1) in the section heading, by striking “**ENTERPRISES**” and inserting “**REGULATED ENTITIES**”;

(2) in subsection (a)(2)(A), by striking “enterprise” the last place such term appears;

(3) in subsection (b)—

(A) in the subsection heading, by striking “**DISCRETIONARY SUPERVISORY ACTIONS**” and inserting “**SPECIFIC ACTIONS**”.

(B) in the matter preceding paragraph (1), by striking “may, at any time, take any” and inserting “shall carry out this section by taking, at any time, one or more”;

(C) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(D) by inserting after paragraph (4) the following new paragraph:

“(5) IMPROVEMENT OF MANAGEMENT.—Take one or more of the following actions:

“(A) NEW ELECTION OF BOARD.—Order a new election for the board of directors of the regulated entity.

“(B) DISMISSAL OF DIRECTORS OR EXECUTIVE OFFICERS.—Require the regulated entity to dismiss from office any director or executive officer who had held office for more than 180 days immediately before the entity became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the Director’s enforcement powers provided in section 1377.

“(C) EMPLOY QUALIFIED EXECUTIVE OFFICERS.—Require the regulated entity to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director).”; and

(E) by inserting at the end the following new paragraph:

“(8) OTHER ACTION.—Require the regulated entity to take any other action that the Director determines will better carry out the purpose of this section than any of the actions specified in this paragraph.”;

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting after subsection (b) the following new subsection:

“(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—A regulated entity that is classified as significantly undercapitalized may not, without prior written approval by the Director—

“(1) pay any bonus to any executive officer; or

“(2) provide compensation to any executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the regulated entity became undercapitalized.”.

SEC. 154. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

(a) **IN GENERAL.**—Section 1367 of the Housing and Community Development Act of 1992 (12 U.S.C. 4617) is amended to read as follows:

“SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

“(a) **APPOINTMENT OF AGENCY AS CONSERVATOR OR RECEIVER.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of Federal or State law, if any of the grounds under paragraph (3) exist, at the discretion of the Director, the Director may establish a conservatorship or receivership, as appropriate, for the purpose of reorganizing, rehabilitating, or winding up the affairs of a regulated entity.

“(2) **APPOINTMENT.**—In any conservatorship or receivership established under this section, the Director shall appoint the Agency as conservator or receiver.

“(3) **GROUND FOR APPOINTMENT.**—The grounds for appointing a conservator or receiver for a regulated entity are as follows:

“(A) **ASSETS INSUFFICIENT FOR OBLIGATIONS.**—The assets of the regulated entity are less than the obligations of the regulated entity to its creditors and others.

“(B) **SUBSTANTIAL DISSIPATION.**—Substantial dissipation of assets or earnings due to—

“(i) any violation of any provision of Federal or State law; or

“(ii) any unsafe or unsound practice.

“(C) **UNSAFE OR UNSOUND CONDITION.**—An unsafe or unsound condition to transact business.

“(D) **CEASE-AND-DESIST ORDERS.**—Any willful violation of a cease-and-desist order that has become final.

“(E) **CONCEALMENT.**—Any concealment of the books, papers, records, or assets of the regulated entity, or any refusal to submit the books, papers, records, or affairs of the regulated entity, for inspection to any examiner or to any lawful agent of the Director.

“(F) **INABILITY TO MEET OBLIGATIONS.**—The regulated entity is likely to be unable to pay its obligations or meet the demands of its creditors in the normal course of business.

“(G) **LOSSES.**—The regulated entity has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the regulated entity to become adequately capitalized (as defined in section 1364(a)(1)).

“(H) **VIOLATIONS OF LAW.**—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

“(i) cause insolvency or substantial dissipation of assets or earnings; or

“(ii) weaken the condition of the regulated entity.

“(I) **CONSENT.**—The regulated entity, by resolution of its board of directors or its shareholders or members, consents to the appointment.

“(J) **UNDERCAPITALIZATION.**—The regulated entity is undercapitalized or significantly undercapitalized (as defined in section 1364(a)(3) or in regulations issued pursuant to section 1364(b), as applicable), and—

“(i) has no reasonable prospect of becoming adequately capitalized;

“(ii) fails to become adequately capitalized, as required by—

“(I) section 1365(a)(1) with respect to an undercapitalized regulated entity; or

“(II) section 1366(a)(1) with respect to a significantly undercapitalized regulated entity;

“(iii) fails to submit a capital restoration plan acceptable to the Agency within the time prescribed under section 1369C; or

“(iv) materially fails to implement a capital restoration plan submitted and accepted under section 1369C.

“(K) **Critical Undercapitalization.**—The regulated entity is critically undercapitalized, as defined in section 1364(a)(4) or in regulations issued pursuant to section 1364(b), as applicable.

“(L) **MONEY LAUNDERING.**—The Attorney General notifies the Director in writing that the regulated entity has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 or 5324 of title 31, United States Code.

“(M) **Mandatory Receivership.**—

“(A) **IN GENERAL.**—The Director shall appoint the Agency as receiver for a regulated entity if the Director determines, in writing, that—

“(i) the assets of the regulated entity are, and during the preceding 30 calendar days have been, less than the obligations of the regulated entity to its creditors and others; or

“(ii) the regulated entity is not, and during the preceding 30 calendar days has not been, generally paying the debts of the regulated entity (other than debts that are the subject of a bona fide dispute) as such debts become due.

“(B) **Periodic Determination Required for Critically Undercapitalized Regulated Entity.**—If a regulated entity is critically undercapitalized, the Director shall make a determination, in writing, as to whether the regulated entity meets the criteria specified in clause (i) or (ii) of subparagraph (A)—

“(i) not later than 30 calendar days after the regulated entity initially becomes critically undercapitalized; and

“(ii) at least once during each succeeding 30-calendar day period.

“(C) **Determination Not Required if Receivership Already in Place.**—Subparagraph (B) shall not apply with respect to a regulated entity in any period during which the Agency serves as receiver for the regulated entity.

“(D) **Receivership Terminates Conservatorship.**—The appointment under this section of the Agency as receiver of a regulated entity shall immediately terminate any conservatorship established under this title for the regulated entity.

“(E) **Judicial Review.**—

“(A) **IN GENERAL.**—If the Agency is appointed conservator or receiver under this section, the regulated entity may, within 30 days of such appointment, bring an action in the United States District Court for the judicial district in which the principal place of business of such regulated entity is located, or in the United States District Court for the District of Columbia, for an order requiring the Agency to remove itself as conservator or receiver.

“(B) **Review.**—Upon the filing of an action under subparagraph (A), the court shall, upon the merits, dismiss such action or direct the Agency to remove itself as such conservator or receiver.

“(F) **Directors Not Liable for Acquiescing in Appointment of Conservator or Receiver.**—The members of the board of directors of a regulated entity shall not be liable to the shareholders or creditors of the regulated entity for acquiescing in or consenting in good faith to the appointment of the Agency as conservator or receiver for that regulated entity.

“(G) **Agency Not Subject to Any Other Federal Agency.**—When acting as conservator or receiver, the Agency shall not be subject to the direction or supervision of any other agency of the United States or any State in the exercise of the rights, powers, and privileges of the Agency.

“(H) **Powers and Duties of the Agency as Conservator or Receiver.**—

“(I) **Rulemaking Authority of the Agency.**—The Agency may prescribe such regulations as the Agency determines to be appropriate regarding the conduct of conservatorships or receiverships.

“(J) **General Powers.**—

“(A) **Successor to Regulated Entity.**—The Agency shall, as conservator or receiver, and by operation of law, immediately succeed to—

“(i) all rights, titles, powers, and privileges of the regulated entity, and of any stockholder, officer, or director of such regulated entity with respect to the regulated entity and the assets of the regulated entity; and

“(ii) title to the books, records, and assets of any other legal custodian of such regulated entity.

“(B) **Operate the Regulated Entity.**—The Agency may, as conservator or receiver—

“(i) take over the assets of and operate the regulated entity with all the powers of the shareholders, the directors, and the officers of the regulated entity and conduct all business of the regulated entity;

“(ii) collect all obligations and money due the regulated entity;

“(iii) perform all functions of the regulated entity in the name of the regulated entity which are consistent with the appointment as conservator or receiver; and

“(iv) preserve and conserve the assets and property of such regulated entity.

“(C) **Functions of Officers, Directors, and Shareholders of a Regulated Entity.**—The Agency may, by regulation or order, provide for the exercise of any function by any stockholder, director, or officer of any regulated entity for which the Agency has been named conservator or receiver.

“(D) **Powers as Conservator.**—The Agency may, as conservator, take such action as may be—

“(i) necessary to put the regulated entity in a sound and solvent condition; and

“(ii) appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity, including, if two or more Federal home loan banks have been placed in conservatorship contemporaneously, merging two or more such banks into a single Federal home loan bank.

“(E) **Additional Powers as Receiver.**—The Agency may, as receiver, place the regulated entity in liquidation and proceed to realize upon the assets of the regulated entity, having due regard to the conditions of the housing finance market.

“(F) **Organization of New Regulated Entities.**—The Agency may, as receiver, organize a successor regulated entity that will operate pursuant to subsection (i).

“(G) **Transfer of Assets and Liabilities.**—The Agency may, as conservator or receiver, transfer any asset or liability of the regulated entity in default without any approval, assignment, or consent with respect to such transfer. Any Federal home loan bank may, with the approval of the Agency, acquire the assets of any Bank in conservatorship or receivership, and assume the liabilities of such Bank.

“(H) **Payment of Valid Obligations.**—The Agency, as conservator or receiver, shall, to the extent of proceeds realized from the performance of contracts or sale of the assets of a regulated entity, pay all valid obligations of the regulated entity in accordance with the prescriptions and limitations of this section.

“(I) **Subpoena Authority.**—

“(i) **IN GENERAL.**—

“(A) **IN GENERAL.**—The Agency may, as conservator or receiver, and for purposes of carrying out any power, authority, or duty with respect to a regulated entity (including determining any claim against the regulated entity and determining and realizing upon any asset of any person in the course of collecting money due the regulated entity), exercise any power established under section 1348.

“(II) APPLICABILITY OF LAW.—The provisions of section 1348 shall apply with respect to the exercise of any power exercised under this subparagraph in the same manner as such provisions apply under that section.

“(ii) AUTHORITY OF DIRECTOR.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Director, or the designee of the Director.

“(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit any rights that the Agency, in any capacity, might otherwise have under section 1317 or 1379D.

“(J) CONTRACTING FOR SERVICES.—The Agency may, as conservator or receiver, provide by contract for the carrying out of any of its functions, activities, actions, or duties as conservator or receiver.

“(K) INCIDENTAL POWERS.—The Agency may, as conservator or receiver—

“(i) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this section, and such incidental powers as shall be necessary to carry out such powers; and

“(ii) take any action authorized by this section, which the Agency determines is in the best interests of the regulated entity or the Agency.

“(3) AUTHORITY OF RECEIVER TO DETERMINE CLAIMS.—

“(A) IN GENERAL.—The Agency may, as receiver, determine claims in accordance with the requirements of this subsection and any regulations prescribed under paragraph (4).

“(B) NOTICE REQUIREMENTS.—The receiver, in any case involving the liquidation or winding up of the affairs of a closed regulated entity, shall—

“(i) promptly publish a notice to the creditors of the regulated entity to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

“(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

“(C) MAILING REQUIRED.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the books of the regulated entity—

“(i) at the last address of the creditor appearing in such books; or

“(ii) upon discovery of the name and address of a claimant not appearing on the books of the regulated entity within 30 days after the discovery of such name and address.

“(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—Subject to subsection (c), the Director may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

“(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

“(A) DETERMINATION PERIOD.—

“(i) IN GENERAL.—Before the end of the 180-day period beginning on the date on which any claim against a regulated entity is filed with the Agency as receiver, the Agency shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

“(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Agency.

“(iii) MAILING OF NOTICE SUFFICIENT.—The notification requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

“(I) on the books of the regulated entity; and

“(II) in the claim filed by the claimant; or

“(III) in documents submitted in proof of the claim.

“(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

“(I) a statement of each reason for the disallowance; and

“(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

“(B) ALLOWANCE OF PROVEN CLAIM.—The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i), or the date specified in the notice required under paragraph (3)(C), which is proved to the satisfaction of the receiver.

“(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—Claims filed after the date specified in the notice published under paragraph (3)(B)(i), or the date specified under paragraph (3)(C), shall be disallowed and such disallowance shall be final.

“(D) AUTHORITY TO DISALLOW CLAIMS.—

“(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

“(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against a regulated entity which is secured by any property or other asset of such regulated entity, the receiver—

“(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the regulated entity; and

“(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the regulated entity.

“(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to any extension of credit from any Federal Reserve Bank, Federal home loan bank, or the Treasury of the United States.

“(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the determination of the Agency under subparagraph (D) to disallow a claim. This subparagraph shall not affect the authority of a claimant to obtain de novo judicial review of a claim pursuant to paragraph (6).

“(F) LEGAL EFFECT OF FILING.—

“(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

“(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the date of the appointment of the receiver, subject to the determination of claims by the receiver.

“(6) PROVISION FOR JUDICIAL DETERMINATION OF CLAIMS.—

“(A) IN GENERAL.—The claimant may file suit on a claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the principal place of business of the regulated entity is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim), before the end of the 60-day period beginning on the earlier of—

“(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a regulated entity for which the Agency is receiver; or

“(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i).

“(B) STATUTE OF LIMITATIONS.—A claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver), and such disallowance shall be final, and the claimant shall have no further rights or

remedies with respect to such claim, if the claimant fails, before the end of the 60-day period described under subparagraph (A), to file suit on such claim (or continue an action commenced before the appointment of the receiver).

“(7) REVIEW OF CLAIMS.—

“(A) OTHER REVIEW PROCEDURES.—

“(i) IN GENERAL.—The Agency shall establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

“(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Agency shall strive for procedures which are expeditious, fair, independent, and low cost.

“(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Agency may establish both binding and nonbinding processes, which may be conducted by any government or private party. All parties, including the claimant and the Agency, must agree to the use of the process in a particular case.

“(B) CONSIDERATION OF INCENTIVES.—The Agency shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

“(8) EXPEDITED DETERMINATION OF CLAIMS.—

“(A) ESTABLISHMENT REQUIRED.—The Agency shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

“(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any regulated entity for which the Agency has been appointed receiver; and

“(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

“(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established under subparagraph (A), the Director shall—

“(i) determine—

“(I) whether to allow or disallow such claim; or

“(II) whether such claim should be determined pursuant to the procedures established under paragraph (5); and

“(ii) notify the claimant of the determination, and if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

“(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the receiver, seeking a determination of the rights of the claimant with respect to such security interest after the earlier of—

“(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

“(ii) the date the Agency denies the claim.

“(D) STATUTE OF LIMITATIONS.—If an action described under subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed under subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

“(E) LEGAL EFFECT OF FILING.—

“(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

“(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action that was filed before the appointment of the receiver, subject to the determination of claims by the receiver.

“(9) PAYMENT OF CLAIMS.—

“(A) IN GENERAL.—The receiver may, in the discretion of the receiver, and to the extent funds are available from the assets of the regulated entity, pay creditor claims, in such manner and amounts as are authorized under this section, which are—

“(i) allowed by the receiver;

“(ii) approved by the Agency pursuant to a final determination pursuant to paragraph (7) or (8); or

“(iii) determined by the final judgment of any court of competent jurisdiction.

“(B) AGREEMENTS AGAINST THE INTEREST OF THE AGENCY.—No agreement that tends to diminish or defeat the interest of the Agency in any asset acquired by the Agency as receiver under this section shall be valid against the Agency unless such agreement is in writing, and executed by an authorized official of the regulated entity, except that such requirements for qualified financial contracts shall be applied in a manner consistent with reasonable business trading practices in the financial contracts market.

“(C) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the sole discretion of the receiver, pay from the assets of the regulated entity dividends on proved claims at any time, and no liability shall attach to the Agency, by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

“(D) RULEMAKING AUTHORITY OF THE DIRECTOR.—The Director may prescribe such rules, including definitions of terms, as the Director deems appropriate to establish a single uniform interest rate for, or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estates of regulated entities following satisfaction by the receiver of the principal amount of all creditor claims.

“(10) SUSPENSION OF LEGAL ACTIONS.—

“(A) IN GENERAL.—After the appointment of a conservator or receiver for a regulated entity, the conservator or receiver may, in any judicial action or proceeding to which such regulated entity is or becomes a party, request a stay for a period not to exceed—

“(i) 45 days, in the case of any conservator; and

“(ii) 90 days, in the case of any receiver.

“(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by any conservator or receiver under subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

“(11) ADDITIONAL RIGHTS AND DUTIES.—

“(A) PRIOR FINAL ADJUDICATION.—The Agency shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Agency as conservator or receiver.

“(B) RIGHTS AND REMEDIES OF CONSERVATOR OR RECEIVER.—In the event of any appealable judgment, the Agency as conservator or receiver shall—

“(i) have all the rights and remedies available to the regulated entity (before the appointment of such conservator or receiver) and the Agency, including removal to Federal court and all appellate rights; and

“(ii) not be required to post any bond in order to pursue such remedies.

“(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the receiver.

“(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

“(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any regulated entity for which the Agency has been appointed receiver; or

“(ii) any claim relating to any act or omission of such regulated entity or the Agency as receiver.

“(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of a regulated entity for which the Agency has been appointed conservator or receiver, the Agency shall conduct its operations in a manner which maintains stability in the housing finance markets and, to the extent consistent with that goal—

“(i) maximizes the net present value return from the sale or disposition of such assets;

“(ii) minimizes the amount of any loss realized in the resolution of cases; and

“(iii) ensures adequate competition and fair and consistent treatment of offerors.

“(12) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR RECEIVER.—

“(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Agency as conservator or receiver shall be—

“(i) in the case of any contract claim, the longer of—

“(I) the 6-year period beginning on the date the claim accrues; or

“(II) the period applicable under State law; and

“(ii) in the case of any tort claim, the longer of—

“(I) the 3-year period beginning on the date the claim accrues; or

“(II) the period applicable under State law.

“(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in such subparagraph shall be the later of—

“(i) the date of the appointment of the Agency as conservator or receiver; or

“(ii) the date on which the cause of action accrues.

“(13) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

“(A) IN GENERAL.—In the case of any tort claim described under subparagraph (B) for which the statute of limitations applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Agency as conservator or receiver, the Agency may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

“(B) CLAIMS DESCRIBED.—A tort claim referred to under subparagraph (A) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the regulated entity.

“(14) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

“(A) IN GENERAL.—The Agency as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Agency, maintain a full accounting of each conservatorship and receivership or other disposition of a regulated entity in default.

“(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership, the Agency shall make an annual accounting or report available to the Board, the Comptroller General of the United States, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

“(C) AVAILABILITY OF REPORTS.—Any report prepared under subparagraph (B) shall be made available by the Agency upon request to any shareholder of a regulated entity or any member of the public.

“(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date that the conservatorship or receivership is terminated by the Director, the Agency may destroy any records of such regulated entity which the Agency, in the discretion of the Agency, determines to be unnecessary unless directed not

to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

“(15) FRAUDULENT TRANSFERS.—

“(A) IN GENERAL.—The Agency, as conservator or receiver, may avoid a transfer of any interest of a regulated entity-affiliated party, or any person who the conservator or receiver determines is a debtor of the regulated entity, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Agency was appointed conservator or receiver, if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the regulated entity, the conservator, or receiver.

“(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the conservator or receiver may recover, for the benefit of the regulated entity, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

“(i) the initial transferee of such transfer or the regulated entity-affiliated party or person for whose benefit such transfer was made; or

“(ii) any immediate or mediate transferee of any such initial transferee.

“(C) RIGHTS OF TRANSFeree OR OBLIGEE.—The conservator or receiver may not recover under subparagraph (B) from—

“(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

“(ii) any immediate or mediate good faith transferee of such transferee.

“(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the conservator or receiver described under subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.

“(16) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (17), any court of competent jurisdiction may, at the request of the conservator or receiver, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Agency or such conservator under the control of the court, and appointing a trustee to hold such assets.

“(17) STANDARDS OF PROOF.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (16) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

“(18) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE RECEIVER OR CONSERVATOR.—

“(A) IN GENERAL.—Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against a receiver or conservator for the breach of an agreement executed or approved in writing by such receiver or conservator after the date of its appointment, shall be paid as an administrative expense of the receiver or conservator.

“(B) NO LIMITATION OF POWER.—Nothing in this paragraph shall be construed to limit the power of a receiver or conservator to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.

“(19) GENERAL EXCEPTIONS.—

“(A) LIMITATIONS.—The rights of a conservator or receiver appointed under this section shall be subject to the limitations on the powers of a receiver under sections 402 through 407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402 through 4407).

“(B) MORTGAGES HELD IN TRUST.—

“(i) IN GENERAL.—Any mortgage, pool of mortgages, or interest in a pool of mortgages, held in trust, custodial, or agency capacity by a regulated entity for the benefit of persons other than

the regulated entity shall not be available to satisfy the claims of creditors generally.

“(ii) HOLDING OF MORTGAGES.—Any mortgage, pool of mortgages, or interest in a pool of mortgages, described under clause (i) shall be held by the conservator or receiver appointed under this section for the beneficial owners of such mortgage, pool of mortgages, or interest in a pool of mortgages in accordance with the terms of the agreement creating such trust, custodial, or other agency arrangement.

“(iii) LIABILITY OF RECEIVER.—The liability of a receiver appointed under this section for damages shall, in the case of any contingent or unliquidated claim relating to the mortgages held in trust, be estimated in accordance set forth in the regulations of the Director.

“(c) PRIORITY OF EXPENSES AND UNSECURED CLAIMS.—

“(1) IN GENERAL.—Unsecured claims against a regulated entity, or a receiver, that are proven to the satisfaction of the receiver shall have priority in the following order:

“(A) Administrative expenses of the receiver.

“(B) Any other general or senior liability of the regulated entity and claims of other Federal home loan banks arising from their payment obligations (including joint and several payment obligations).

“(C) Any obligation subordinated to general creditors.

“(D) Any obligation to shareholders or members arising as a result of their status as shareholder or members.

“(2) CREDITORS SIMILARLY SITUATED.—All creditors that are similarly situated under paragraph (1) shall be treated in a similar manner, except that the Agency may make such other payments to creditors necessary to maximize the present value return from the sale or disposition of such regulated entity's assets or to minimize the amount of any loss realized in the resolution of cases so long as all creditors similarly situated receive not less than the amount provided under subsection (e)(2).

“(3) DEFINITION.—The term ‘administrative expenses of the receiver’ shall include the actual, necessary costs and expenses incurred by the receiver in preserving the assets of the regulated entity or liquidating or otherwise resolving the affairs of the regulated entity. Such expenses shall include obligations that are incurred by the receiver after appointment as receiver that the Director determines are necessary and appropriate to facilitate the smooth and orderly liquidation or other resolution of the regulated entity.

“(d) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

“(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or receiver may have, the conservator or receiver for any regulated entity may disaffirm or repudiate any contract or lease—

“(A) to which such regulated entity is a party;

“(B) the performance of which the conservator or receiver, in its sole discretion, determines to be burdensome; and

“(C) the disaffirmance or repudiation of which the conservator or receiver determines, in its sole discretion, will promote the orderly administration of the affairs of the regulated entity.

“(2) TIMING OF REPUDIATION.—The conservator or receiver shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

“(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

“(A) IN GENERAL.—Except as otherwise provided under subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

“(i) limited to actual direct compensatory damages; and

“(ii) determined as of—

“(I) the date of the appointment of the conservator or receiver; or

“(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

“(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term ‘actual direct compensatory damages’ shall not include—

“(i) punitive or exemplary damages;

“(ii) damages for lost profits or opportunity; or

“(iii) damages for pain and suffering.

“(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

“(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

“(ii) paid in accordance with this subsection and subsection (e), except as otherwise specifically provided in this section.

“(4) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSEE.—

“(A) IN GENERAL.—If the conservator or receiver disaffirms or repudiates a lease under which the regulated entity was the lessee, the conservator or receiver shall not be liable for any damages (other than damages determined under subparagraph (B)) for the disaffirmance or repudiation of such lease.

“(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which that subparagraph applies shall—

“(i) be entitled to the contractual rent accruing before the later of the date—

“(I) the notice of disaffirmance or repudiation is mailed; or

“(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease;

“(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

“(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment, which shall be paid in accordance with this subsection and subsection (e).

“(5) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSOR.—

“(A) IN GENERAL.—If the conservator or receiver repudiates an unexpired written lease of real property of the regulated entity under which the regulated entity is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

“(i) treat the lease as terminated by such repudiation; or

“(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.

“(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described under subparagraph (A) remains in possession of a leasehold interest under clause (ii) of such subparagraph—

“(i) the lessee—

“(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and

“(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, and any damages which accrue after such date due to the nonperformance of any obligation of the regulated entity under the lease after such date; and

“(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after

such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).

“(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

“(A) IN GENERAL.—If the conservator or receiver repudiates any contract for the sale of real property and the purchaser of such real property under such contract is in possession, and is not, as of the date of such repudiation, in default, such purchaser may either—

“(i) treat the contract as terminated by such repudiation; or

“(ii) remain in possession of such real property.

“(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described under subparagraph (A) remains in possession of such property under clause (ii) of such subparagraph—

“(i) the purchaser—

“(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

“(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the regulated entity under the contract; and

“(ii) the conservator or receiver shall—

“(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II);

“(II) deliver title to the purchaser in accordance with the provisions of the contract; and

“(III) have no obligation under the contract other than the performance required under subclause (II).

“(C) ASSIGNMENT AND SALE ALLOWED.—

“(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described under subparagraph (A), and sell the property subject to the contract and the provisions of this paragraph.

“(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described under clause (i) is consummated, the conservator or receiver shall have no further liability under the contract described under subparagraph (A), or with respect to the real property which was the subject of such contract.

“(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

“(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any regulated entity for which the Agency has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or the receiver shall be—

“(i) a claim to be paid in accordance with subsections (b) and (e); and

“(ii) deemed to have arisen as of the date the conservator or receiver was appointed.

“(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described under subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise the right of repudiation of such contract under this section—

“(i) the other party shall be paid under the terms of the contract for the services performed; and

“(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

“(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by any conservator or receiver of services referred to under subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver to repudiate such contract under this section at any time after such performance.

“(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

“(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraphs (9) and (10) and notwithstanding any other provision of this Act, any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

“(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity that arises upon the appointment of the Agency as receiver for such regulated entity at any time after such appointment;

“(ii) any right under any security agreement or arrangement or other credit enhancement relating to one or more qualified financial contracts described in clause (i); or

“(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

“(B) APPLICABILITY OF OTHER PROVISIONS.—Paragraph (10) of subsection (b) shall apply in the case of any judicial action or proceeding brought against any receiver referred to under subparagraph (A), or the regulated entity for which such receiver was appointed, by any party to a contract or agreement described under subparagraph (A)(i) with such regulated entity.

“(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

“(i) IN GENERAL.—Notwithstanding paragraph (11) or any other Federal or State laws relating to the avoidance of preferential or fraudulent transfers, the Agency, whether acting as such or as conservator or receiver of a regulated entity, may not avoid any transfer of money or other property in connection with any qualified financial contract with a regulated entity.

“(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a regulated entity if the Agency determines that the transferee had actual intent to hinder, delay, or defraud such regulated entity, the creditors of such regulated entity, or any conservator or receiver appointed for such regulated entity.

“(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—In this subsection:

“(i) QUALIFIED FINANCIAL CONTRACT.—The term ‘qualified financial contract’ means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Agency determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.

“(ii) SECURITIES CONTRACT.—The term ‘securities contract’—

“(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Agency determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

“(III) means any option entered into on a national securities exchange relating to foreign currencies;

“(IV) means the guarantee by or to any securities clearing agency of any settlement of cash,

securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(V) means any margin loan;

“(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) means any combination of the agreements or transactions referred to in this clause;

“(VIII) means any option to enter into any agreement or transaction referred to in this clause;

“(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

“(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

“(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

“(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

“(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

“(vi) REPURCHASE AGREEMENT.—The term ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

“(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

“(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Agency determines by regulation, resolution, or order to include any such participation within the meaning of such term;

“(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

“(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

“(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

“(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

“(VII) any combination of the agreements or transactions referred to in this clause;

“(VIII) any option to enter into any agreement or transaction referred to in this clause;

“(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

“(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

“(iv) FORWARD CONTRACT.—The term ‘forward contract’ means—

“(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-to-morrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in sub-clause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in sub-clause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in sub-clause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a sin-

gle agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the regulated entity's equity of redemption.

"(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (13) of this subsection), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

"(ii) any right under any security agreement or arrangement or other credit enhancement relating to one or more such qualified financial contracts; or

"(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Agency, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Agency to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (d)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a regulated entity in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a regulated entity in default which includes any qualified financial contract, the conservator or receiver for such regulated entity shall either—

"(A) transfer to 1 person—

"(i) all qualified financial contracts between any person (or any affiliate of such person) and the regulated entity in default;

"(ii) all claims of such person (or any affiliate of such person) against such regulated entity under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such regulated entity);

"(iii) all claims of such regulated entity against such person (or any affiliate of such person) under any such contract; and

"(iv) all property securing or any other credit enhancement for any contract described in clause (i) or any claim described in clause (ii) or (iii) under any such contract; or

"(B) transfer none of the financial contracts, claims, or property referred to under subpara-

graph (A) (with respect to such person and any affiliate of such person).

"(10) NOTIFICATION OF TRANSFER.—

"(A) IN GENERAL.—If—

"(i) the conservator or receiver for a regulated entity in default makes any transfer of the assets and liabilities of such regulated entity, and

"(ii) the transfer includes any qualified financial contract,

the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the regulated entity (or the insolvency or financial condition of the regulated entity for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the regulated entity (or the insolvency or financial condition of the regulated entity for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Agency as receiver or conservator of a regulated entity shall be deemed to have notified a person who is a party to a qualified financial contract with such regulated entity if the Agency has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which a regulated entity is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the regulated entity in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).

"(12) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any regulated entity, except where such an interest is taken in contemplation of the insolvency of the regulated entity, or with the intent to hinder, delay, or defraud the regulated entity or the creditors of such regulated entity.

“(13) AUTHORITY TO ENFORCE CONTRACTS.—

“(A) IN GENERAL.—Notwithstanding any provision of a contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of a conservator or receiver, the conservator or receiver may enforce any contract or regulated entity bond entered into by the regulated entity.

“(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a director's or officer's liability insurance contract or surety bond under other applicable law.

“(C) CONSENT REQUIREMENT.—

“(i) IN GENERAL.—Except as otherwise provided under this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which a regulated entity is a party, or to obtain possession of or exercise control over any property of the regulated entity, or affect any contractual rights of the regulated entity, without the consent of the conservator or receiver, as appropriate, for a period of—

“(I) 45 days after the date of appointment of a conservator; or

“(II) 90 days after the date of appointment of a receiver.

“(ii) EXCEPTIONS.—This paragraph shall—

“(I) not apply to a director's or officer's liability insurance contract;

“(II) not apply to the rights of parties to any qualified financial contracts under subsection (d)(8); and

“(III) not be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contracts.

“(14) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

“(15) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

“(A) any extension of credit from any Federal home loan bank or Federal Reserve Bank to any regulated entity; or

“(B) any security interest in the assets of the regulated entity securing any such extension of credit.

“(e) VALUATION OF CLAIMS IN DEFAULT.—

“(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method which the Agency determines to utilize with respect to a regulated entity in default or in danger of default, including transactions authorized under subsection (i), this subsection shall govern the rights of the creditors of such regulated entity.

“(2) MAXIMUM LIABILITY.—The maximum liability of the Agency, acting as receiver or in any other capacity, to any person having a claim against the receiver or the regulated entity for which such receiver is appointed shall equal the lesser of—

“(A) the amount such claimant would have received if the Agency had liquidated the assets and liabilities of such regulated entity without exercising the authority of the Agency under subsection (i) of this section; or

“(B) the amount of proceeds realized from the performance of contracts or sale of the assets of the regulated entity.

“(f) LIMITATION ON COURT ACTION.—Except as provided in this section or at the request of the Director, no court may take any action to restrain or affect the exercise of powers or functions of the Agency as a conservator or a receiver.

“(g) LIABILITY OF DIRECTORS AND OFFICERS.—

“(1) IN GENERAL.—A director or officer of a regulated entity may be held personally liable for monetary damages in any civil action by, on behalf of, or at the request or direction of the Agency, which action is prosecuted wholly or partially for the benefit of the Agency—

“(A) acting as conservator or receiver of such regulated entity, or

“(B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver or conservator, for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law.

“(2) NO LIMITATION.—Nothing in this paragraph shall impair or affect any right of the Agency under other applicable law.

“(h) DAMAGES.—In any proceeding related to any claim against a director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to a regulated entity, recoverable damages determined to result from the improvident or otherwise improper use or investment of any assets of the regulated entity shall include principal losses and appropriate interest.

“(i) LIMITED-LIFE REGULATED ENTITIES.—

(1) ORGANIZATION.—

“(A) PURPOSE.—If a regulated entity is in default, or if the Agency anticipates that a regulated entity will default, the Agency may organize a limited-life regulated entity with those powers and attributes of the regulated entity in default or in danger of default that the Director determines necessary, subject to the provisions of this subsection. The Director shall grant a temporary charter to the limited-life regulated entity, and the limited-life regulated entity shall operate subject to that charter.

“(B) AUTHORITIES.—Upon the creation of a limited-life regulated entity under subparagraph (A), the limited-life regulated entity may—

“(i) assume such liabilities of the regulated entity that is in default or in danger of default as the Agency may, in its discretion, determine to be appropriate, provided that the liabilities assumed shall not exceed the amount of assets of the limited-life regulated entity;

“(ii) purchase such assets of the regulated entity that is in default, or in danger of default, as the Agency may, in its discretion, determine to be appropriate; and

“(iii) perform any other temporary function which the Agency may, in its discretion, prescribe in accordance with this section.

(2) CHARTER.—

“(A) CONDITIONS.—The Agency may grant a temporary charter if the Agency determines that the continued operation of the regulated entity in default or in danger of default is in the best interest of the national economy and the housing markets.

“(B) TREATMENT AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A limited-life regulated entity shall be treated as a regulated entity in default at such times and for such purposes as the Agency may, in its discretion, determine.

“(C) MANAGEMENT.—A limited-life regulated entity, upon the granting of its charter, shall be under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Agency.

“(D) BYLAWS.—The board of directors of a limited-life regulated entity shall adopt such bylaws as may be approved by the Agency.

“(3) CAPITAL STOCK.—No capital stock need be paid into a limited-life regulated entity by the Agency.

“(4) INVESTMENTS.—Funds of a limited-life regulated entity shall be kept on hand in cash, invested in obligations of the United States or obligations guaranteed as to principal and interest by the United States, or deposited with the Agency, or any Federal Reserve bank.

“(5) EXEMPT STATUS.—Notwithstanding any other provision of Federal or State law, the limited-life regulated entity, 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.

(6) WINDING UP.—

“(A) IN GENERAL.—Subject to subparagraph (B), unless Congress authorizes the sale of the capital stock of the limited-life regulated entity, not later than 2 years after the date of its organization, the Agency shall wind up the affairs of the limited-life regulated entity.

“(B) EXTENSION.—The Director may, in the discretion of the Director, extend the status of the limited-life regulated entity for 3 additional 1-year periods.

(7) TRANSFER OF ASSETS AND LIABILITIES.—

(A) IN GENERAL.—

“(i) TRANSFER OF ASSETS AND LIABILITIES.—The Agency, as receiver, may transfer any assets and liabilities of a regulated entity in default, or in danger of default, to the limited-life regulated entity in accordance with paragraph (1).

“(ii) SUBSEQUENT TRANSFERS.—At any time after a charter is transferred to a limited-life regulated entity, the Agency, as receiver, may transfer any assets and liabilities of such regulated entity in default, or in danger of default, as the Agency may, in its discretion, determine to be appropriate in accordance with paragraph (1).

“(iii) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities of a regulated entity in default, or in danger of default, transferred to a limited-life regulated entity shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

“(8) PROCEEDS.—To the extent that available proceeds from the limited-life regulated entity exceed amounts required to pay obligations, such proceeds may be paid to the regulated entity in default, or in danger of default.

(9) POWERS.—

“(A) IN GENERAL.—Each limited-life regulated entity created under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, the regulated entity in default or in danger of default to which it relates, except that—

“(i) the Agency may—

“(I) remove the directors of a limited-life regulated entity; and

“(II) fix the compensation of members of the board of directors and senior management, as determined by the Agency in its discretion, of a limited-life regulated entity;

“(ii) the Agency may indemnify the representatives for purposes of paragraph (1)(B), and the directors, officers, employees, and agents of a limited-life regulated entity on such terms as the Agency determines to be appropriate; and

“(iii) the board of directors of a limited-life regulated entity—

“(I) shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Agency; and

“(II) may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Agency.

“(B) STAY OF JUDICIAL ACTION.—Any judicial action to which a limited-life regulated entity becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a regulated entity in default shall be stayed from further proceedings for a period of up to 45 days at the request of the limited-life regulated entity. Such period may be modified upon the consent of all parties.

“(10) OBTAINING OF CREDIT AND INCURRING OF DEBT.—

“(A) IN GENERAL.—The limited-life regulated entity may obtain unsecured credit and incur unsecured debt in the ordinary course of business.

“(B) INABILITY TO OBTAIN CREDIT.—If the limited-life regulated entity is unable to obtain unsecured credit the Director may authorize the obtaining of credit or the incurring of debt—

“(i) with priority over any or all administrative expenses;

“(ii) secured by a lien on property that is not otherwise subject to a lien; or

“(iii) secured by a junior lien on property that is subject to a lien.

“(C) LIMITATIONS.—

“(i) IN GENERAL.—The Director, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property that is subject to a lien (other than mortgages that collateralize the mortgage-backed securities issued or guaranteed by the regulated entity) only if—

“(I) the limited-life regulated entity is unable to obtain such credit otherwise; and

“(II) there is adequate protection of the interest of the holder of the lien on the property which such senior or equal lien is proposed to be granted.

“(ii) BURDEN OF PROOF.—In any hearing under this subsection, the Director has the burden of proof on the issue of adequate protection.

“(D) EFFECT ON DEBTS AND LIENS.—The reversal or modification on appeal of an authorization under this paragraph to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

“(11) ISSUANCE OF PREFERRED DEBT.—A limited-life regulated entity may, subject to the approval of the Director and subject to such terms and conditions as the Director may prescribe, issue notes, bonds, or other debt obligations of a class to which all other debt obligations of the limited-life regulated entity shall be subordinate in right and payment.

“(12) NO FEDERAL STATUS.—

“(A) AGENCY STATUS.—A limited-life regulated entity is not an agency, establishment, or instrumentality of the United States.

“(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a limited-life regulated entity are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Agency or of any Federal instrumentality who serves at the request of the Agency as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a limited-life regulated entity shall not—

“(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or

“(ii) receive any salary or benefits for service in any such capacity with respect to a limited-life regulated entity in addition to such salary or benefits as are obtained through employment with the Agency or such Federal instrumentality.

“(13) ADDITIONAL POWERS.—In addition to any other powers granted under this subsection, a limited-life regulated entity may—

“(A) extend a maturity date or change in an interest rate or other term of outstanding securities;

“(B) issue securities of the limited-life regulated entity, for cash, for property, for existing securities, or in exchange for claims or interests, or for any other appropriate purposes; and

“(C) take any other action not inconsistent with this section.

“(j) OTHER EXEMPTIONS.—When acting as a receiver, the following provisions shall apply with respect to the Agency:

“(1) EXEMPTION FROM TAXATION.—The Agency, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, country, municipality, or local taxing authority, except that any real property of the Agency shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of the value of such property, and the tax thereon, shall be determined as of the period for which such tax is imposed.

“(2) EXEMPTION FROM ATTACHMENT AND LIENS.—No property of the Agency shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Agency, nor shall any involuntary lien attach to the property of the Agency.

“(3) EXEMPTION FROM PENALTIES AND FINES.—The Agency shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due.

“(k) PROHIBITION OF CHARTER REVOCATION.—In no case may a receiver appointed pursuant to this section revoke, annul, or terminate the charter of a regulated entity.”.

(b) CONFORMING AMENDMENTS.—

(1) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Subtitle B of title XIII of the Housing and Community Development Act of 1992 is amended by striking sections 1369 (12 U.S.C. 4619), 1369A (12 U.S.C. 4620), and 1369B (12 U.S.C. 4621).

(2) FEDERAL HOME LOAN BANKS.—Section 25 of the Federal Home Loan Bank Act (12 U.S.C. 1445) is amended to read as follows:

SEC. 25. SUCCESSION OF FEDERAL HOME LOAN BANKS.

“Each Federal Home Loan Bank shall have succession until it is voluntarily merged with another Bank under this Act, or until it is merged, reorganized, rehabilitated, liquidated, or otherwise wound up by the Director in accordance with the provisions of section 1367 of the Housing and Community Development Act of 1992, or by further Act of Congress.”.

SEC. 155. CONFORMING AMENDMENTS.

“Title XIII of the Housing and Community Development Act of 1992, as amended by the preceding provisions of this Act, is further amended—

(1) in sections 1365 (12 U.S.C. 4615) through 1369D (12 U.S.C. 4623), but not including section 1367 (12 U.S.C. 4617) as amended by section 154 of this Act—

(A) by striking “An enterprise” each place such term appears and inserting “A regulated entity”;

(B) by striking “an enterprise” each place such term appears and inserting “a regulated entity”; and

(C) by striking “the enterprise” each place such term appears and inserting “the regulated entity”;

(2) in section 1366 (12 U.S.C. 4616)—

(A) in subsection (b)(7), by striking “section 1369 (excluding subsection (a)(1) and (2))” and inserting “section 1367”; and

(B) in subsection (d), by striking “the enterprises” and inserting “the regulated entities”;

(3) in section 1368(d) (12 U.S.C. 4618(d)), by striking “Committee on Banking, Finance and Urban Affairs” and inserting “Committee on Financial Services”;

(4) in section 1369C (12 U.S.C. 4622)—

(A) in subsection (a)(4), by striking “activities (including existing and new programs)” and in-

serting “activities, services, undertakings, and offerings (including existing and new products (as such term is defined in section 1321(f)))”; and

(B) in subsection (c), by striking “any enterprise” and inserting “any regulated entity”; and

(5) in subsections (a) and (d) of section 1369D, by striking “section 1366 or 1367 or action under section 1369” each place such phrase appears and inserting “section 1367”.

Subtitle D—Enforcement Actions

SEC. 161. CEASE-AND-DESIST PROCEEDINGS.

“Section 1371 of the Housing and Community Development Act of 1992 (12 U.S.C. 4631) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

“(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS OF RULES OR LAWS.—If, in the opinion of the Director, a regulated entity or any regulated entity-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the regulated entity or any regulated entity-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of the regulated entity or is violating or has violated, or the Director has reasonable cause to believe that the regulated entity or any regulated entity-affiliated party is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Director in connection with the granting of any application or other request by the regulated entity or any written agreement entered into with the Director, the Director may issue and serve upon the regulated entity or such party a notice of charges in respect thereof. The Director may not, pursuant to this section, enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)), with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)), or with paragraph (5) of section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)).

“(b) ISSUANCE FOR UNSATISFACTORY RATING.—If a regulated entity receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the Director may (if the deficiency is not corrected) deem the regulated entity to be engaging in an unsafe or unsound practice for purposes of this subsection.”.

(2) in subsection (c)(2), by striking “enterprise, executive officer, or director” and inserting “regulated entity or regulated entity-affiliated party”; and

(3) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking “enterprise, executive officer, or director” and inserting “regulated entity or regulated entity-affiliated party”;

(B) in paragraph (1)—

(i) by striking “an executive officer or a director” and inserting “a regulated entity affiliated party”; and

(ii) by inserting “(including reimbursement of compensation under section 1318)” after “reimbursement”;

(C) in paragraph (6), by striking “and” at the end;

(D) by redesignating paragraph (7) as paragraph (8); and

(E) by inserting after paragraph (6) the following new paragraph:

“(7) to effect an attachment on a regulated entity or regulated entity-affiliated party subject to an order under this section or section 1372; and”.

SEC. 162. TEMPORARY CEASE-AND-DESIST PROCEEDINGS.

“Section 1372 of the Housing and Community Development Act of 1992 (12 U.S.C. 4632) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) GROUNDS FOR ISSUANCE.—Whenever the Director determines that the violation or threatened violation or the unsafe or unsound practice or practices specified in the notice of charges served upon the regulated entity or any regulated entity-affiliated party pursuant to section 1371(a), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of the regulated entity, or is likely to weaken the condition of the regulated entity prior to the completion of the proceedings conducted pursuant to sections 1371 and 1373, the Director may issue a temporary order requiring the regulated entity or such party to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order may include any requirement authorized under section 1371(d).”;

(2) in subsection (b), by striking “enterprise, executive officer, or director” and inserting “regulated entity or regulated entity-affiliated party”;

(3) in subsection (d)—

(A) by striking “An enterprise, executive officer, or director” and inserting “A regulated entity or regulated entity-affiliated party”; and

(B) by striking “the enterprise, executive officer, or director” and inserting “the regulated entity or regulated entity-affiliated party”; and

(4) by striking subsection (e) and in inserting the following new subsection:

“(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this section, the Director may apply to the United States District Court for the District of Columbia or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, for an injunction to enforce such order, and, if the court determines that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.”.

SEC. 163. PREJUDGMENT ATTACHMENT.

The Housing and Community Development Act of 1992 is amended by inserting after section 1375 (12 U.S.C. 4635) the following new section:

“SEC. 1375A. PREJUDGMENT ATTACHMENT.

“(a) IN GENERAL.—In any action brought pursuant to this title, or in actions brought in aid of, or to enforce an order in, any administrative or other civil action for money damages, restitution, or civil money penalties brought pursuant to this title, the court may, upon application of the Director or Attorney General, as applicable, issue a restraining order that—

“(1) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

“(2) appoints a person on a temporary basis to administer the restraining order.

“(b) STANDARD.—

“(1) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subsection (a) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

“(2) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to a party’s right to due process as Rule 65 (as modified with respect to such proceeding by paragraph (1)), the relief sought under subsection (a) may be requested under the laws of such State.”.

SEC. 164. ENFORCEMENT AND JURISDICTION.

Section 1375 of the Housing and Community Development Act of 1992 (12 U.S.C. 4635) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) ENFORCEMENT.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, for the enforcement of any effective and outstanding notice or order issued under this subtitle or subtitle B, or request that the Attorney General of the United States bring such an action. Such court shall have jurisdiction and power to order and require compliance with such notice or order.”;

(2) in subsection (b), by striking “or 1376” and inserting “1376, or 1377”.

SEC. 165. CIVIL MONEY PENALTIES.

Section 1376 of the Housing and Community Development Act of 1992 (12 U.S.C. 4636) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “, or any executive officer or director” and inserting “or any regulated-entity affiliated party”; and

(B) in paragraph (1)—

(i) by striking “the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act” and inserting “any provision of any of the authorizing statutes”;

(ii) by striking “or Act” and inserting “or statute”; and

(iii) by striking “or subsection” and inserting “, subsection”; and

(iv) by inserting “, or paragraph (5) or (12) of section 10(j) of the Federal Home Loan Bank Act” before the semicolon at the end;

(2) by striking subsection (b) and inserting the following new subsection:

“(b) AMOUNT OF PENALTY.—

“(1) FIRST TIER.—Any regulated entity which, or any regulated entity-affiliated party who—

“(A) violates any provision of this title, any provision of any of the authorizing statutes, or any order, condition, rule, or regulation under any such title or statute, except that the Director may not, pursuant to this section, enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)), with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)), or with paragraph (5) or (12) of section 10(j) of the Federal Home Loan Bank Act;

“(B) violates any final or temporary order or notice issued pursuant to this title;

“(C) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity; or

“(D) violates any written agreement between the regulated entity and the Director, shall forfeit and pay a civil money penalty of not more than \$10,000 for each day during which such violation continues.

(2) SECOND TIER.—Notwithstanding paragraph (1)—

“(A) if a regulated entity, or a regulated entity-affiliated party—

“(i) commits any violation described in any subparagraph of paragraph (1);

“(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such regulated entity; or

“(iii) breaches any fiduciary duty; and

“(B) the violation, practice, or breach—

“(i) is part of a pattern of misconduct;

“(ii) causes or is likely to cause more than a minimal loss to such regulated entity; or

“(iii) results in pecuniary gain or other benefit to such party,

the regulated entity or regulated entity-affiliated party shall forfeit and pay a civil penalty

of not more than \$50,000 for each day during which such violation, practice, or breach continues.

“(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any regulated entity which, or any regulated entity-affiliated party who—

“(A) knowingly—

“(i) commits any violation or engages in any conduct described in any subparagraph of paragraph (1);

“(ii) engages in any unsafe or unsound practice in conducting the affairs of such regulated entity; or

“(iii) breaches any fiduciary duty; and

“(B) knowingly or recklessly causes a substantial loss to such regulated entity or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

“(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

“(A) in the case of any person other than a regulated entity, an amount not to exceed \$2,000,000; and

“(B) in the case of any regulated entity, \$2,000,000.”;

(3) in subsection (c)(1)(B), by striking “enterprise, executive officer, or director” and inserting “regulated entity or regulated entity-affiliated party”;

(4) in subsection (d), by striking the first sentence and inserting the following: “If a regulated entity or regulated entity-affiliated party fails to comply with an order of the Director imposing a civil money penalty under this section, after the order is no longer subject to review as provided under subsection (c)(1) and section 1374, the Director may, in the discretion of the Director, bring an action in the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, to obtain a monetary judgment against the regulated entity or regulated entity affiliated party and such other relief as may be available, or request that the Attorney General of the United States bring such an action.”; and

(5) in subsection (g), by striking “subsection (b)(3)” and inserting “this section, unless authorized by the Director by rule, regulation, or order”.

SEC. 166. REMOVAL AND PROHIBITION AUTHORITY.

(a) IN GENERAL.—Subtitle C of title XIII of the Housing and Community Development Act of 1992 is amended—

(1) by redesignating sections 1377, 1378, 1379, 1379A, and 1379B (12 U.S.C. 4637-41) as sections 1379, 1379A, 1379B, 1379C, and 1379D, respectively; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following new section:

“SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.

“(a) AUTHORITY TO ISSUE ORDER.—Whenever the Director determines that—

“(1) any regulated entity-affiliated party has, directly or indirectly—

“(A) violated—

“(i) any law or regulation;

“(ii) any cease-and-desist order which has become final;

“(iii) any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity; or

“(iv) any written agreement between such regulated entity and the Director;

“(B) engaged or participated in any unsafe or unsound practice in connection with any regulated entity; or

“(C) committed or engaged in any act, omission, or practice which constitutes a breach of such party’s fiduciary duty;

“(2) by reason of the violation, practice, or breach described in any subparagraph of paragraph (1)—

“(A) such regulated entity has suffered or will probably suffer financial loss or other damage; or

“(B) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

“(3) such violation, practice, or breach—

“(A) involves personal dishonesty on the part of such party; or

“(B) demonstrates willful or continuing disregard by such party for the safety or soundness of such regulated entity, the Director may serve upon such party a written notice of the Director’s intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any regulated entity.

“(b) SUSPENSION ORDER.—

“(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) to any regulated entity-affiliated party of the Director’s intention to issue an order under such subsection, the Director may—

“(A) suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the regulated entity, if the Director—

“(i) determines that such action is necessary for the protection of the regulated entity; and

“(ii) serves such party with written notice of the suspension order; and

“(B) prohibit the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of current or potential value in connection with any resignation, removal, retirement, or other termination of employment or office of the party.

“(2) EFFECTIVE PERIOD.—Any suspension order issued under this subsection—

“(A) shall become effective upon service; and

“(B) unless a court issues a stay of such order under subsection (g) of this section, shall remain in effect and enforceable until—

“(i) the date the Director dismisses the charges contained in the notice served under subsection (a) with respect to such party; or

“(ii) the effective date of an order issued by the Director to such party under subsection (a).

“(3) COPY OF ORDER.—If the Director issues a suspension order under this subsection to any regulated entity-affiliated party, the Director shall serve a copy of such order on any regulated entity with which such party is affiliated at the time such order is issued.

“(c) NOTICE, HEARING, AND ORDER.—A notice of intention to remove a regulated entity-affiliated party from office or to prohibit such party from participating in the conduct of the affairs of a regulated entity shall contain a statement of the facts constituting grounds for such action, and shall fix a time and place at which a hearing will be held on such action. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Director at the request of (1) such party, and for good cause shown, or (2) the Attorney General of the United States. Unless such party shall appear at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Director shall find that any of the grounds specified in such notice have been established, the Director may issue such orders of suspension or removal from office, or prohibition from partici-

pation in the conduct of the affairs of the regulated entity, as it may deem appropriate, together with an order prohibiting compensation described in subsection (b)(1)(B). Any such order shall become effective at the expiration of 30 days after service upon such regulated entity and such party (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

“(d) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

“(1) participate in any manner in the conduct of the affairs of any regulated entity;

“(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any regulated entity;

“(3) violate any voting agreement previously approved by the Director; or

“(4) vote for a director, or serve or act as a regulated entity-affiliated party.

“(e) INDUSTRY-WIDE PROHIBITION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), any person who, pursuant to an order issued under this section, has been removed or suspended from office in a regulated entity or prohibited from participating in the conduct of the affairs of a regulated entity may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of, any regulated entity.

“(2) EXCEPTION IF DIRECTOR PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this section which removes or suspends from office any regulated entity-affiliated party or prohibits such party from participating in the conduct of the affairs of a regulated entity, such party receives the written consent of the Director, the order shall, to the extent of such consent, cease to apply to such party with respect to the regulated entity described in the written consent. If the Director grants such a written consent, it shall publicly disclose such consent.

“(3) VIOLATION OF PARAGRAPH (1) TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order described in such subsection shall be treated as a violation of the order.

“(f) APPLICABILITY.—This section shall only apply to a person who is an individual, unless the Director specifically finds that it should apply to a corporation, firm, or other business enterprise.

“(g) STAY OF SUSPENSION AND PROHIBITION OF REGULATED ENTITY-AFFILIATED PARTY.—Within 10 days after any regulated entity-affiliated party has been suspended from office and/or prohibited from participation in the conduct of the affairs of a regulated entity under this section, such party may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the headquarters of the regulated entity is located, for a stay of such suspension and/or prohibition and any prohibition under subsection (b)(1)(B) pending the completion of the administrative proceedings pursuant to the notice served upon such party under this section, and such court shall have jurisdiction to stay such suspension and/or prohibition.

“(h) SUSPENSION OR REMOVAL OF REGULATED ENTITY-AFFILIATED PARTY CHARGED WITH FELONY.—

“(1) SUSPENSION OR PROHIBITION.—

“(A) IN GENERAL.—Whenever any regulated entity-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Director

may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, by written notice served upon such party—

“(i) suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any regulated entity; and

“(ii) prohibit the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of current or potential value in connection with the period of any such suspension or with any resignation, removal, retirement, or other termination of employment or office of the party.

“(B) PROVISIONS APPLICABLE TO NOTICE.—

“(i) COPY.—A copy of any notice under paragraph (1)(A) shall also be served upon the regulated entity.

“(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Director.

“(2) REMOVAL OR PROHIBITION.—

“(A) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against a regulated entity-affiliated party in connection with a crime described in paragraph (1)(A), at such time as such judgment is not subject to further appellate review, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, issue and serve upon such party an order that—

“(i) removes such party from office or prohibits such party from further participation in any manner in the conduct of the affairs of the regulated entity without the prior written consent of the Director; and

“(ii) prohibits the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of current or potential value in connection with the termination of employment or office of the party.

“(B) PROVISIONS APPLICABLE TO ORDER.—

“(i) COPY.—A copy of any order under paragraph (2)(A) shall also be served upon the regulated entity, whereupon the regulated entity-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such regulated entity.

“(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Director from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in regulated entity affairs, and to prohibit compensation or other payment of money or other thing of current or potential value in connection with any resignation, removal, retirement, or other termination of employment or office of the party, pursuant to subsections (a), (d), or (e) of this section.

“(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this subsection shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (4) unless terminated by the Director.

“(3) AUTHORITY OF REMAINING BOARD MEMBERS.—If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a regulated entity less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a regulated entity are suspended pursuant to this section, the

Director shall appoint persons to serve temporarily as directors in their place and stand pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the regulated entity and their respective successors take office.

(4) HEARING REGARDING CONTINUED PARTICIPATION.—Within 30 days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) or (2) of this subsection, the regulated entity-affiliated party concerned may request in writing an opportunity to appear before the Director to show that the continued service to or participation in the conduct of the affairs of the regulated entity by such party does not, or is not likely to, pose a threat to the interests of the regulated entity or threaten to impair public confidence in the regulated entity. Upon receipt of any such request, the Director shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such party) and place at which such party may appear, personally or through counsel, before one or more members of the Director or designated employees of the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument. Within 60 days of such hearing, the Director shall notify such party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the regulated entity will be continued, terminated, or otherwise modified, or whether the order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity, and prohibiting compensation in connection with termination will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Director's decision, if adverse to such party. The Director is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.

(i) HEARINGS AND JUDICIAL REVIEW.—

(1) VENUE AND PROCEDURE.—Any hearing provided for in this section shall be held in the District of Columbia or in the Federal judicial district in which the headquarters of the regulated entity is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code. After such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2), and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

(2) REVIEW OF ORDER.—Any party to any proceeding under paragraph (1) may obtain a review of any order served pursuant to paragraph (1) (other than an order issued with the consent of the regulated entity or the regulated entity-affiliated party concerned, or an order issued under subsection (h) of this section) by the filing in the United States Court of Appeals for the District of Columbia Circuit or court of appeals of the United States for the circuit in which the headquarters of the regulated entity is located, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of such petition shall

be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall (except as provided in the last sentence of paragraph (1)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

(3) PROCEEDINGS NOT TREATED AS STAY.—The commencement of proceedings for judicial review under paragraph (2) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

(b) CONFORMING AMENDMENTS.—

(1) 1992 ACT.—Section 1317(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 4517(f)) is amended by striking “section 1379B” and inserting “section 1379D”.

(2) FANNIE MAE CHARTER ACT.—The second sentence of subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by striking “The” and inserting “Except to the extent that action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the”.

(3) FREDDIE MAC ACT.—The second sentence of subparagraph (A) of section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended by striking “The” and inserting “Except to the extent that action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the”.

SEC. 167. CRIMINAL PENALTY.

Subtitle C of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4631 et seq.) is amended by inserting after section 1377 (as added by the preceding provisions of this Act) the following new section:

SEC. 1378. CRIMINAL PENALTY.

“Whoever, being subject to an order in effect under section 1377, without the prior written approval of the Director, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of any regulated entity shall, notwithstanding section 3571 of title 18, be fined not more than \$1,000,000, imprisoned for not more than 5 years, or both.”.

SEC. 168. SUBPOENA AUTHORITY.

Section 1379D(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 4641(c)), as so redesignated by section 166(a)(1) of this Act, is further amended—

(1) by striking “request the Attorney General of the United States to” and inserting “, in the discretion of the Director,”; and

(2) by inserting “or request that the Attorney General of the United States bring such an action,” after “District of Columbia,”; and

(3) by striking “or may, under the direction and control of the Attorney General, bring such an action”.

SEC. 169. CONFORMING AMENDMENTS.

Subtitle C of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4631 et seq.), as amended by the preceding provisions of this Act, is amended—

(1) in section 1372(c)(1) (12 U.S.C. 4632(c)), by striking “that enterprise” and inserting “that regulated entity”; and

(2) in section 1379 (12 U.S.C. 4637), as so redesignated by section 166(a)(1) of this Act—

(A) by inserting “, or of a regulated entity-affiliated party,” before “shall not affect”; and

(B) by striking “such director or executive officer” each place such term appears and insert-

ing “such director, executive officer, or regulated entity-affiliated party”;

(3) in section 1379A (12 U.S.C. 4638), as so redesignated by section 166(a)(1) of this Act, by inserting “or against a regulated entity-affiliated party,” before “or impair”;

(4) by striking “An enterprise” each place such term appears in such subtitle and inserting “A regulated entity”;

(5) by striking “an enterprise” each place such term appears in such subtitle and inserting “a regulated entity”;

(6) by striking “the enterprise” each place such term appears in such subtitle and inserting “the regulated entity”; and

(7) by striking “any enterprise” each place such term appears in such subtitle and inserting “any regulated entity”.

Subtitle E—General Provisions

SEC. 181. BOARDS OF ENTERPRISES.

(a) FANNIE MAE.—

(1) IN GENERAL.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) in the first sentence, by striking “eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom” and inserting “13 persons, or such other number that the Director determines appropriate, who”;

(B) in the second sentence, by striking “appointed by the President”;

(C) in the third sentence—

(i) by striking “appointed or”; and

(ii) by striking “, except that any such appointed member may be removed from office by the President for good cause”;

(D) in the fourth sentence, by striking “elective”; and

(E) by striking the fifth sentence.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal National Mortgage Association until the expiration of the annual term for such position during which the effective date under Section 185 occurs.

(b) FREDDIE MAC.—

(1) IN GENERAL.—Section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)) is amended—

(A) in subparagraph (A)—

(i) in the first sentence, by striking “18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom” and inserting “13 persons, or such other number as the Director determines appropriate, who”; and

(ii) in the second sentence, by striking “appointed by the President of the United States”;

(B) in subparagraph (B)—

(i) by striking “such or”; and

(ii) by striking “, except that any appointed member may be removed from office by the President for good cause”; and

(C) in subparagraph (C)—

(i) by striking the first sentence; and

(ii) by striking “elective”.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal Home Loan Mortgage Corporation until the expiration of the annual term for such position during which the effective date under Section 185 occurs.

SEC. 182. REPORT ON PORTFOLIO OPERATIONS, SAFETY AND SOUNDNESS, AND MIS-SION OF ENTERPRISES.

Not later than the expiration of the 12-month period beginning on the effective date under section 185, the Director of the Federal Housing Finance Agency shall submit a report to the Congress which shall include—

(1) a description of the portfolio holdings of the enterprises (as such term is defined in section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) in mortgages

(including whole loans and mortgage-backed securities), non-mortgages, and other assets;

(2) a description of the risk implications for the enterprises of such holdings and the consequent risk management undertaken by the enterprises (including the use of derivatives for hedging purposes), compared with off-balance sheet liabilities of the enterprises (including mortgage-backed securities guaranteed by the enterprises);

(3) an analysis of portfolio holdings for safety and soundness purposes;

(4) an assessment of whether portfolio holdings fulfill the mission purposes of the enterprises under the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act; and

(5) an analysis of the potential systemic risk implications for the enterprises, the housing and capital markets, and the financial system of portfolio holdings, and whether such holdings should be limited or reduced over time.

SEC. 183. CONFORMING AND TECHNICAL AMENDMENTS.

(a) **1992 ACT.**—Title XIII of the Housing and Community Development Act of 1992 is amended by striking section 1383 (12 U.S.C. 1451 note).

(b) **TITLE 18, UNITED STATES CODE.**—Section 1905 of title 18, United States Code, is amended by striking “Office of Federal Housing Enterprise Oversight” and inserting “Federal Housing Finance Agency”.

(c) **FLOOD DISASTER PROTECTION ACT OF 1973.**—Section 102(f)(3)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by striking “Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development”, and inserting “Director of the Federal Housing Finance Agency”.

(d) **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.**—Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by striking subsection (d).

(e) **TITLE 5, UNITED STATES CODE.**—

(1) **DIRECTOR’S PAY RATE.**—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development and inserting the following new item:

“Director of the Federal Housing Finance Agency.”

(2) **EXCLUSION FROM SENIOR EXECUTIVE SERVICE.**—Section 3132(a)(1)(D) of title 5, United States Code, is amended—

(A) by striking “the Federal Housing Finance Board”; and

(B) by striking “the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development” and inserting “the Federal Housing Finance Agency”.

(f) **INSPECTOR GENERAL ACT OF 1978.**—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “Federal Housing Finance Board” and inserting “Federal Housing Finance Agency”.

(g) **FEDERAL DEPOSIT INSURANCE ACT.**—Section 11(t)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)(2)(A)) is amended by adding at the end the following new clause:

“(vii) The Federal Housing Finance Agency.”

(h) **1997 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT.**—Section 10001 of the 1997 Emergency Supplemental Appropriations Act for Recovery From Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those In Bosnia (42 U.S.C. 3548) is amended—

(1) by striking “the Government National Mortgage Association, and the Office of Federal Housing Enterprise Oversight” and inserting “and the Government National Mortgage Association”; and

(2) by striking “, the Government National Mortgage Association, or the Office of Federal Housing Enterprise Oversight” and inserting “or the Government National Mortgage Association”.

(i) **NATIONAL HOMEOWNERSHIP TRUST ACT.**—Section 302(b)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12851(b)(4)) is amended by striking “the chairperson of the Federal Housing Finance Board” and inserting “the Director of the Federal Housing Finance Agency”.

SEC. 184. STUDY OF ALTERNATIVE SECONDARY MARKET SYSTEMS.

(a) **IN GENERAL.**—The Director of the Federal Housing Finance Agency, in consultation with the Board of Governors of the Federal Reserve System, the Secretary of the Treasury, and the Secretary of Housing and Urban Development, shall conduct a comprehensive study of the effects on financial and housing finance markets of alternatives to the current secondary market system for housing finance, taking into consideration changes in the structure of financial and housing finance markets and institutions since the creation of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(b) **CONTENTS.**—The study under this section shall—

(1) include, among the alternatives to the current secondary market system analyzed—

(A) repeal of the chartering Acts for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) establishing bank-like mechanisms for granting new charters for limited purpose mortgage securitization entities;

(C) permitting the Director of the Federal Housing Finance Agency to grant new charters for limited purpose mortgage securitization entities, which shall include analyzing the terms on which such charters should be granted, including whether such charters should be sold, or whether such charters and the charters for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should be taxed or otherwise assessed a monetary price; and

(D) such other alternatives as the Director considers appropriate;

(2) examine all of the issues involved in making the transition to a completely private secondary mortgage market system;

(3) examine the technological advancements the private sector has made in providing liquidity in the secondary mortgage market and how such advancements have affected liquidity in the secondary mortgage market; and

(4) examine how taxpayers would be impacted by each alternative system, including the complete privatization of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(c) **REPORT.**—The Director of the Federal Housing Finance Agency shall submit a report to the Congress on the study not later than the expiration of the 24-month period beginning on the effective date under section 185.

SEC. 185. EFFECTIVE DATE.

Except as specifically provided otherwise in this title, this title shall take effect on and the amendments made by this title shall take effect on, and shall apply beginning on, the expiration of the 6-month period beginning on the date of the enactment of this Act.

TITLE II—FEDERAL HOME LOAN BANKS

SEC. 201. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) by striking paragraphs (1), (10), and (11);

(2) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively;

(3) by redesignating paragraphs (12) and (13) as paragraphs (9) and (10), respectively; and

(4) by adding at the end the following:

“(11) **DIRECTOR.**—The term ‘Director’ means the Director of the Federal Housing Finance Agency.

“(12) **AGENCY.**—The term ‘Agency’ means the Federal Housing Finance Agency.”

SEC. 202. DIRECTORS.

(a) **ELECTION.**—Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **NUMBER; ELECTION; QUALIFICATIONS; CONFLICTS OF INTEREST.**—

“(1) **IN GENERAL.**—The management of each Federal Home Loan Bank shall be vested in a board of 13 directors, or such other number as the Director determines appropriate, each of whom shall be a citizen of the United States. All directors of a Bank who are not independent directors pursuant to paragraph (3) shall be elected by the members.

“(2) **MEMBER DIRECTORS.**—A majority of the directors of each Bank shall be officers or directors of a member of such Bank that is located in the district in which such Bank is located.

“(3) **INDEPENDENT DIRECTORS.**—At least two-fifths of the directors of each Bank shall be independent directors, who shall be appointed by the Director of the Federal Housing Finance Agency from a list of individuals recommended by the Federal Housing Enterprise Board, and shall meet the following criteria:

“(A) **IN GENERAL.**—Each independent director shall be a bona fide resident of the district in which such Bank is located.

“(B) **PUBLIC INTEREST DIRECTORS.**—At least 2 of the independent directors under this paragraph of each Bank shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, community development, economic development, or financial consumer protections.

“(C) **OTHER DIRECTORS.**—

“(i) **QUALIFICATIONS.**—Each independent director that is not a public interest director under subparagraph (B) shall have demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management, or such other knowledge or expertise as the Director may provide by regulation.

“(ii) **CONSULTATION WITH BANKS.**—In appointing other directors to serve on the board of a Federal home loan bank, the Director of the Federal Housing Finance Agency may consult with each Federal home loan bank about the knowledge, skills, and expertise needed to assist the board in better fulfilling its responsibilities.

“(D) **CONFLICTS OF INTEREST.**—Notwithstanding subsection (f)(2), an independent director under this paragraph of a Bank may not, during such director’s term of office, serve as an officer of any Federal Home Loan Bank or as a director or officer of any member of a Bank.

“(E) **COMMUNITY DEMOGRAPHICS.**—In appointing independent directors of a Bank pursuant to this paragraph, the Director shall take into consideration the demographic makeup of the community most served by the Affordable Housing Program of the Bank pursuant to section 10(j).”;

(2) in the first sentence of subsection (b), by striking “elective directorship” and inserting “member directorship established pursuant to subsection (a)(2)”;

(3) in subsection (c)—

(A) by striking “elective” each place such term appears and inserting “member”, except—

(i) in the second sentence, the second place such term appears; and

(ii) each place such term appears in the fifth sentence; and

(B) in the second sentence—

(i) by inserting “(A) except as provided in clause (B) of this sentence,” before “if at any time”; and

(ii) by inserting before the period at the end the following: “, and (B) clause (A) of this sentence shall not apply to the directorships of any Federal home loan bank resulting from the merger of any two or more such banks”; and

(4) by striking “elective” each place such term appears (except in subsections (c), (e), and (f)).

(b) **TERMS.**—

(1) IN GENERAL.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(A) in the first sentence, by striking “3 years” and inserting “4 years”; and

(B) in the second sentence—

(i) by striking “Federal Home Loan Bank System Modernization Act of 1999” and inserting “Federal Housing Finance Reform Act of 2007”; and

(ii) by striking “1/3” and inserting “1/4”.

(2) SAVINGS PROVISION.—The amendments made by paragraph (1) shall not apply to the term of office of any director of a Federal home loan bank who is serving as of the effective date of this title under section 211, including any director elected to fill a vacancy in any such office.

(c) CONTINUED SERVICE OF INDEPENDENT DIRECTORS AFTER EXPIRATION OF TERM.—Section 7(f)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1427(f)(2)) is amended—

(1) in the second sentence, by striking “or the term of such office expires, whichever occurs first”;

(2) by adding at the end the following new sentence: “An independent Bank director may continue to serve as a director after the expiration of the term of such director until a successor is appointed.”;

(3) in the paragraph heading, by striking “APPOINTED” and inserting “INDEPENDENT”; and

(4) by striking “appointive” each place such term appears and inserting “independent”.

(d) CONFORMING AMENDMENTS.—Section 7(f)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1427(f)(3)) is amended—

(1) in the paragraph heading, by striking “ELECTED” and inserting “MEMBER”; and

(2) by striking “elective” each place such term appears in the first and third sentences and inserting “member”.

(e) COMPENSATION.—Subsection (i) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended to read as follows:

“(i) DIRECTORS’ COMPENSATION.—

“(1) IN GENERAL.—Each Federal home loan bank may pay the directors on the board of directors for the bank reasonable and appropriate compensation for the time required of such directors, and reasonable and appropriate expenses incurred by such directors, in connection with service on the board of directors, in accordance with resolutions adopted by the board of directors and subject to the approval of the Director.

“(2) ANNUAL REPORT BY THE BOARD.—The Director shall include, in the annual report submitted to the Congress pursuant to section 1319B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, information regarding the compensation and expenses paid by the Federal home loan banks to the directors on the boards of directors of the banks.”.

(f) TRANSITION RULE.—Any member of the board of directors of a Federal Home Loan Bank serving as of the effective date under section 211 may continue to serve as a member of such board of directors for the remainder of the term of such office as provided in section 7 of the Federal Home Loan Bank Act, as in effect before such effective date.

SEC. 203. FEDERAL HOUSING FINANCE AGENCY OVERSIGHT OF FEDERAL HOME LOAN BANKS.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.), other than in provisions of that Act added or amended otherwise by this Act, is amended—

(1) by striking sections 2A and 2B (12 U.S.C. 1422a, 1422b);

(2) in section 6 (12 U.S.C. 1426(b)(1))—

(A) in subsection (b)(1), in the matter preceding subparagraph (A), by striking “Finance Board approval” and inserting “approval by the Director”; and

(B) in each of subsections (c)(4)(B) and (d)(2), by striking “Finance Board regulations” each

place that term appears and inserting “regulations of the Director”;

(3) in section 8 (12 U.S.C. 1428), in the section heading, by striking “BY THE BOARD”;

(4) in section 10(b) (12 U.S.C. 1430(b)), by striking “by formal resolution”;

(5) in section 10 (12 U.S.C. 1430), by adding at the end the following new subsection:

“(k) MONITORING AND ENFORCING COMPLIANCE WITH AFFORDABLE HOUSING AND COMMUNITY INVESTMENT PROGRAM REQUIREMENTS.—The requirements under subsection (i) and (j) that the Banks establish Community Investment and Affordable Housing Programs, respectively, and contribute to the Affordable Housing Program, shall be enforceable by the Director with respect to the Banks in the same manner and to the same extent as the housing goals under subpart B of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4561 et seq.) are enforceable under section 1336 of such Act with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.”;

(6) in section 11 (12 U.S.C. 1431)—

(A) in subsection (b)—

(i) in the first sentence—

(I) by striking “The Board” and inserting “The Office of Finance, as agent for the Banks”; and

(II) by striking “the Board” and inserting “such Office”; and

(ii) in the second and fourth sentences, by striking “the Board” each place such term appears and inserting “the Office of Finance”;

(B) in subsection (c)—

(i) by striking “the Board” the first place such term appears and inserting “the Office of Finance, as agent for the Banks”; and

(ii) by striking “the Board” the second place such term appears and inserting “such Office”; and

(C) in subsection (f)—

(i) by striking the two commas after “permit” and inserting “or”; and

(ii) by striking the comma after “require”;

(7) in section 15 (12 U.S.C. 1435), by inserting “or the Director” after “the Board”;

(8) in section 18 (12 U.S.C. 1438), by striking subsection (b);

(9) in section 21 (12 U.S.C. 1441)—

(A) in subsection (b)—

(i) in paragraph (5), by striking “Chairperson of the Federal Housing Finance Board” and inserting “Director”; and

(ii) in the heading for paragraph (8), by striking “FEDERAL HOUSING FINANCE BOARD” and inserting “DIRECTOR”; and

(B) in subsection (i), in the heading for paragraph (2), by striking “FEDERAL HOUSING FINANCE BOARD” and inserting “DIRECTOR”;

(10) in section 23 (12 U.S.C. 1443), by striking “Board of Directors of the Federal Housing Finance Board” and inserting “Director”;

(11) by striking “the Board” each place such term appears in such Act (except in section 15 (12 U.S.C. 1435), section 21(f)(2) (12 U.S.C. 1441(f)(2)), subsections (a), (k)(2)(B)(i), and (n)(6)(C)(ii) of section 21A (12 U.S.C. 1441a), subsections (f)(2)(C), and (k)(7)(B)(ii) of section 21B (12 U.S.C. 1441b), and the first two places such term appears in section 22 (12 U.S.C. 1442)) and inserting “the Director”;

(12) by striking “The Board” each place such term appears in such Act (except in sections 7(e) (12 U.S.C. 1427(e)), and 11(b) (12 U.S.C. 1431(b))) and inserting “The Director”;

(13) by striking “the Board’s” each place such term appears in such Act and inserting “the Director’s”;

(14) by striking “The Board’s” each place such term appears in such Act and inserting “The Director’s”;

(15) by striking “the Finance Board” each place such term appears in such Act and inserting “the Director”; and

(16) by striking “Federal Housing Finance Board” each place such term appears and inserting “Director”;

(17) in section 11(i) (12 U.S.C. 1431(i), by striking “the Chairperson of”; and

(18) in section 21(e)(9) (12 U.S.C. 1441(e)(9)), by striking “Chairperson of the”.

SEC. 204. JOINT ACTIVITIES OF BANKS.

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:

“(l) JOINT ACTIVITIES.—Subject to the regulation of the Director, any two or more Federal Home Loan Banks may establish a joint office for the purpose of performing functions for, or providing services to, the Banks on a common or collective basis, or may require that the Office of Finance perform such functions or services, but only if the Banks are otherwise authorized to perform such functions or services individually.”

SEC. 205. SHARING OF INFORMATION BETWEEN FEDERAL HOME LOAN BANKS.

(a) IN GENERAL.—The Federal Home Loan Bank Act is amended by inserting after section 20 (12 U.S.C. 1440) the following new section:

“SEC. 20A. SHARING OF INFORMATION BETWEEN FEDERAL HOME LOAN BANKS.

“(a) REGULATORY AUTHORITY.—The Director shall prescribe such regulations as may be necessary to ensure that each Federal Home Loan Bank has access to information that the Bank needs to determine the nature and extent of its joint and several liability.

“(b) NO WAIVER OF PRIVILEGE.—The Director shall not be deemed to have waived any privilege applicable to any information concerning a Federal Home Loan Bank by transferring, or permitting the transfer of, that information to any other Federal Home Loan Bank for the purpose of enabling the recipient to evaluate the nature and extent of its joint and several liability.”.

“(b) REGULATIONS.—The regulations required under the amendment made by subsection (a) shall be issued in final form not later than 6 months after the effective date under section 211 of this Act.

SEC. 206. REORGANIZATION OF BANKS AND VOLUNTARY MERGER.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended—

(1) by inserting “(a) REORGANIZATION.” before “Whenever”; and

(2) by striking “liquidated or” each place such phrase appears;

(3) by striking “liquidation or”; and

(4) by adding at the end the following new subsection:

“(b) VOLUNTARY MERGERS.—Any two or more Banks may, with the approval of the Director, and the approval of the boards of directors of the Banks involved, merge. The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any such voluntary merger, including the procedures for Bank member approval.”.

SEC. 207. SECURITIES AND EXCHANGE COMMISSION DISCLOSURE.

(a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with—

(1) sections 13(e), 14(a), 14(c), and 17A of the Securities Exchange Act of 1934 and related Commission regulations; and

(2) section 15 of that Act and related Securities and Exchange Commission regulations with respect to transactions in capital stock of the Banks.

(b) MEMBER EXEMPTION.—The members of the Federal Home Loan Banks shall be exempt from compliance with sections 13(d), 13(f), 13(g), 14(d), and 16 of the Securities Exchange Act of 1934 and related Securities and Exchange Commission regulations with respect to their ownership of, or transactions in, capital stock of the Federal Home Loan Banks.

(c) EXEMPTED AND GOVERNMENT SECURITIES.

(1) CAPITAL STOCK.—The capital stock issued by each of the Federal Home Loan Banks under section 6 of the Federal Home Loan Bank Act are—

(A) exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933; and
 (B) “exempted securities” within the meaning of section 3(a)(12)(A) of the Securities Exchange Act of 1934.

(2) OTHER OBLIGATIONS.—The debentures, bonds, and other obligations issued under section 11 of the Federal Home Loan Bank Act are—

(A) exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933;

(B) “government securities” within the meaning of section 3(a)(42) of the Securities Exchange Act of 1934;

(C) excluded from the definition of “government securities broker” within section 3(a)(43) of the Securities Exchange Act of 1934;

(D) excluded from the definition of “government securities dealer” within section 3(a)(44) of the Securities Exchange Act of 1934; and

(E) “government securities” within the meaning of section 2(a)(16) of the Investment Company Act of 1940.

(d) EXEMPTION FROM REPORTING REQUIREMENTS.—The Federal Home Loan Banks shall be exempt from periodic reporting requirements pertaining to—

(1) the disclosure of related party transactions that occur in the ordinary course of business of the Banks with their members; and

(2) the disclosure of unregistered sales of equity securities.

(e) TENDER OFFERS.—The Securities and Exchange Commission’s rules relating to tender offers shall not apply in connection with transactions in capital stock of the Federal Home Loan Banks.

(f) REGULATIONS.—In issuing any final regulations to implement provisions of this section, the Securities and Exchange Commission shall consider the distinctive characteristics of the Federal Home Loan Banks when evaluating the accounting treatment with respect to the payment to Resolution Funding Corporation, the role of the combined financial statements of the twelve Banks, the accounting classification of redeemable capital stock, and the accounting treatment related to the joint and several nature of the obligations of the Banks.

SEC. 208. COMMUNITY FINANCIAL INSTITUTION MEMBERS.

(a) TOTAL ASSET REQUIREMENT.—Paragraph (10) of section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(10)), as so redesignated by section 201(3) of this Act, is amended by striking “\$500,000,000” each place such term appears and inserting “\$1,000,000,000”.

(b) USE OF ADVANCES FOR COMMUNITY DEVELOPMENT ACTIVITIES.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) in paragraph (2)(B)—

(A) by striking “and”; and

(B) by inserting “, and community development activities” before the period at the end;

(2) in paragraph (3)(E), by inserting “or community development activities” after “agriculture”; and

(3) in paragraph (6)—

(A) by striking “and”; and

(B) by inserting “, and ‘community development activities’” before “shall”.

SEC. 209. TECHNICAL AND CONFORMING AMENDMENTS.

(a) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1113(o) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(o)) is amended—

(1) by striking “Federal Housing Finance Board” and inserting “Federal Housing Finance Agency”; and

(2) by striking “Federal Housing Finance Board’s” and inserting “Federal Housing Finance Agency’s”.

(b) RIEGLE COMMUNITY DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994.—Section 117(e) of the Riegle Community Develop-

ment and Regulatory Improvement Act of 1994 (12 U.S.C. 4716(e)) is amended by striking “Federal Housing Finance Board” and inserting “Federal Housing Finance Agency”.

(c) TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by striking “Federal Housing Finance Board” each place such term appears in each of sections 212, 657, 1006, 1014, and inserting “Federal Housing Finance Agency”.

(d) MAHRA ACT OF 1997.—Section 517(b)(4) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking “Federal Housing Finance Board” and inserting “Federal Housing Finance Agency”.

(e) TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking “Federal Housing Finance Board” and inserting “Federal Housing Finance Agency”.

(f) ACCESS TO LOCAL TV ACT OF 2000.—Section 1004(d)(2)(D)(iii) of the Launching Our Communities’ Access to Local Television Act of 2000 (47 U.S.C. 1103(d)(2)(D)(iii)) is amended by striking “Office of Federal Housing Enterprise Oversight, the Federal Housing Finance Board” and inserting “Federal Housing Finance Agency”.

(g) SARBANES-OXLEY ACT OF 2002.—Section 105(b)(5)(B)(ii)(II) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(B)(5)(b)(ii)(II)) is amended by inserting “and the Director of the Federal Housing Finance Agency” after “Commission”.

SEC. 210. STUDY OF AFFORDABLE HOUSING PROGRAM USE FOR LONG-TERM CARE FACILITIES.

The Comptroller General shall conduct a study of the use of affordable housing programs of the Federal home loan banks under section 10(j) of the Federal Home Loan Bank Act to determine how and the extent to which such programs are used to assist long-term care facilities for low- and moderate-income individuals, and the effectiveness and adequacy of such assistance in meeting the needs of affected communities. The study shall examine the applicability of such use to the affordable housing programs required to be established by the enterprises pursuant to the amendment made by section 139 of this Act. The Comptroller General shall submit a report to the Director of the Federal Housing Finance Agency and the Congress regarding the results of the study not later than the expiration of the 1-year period beginning on the date of the enactment of this Act. This section shall take effect on the date of the enactment of this Act.

SEC. 211. EFFECTIVE DATE.

Except as specifically provided otherwise in this title, this title shall take effect on and the amendments made by this title shall take effect on, and shall apply beginning on, the expiration of the 6-month period beginning on the date of the enactment of this Act.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT, FEDERAL HOUSING FINANCE BOARD, AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of Federal Housing Enterprise Oversight

SEC. 301. ABOLISHMENT OF OFHEO.

(a) IN GENERAL.—Effective at the end of the 6-month period beginning on the date of the enactment of this Act, the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the positions of the Director and Deputy Director of such Office are abolished.

(b) DISPOSITION OF AFFAIRS.—During the 6-month period beginning on the date of the enactment of this Act, the Director of the Office of Federal Housing Enterprise Oversight shall, for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight and in addition to carrying out its other responsibilities under law—

(1) manage the employees of such Office 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 pursuant to section 303; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Office.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by title I and the abolishment of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as employees 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 pursuant to section 303.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property of the Office of Federal Housing Enterprise Oversight to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred pursuant to any other provision of this Act or any amendment made by this Act 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 Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall—

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

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) SAVINGS 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 Director of the Office of Federal Housing Enterprise Oversight, or any other person, which—

(A) arises under or pursuant to the title XIII of the Housing and Community Development Act of 1992, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any other provision of law applicable with respect to such Office; and

(B) existed on the day before the abolishment under subsection (a) of this section.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Federal Housing Enterprise Oversight in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance Agency shall be substituted for the Director of the Office of Federal Housing Enterprise Oversight as a party to any such action or proceeding.

SEC. 302. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

All regulations, orders, determinations, and resolutions that—

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

(A) the Office of Federal Housing Enterprise Oversight; or

(B) a court of competent jurisdiction and that relate to functions transferred by this subtitle; and

(2) are in effect on the date of the abolishment under section 301(a) of this Act, shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions,

and shall be enforceable by or against the Director of the Federal Housing Finance Agency until modified, terminated, set aside, or superseded in accordance with applicable law by such Director, as the case may be, any court of competent jurisdiction, or operation of law.

SEC. 303. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.

(a) TRANSFER.—Each employee of the Office of Federal Housing Enterprise Oversight shall be transferred to the Federal Housing Finance Agency for employment no later than the date of the abolishment under section 301(a) of this Act and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of employees occupying positions in the excepted service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the date of the abolishment under section 301(a), that a reorganization of the combined work force is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Director of the Federal Housing Finance Agency as a result of a transfer under subsection (a) may retain for 12 months after the date such transfer occurs membership in any employee benefit program of the Federal Housing Finance Agency or the Office of Federal Housing Enterprise Oversight, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 301(a) if—

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

(2) the benefit or program is continued by the Director of the Federal Housing Finance Agency,

The difference in the costs between the benefits which would have been provided by such agency and those provided by this section shall be paid by the Director of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

SEC. 304. TRANSFER OF PROPERTY AND FACILITIES.

Upon the abolishment under section 301(a), all property of the Office of Federal Housing Enter-

prise Oversight shall transfer to the Director of the Federal Housing Finance Agency.

Subtitle B—Federal Housing Finance Board

SEC. 321. ABOLISHMENT OF THE FEDERAL HOUSING FINANCE BOARD.

(a) IN GENERAL.—Effective at the end of the 6-month period beginning on the date of enactment of this Act, the Federal Housing Finance Board (in this title referred to as the ‘‘Board’’) is abolished.

(b) DISPOSITION OF AFFAIRS.—During the 6-month period beginning on the date of enactment of this Act, the Board, for the purpose of winding up the affairs of the Board and in addition to carrying out its other responsibilities under law—

(1) shall manage the employees of such Board 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 323; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Board.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by titles I and II and the abolishment of the Board under subsection (a) may not be construed to affect the status of any employee of such Board as employees 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 323.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property of the Board to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Act 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 Board before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall—

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

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) SAVINGS 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, a member of the Board, or any other person, which—

(A) arises under the Federal Home Loan Bank Act or any other provision of law applicable with respect to such Board; and

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

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Board in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance Agency shall be substituted for the Board or any member thereof as a party to any such action or proceeding.

SEC. 322. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) IN GENERAL.—All regulations, orders, determinations, and resolutions described under subsection (b) shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director of the Federal Housing Finance Agency until modified, terminated,

set aside, or superseded in accordance with applicable law by such Director, any court of competent jurisdiction, or operation of law.

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

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

(A) the Board; or

(B) a court of competent jurisdiction and relates to functions transferred by this subtitle; and

(2) is in effect on the effective date of the abolishment under section 321(a).

SEC. 323. TRANSFER AND RIGHTS OF EMPLOYEES OF THE FEDERAL HOUSING FINANCE BOARD.

(a) TRANSFER.—Each employee of the Board shall be transferred to the Federal Housing Finance Agency for employment not later than the effective date of the abolishment under section 321(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of employees occupying positions 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 positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policymaking, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 321(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Board accepting employment with the Federal Housing Finance Agency 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 Federal Housing Finance Agency or the Board, as applicable, including insurance, to which such employee belongs on the effective date of the abolishment under section 321(a) 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 Director of the Federal Housing Finance Agency.

(2) COST DIFFERENTIAL.—The difference in the costs between the benefits which would have been provided by the Board and those provided by this section shall be paid by the Director of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director,

the employee shall be permitted to select an alternate Federal health insurance program within 30 days after such election or notice, without regard to any other regularly scheduled open season.

SEC. 324. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of the abolishment under section 321(a), all property of the Board shall transfer to the Director of the Federal Housing Finance Agency.

Subtitle C—Department of Housing and Urban Development

SEC. 341. TERMINATION OF ENTERPRISE-RELATED FUNCTIONS.

(a) TERMINATION DATE.—For purposes of this subtitle, the term “termination date” means the date that occurs 6 months after the date of the enactment of this Act.

(b) DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.—

(1) IN GENERAL.—Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Secretary, in consultation with the Director of the Office of Federal Housing Enterprise Oversight, shall determine—

(A) the functions, duties, and activities of the Secretary of Housing and Urban Development regarding oversight or regulation of the enterprises under or pursuant to the authorizing statutes, title XIII of the Housing and Community Development Act of 1992, and any other provisions of law, as in effect before the date of the enactment of this Act, but not including any such functions, duties, and activities of the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and such Office; and

(B) the employees of the Department of Housing and Urban Development necessary to perform such functions, duties, and activities.

(2) ENTERPRISE-RELATED FUNCTIONS.—For purposes of this subtitle, the term “enterprise-related functions of the Department” means the functions, duties, and activities of the Department of Housing and Urban Development determined under paragraph (1)(A).

(3) ENTERPRISE-RELATED EMPLOYEES.—For purposes of this subtitle, the term “enterprise-related employees of the Department” means the employees of the Department of Housing and Urban Development determined under paragraph (1)(B).

(c) DISPOSITION OF AFFAIRS.—During the 6-month period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development (in this title referred to as the “Secretary”), for the purpose of winding up the affairs of the Secretary regarding the enterprise-related functions of the Department of Housing and Urban Development (in this title referred to as the “Department”) and in addition to carrying out the Secretary’s other responsibilities under law regarding such functions—

(1) shall manage the enterprise-related employees of the Department and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of any such employee under section 343; and

(2) may take any other action necessary for the purpose of winding up the enterprise-related functions of the Department.

(d) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by titles I and II and the termination of the enterprise-related functions of the Department under subsection (b) may not be construed to affect the status of any employee of the Department as employees 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 343.

(e) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property

of the Secretary to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Act 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 Secretary regarding enterprise-related functions of the Department before the termination date under subsection (a) in connection with such functions that are transferred to the Director of the Federal Housing Finance Agency shall—

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

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(f) SAVINGS 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, or any other person, which—

(A) arises under the authorizing statutes, title XIII of the Housing and Community Development Act of 1992, or any other provision of law applicable with respect to the Secretary, in connection with the enterprise-related functions of the Department; and

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

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Secretary in connection with the enterprise-related functions of the Department shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance Agency shall be substituted for the Secretary or any member thereof as a party to any such action or proceeding.

SEC. 342. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

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

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

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

(A) the Secretary; or

(B) a court of competent jurisdiction and that relate to the enterprise-related functions of the Department; and

(2) is in effect on the termination date under section 341(a).

SEC. 343. TRANSFER AND RIGHTS OF EMPLOYEES OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) TRANSFER.—

(1) IN GENERAL.—Except as provided in paragraph (2), each enterprise-related employee of the Department shall be transferred to the Federal Housing Finance Agency for employment not later than the termination date under section 341(a) and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(2) AUTHORITY TO DECLINE.—An enterprise-related employee of the Department may, in the discretion of the employee, decline transfer under paragraph (1) to a position in the Federal Housing Finance Agency and shall be guaranteed a position in the Department with the same

status, tenure, grade, and pay as that held on the day immediately preceding the date that such declination was made. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date that the transfer would otherwise have occurred, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(b) GUARANTEED POSITIONS.—Each enterprise-related employee of the Department transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of employees occupying positions 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 positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policymaking, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the termination date under section 341(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any enterprise-related employee of the Department accepting employment with the Federal Housing Finance Agency 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 Federal Housing Finance Agency or the Department, as applicable, including insurance, to which such employee belongs on the termination date under section 341(a) 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 Director of the Federal Housing Finance Agency.

(2) COST DIFFERENTIAL.—The difference in the costs between the benefits which would have been provided by the Department and those provided by this section shall be paid by the Director of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternate Federal health insurance program within 30 days after such election or notice, without regard to any other regularly scheduled open season.

SEC. 344. TRANSFER OF APPROPRIATIONS, PROPERTY, AND FACILITIES.

Upon the termination date under section 341(a), all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other

funds employed, held, used, arising from, available to, or to be made available to the Department in connection with enterprise-related functions of the Department shall transfer to the Director of the Federal Housing Finance Agency. Unexpended funds transferred by this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

AMENDMENT NO. 12 OFFERED BY MR. BACHUS

Mr. BACHUS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. BACHUS: Page 94, strike lines 8 and 9.

Page 98, strike "helpful" in line 20 and all that follows through line 22, and insert "for".

Strike line 4 on page 127 and all that follows through line 7 on page 156.

Page 156, lines 11 and 12, strike "adding after section 1337, as added by section 139 of this Act," and insert "striking sections 1337 and 1338 and inserting".

Page 156, line 14, strike "SEC. 1338." and insert "SEC. 1337."

Page 261, line 17, strike "or 1337".

Page 268, line 10, strike "or 1337".

Page 318, strike "The study" in line 17 and all that follows through "this Act." in line 20.

Mr. BACHUS. Mr. Chairman, I yield to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Before I begin my general statement, if I could, I would like to engage Chairman FRANK and thank him for agreeing to engage in a colloquy on the receivership provision of the legislation.

Chairman FRANK, with your consent, with your consent I would like to introduce into the RECORD a statement that has been agreed to by your staff and by my staff, and I look forward to working on these issues going forward with you, and I would just yield to you for your affirmation.

Mr. FRANK of Massachusetts. I thank the gentleman. First of all, let me say, given that our staffs have worked this out, it would be a good thing for neither one of us to mess it up. I have read it over. It does correctly reinforce the point this is not creating any new governmental involvement. We don't want anyone to misinterpret this.

This is not to increase regulation, not to increase any kind of entitlement or entanglement. I thank the gentleman for this initiative. I very much agree this ought to go on the RECORD as something that is universally agreed to in the Congress.

Mr. ROYCE. Reclaiming my time, Mr. Chairman, I rise today to express my opposition to H.R. 1427.

H.R. 1427 is supposed to be legislation to reform oversight of the Nation's 14 housing government-sponsored enterprises. That would be our two GSEs, Fannie Mae, Freddie Mac and 12 Federal Home Loan Banks.

Over the past number of years, I have worked very hard to reform legislation of these GSEs. I believe better over-

sight is needed to protect our Nation's housing sector from disruption should one of the GSEs face financial difficulty.

I am disappointed that I will not be able to support the bill authored by our committee's chairman. However, to be fair, I do acknowledge that the chairman has added a number of positive provisions to this year's bill. And I would also like to thank the chairman for his willingness to work on improving the section on receivership.

Improvements aside, I am deeply troubled that legislation intended to improve the safety and soundness of the GSEs has become a vehicle to redistribute wealth. The Affordable Housing Fund in this bill unnecessarily confiscates money from the mortgage market. I adamantly oppose the creation of an Affordable Housing Fund today, as I have since its inception.

In 2005, I was the first Member of Congress to offer an amendment in a Financial Services Committee to strike the reform from GSE legislation. Since then, I have continuously and consistently opposed the housing fund in any form, shape or size. As I said over 2 years ago, the creation of this fund is an experiment in socialism, and anyone supporting its adoption is attempting to countermand the basic principles of free markets and limited government.

With that expression, I will yield back to the ranking member.

Mr. BACHUS. I thank the gentleman from California.

Mr. Chairman, I said earlier in the debate, we do not need another housing program. If we determine that the 90 some-odd housing programs are not being effective in addressing the needs of low-income and middle-income Americans, then we need to first reform those programs.

But, in passing legislation to strengthen the financial stability of our GSEs, we do not need at the same time to impose a \$3 billion cost on them. Those are opposing actions.

If we are to do it, we certainly don't need to do what we are doing in this bill, and that's impose it on those who depend on Freddie and Fannie. Those are low- and middle-income American homeowners. In fact, regrettably, that's what we do in this fund. While we do a lot of great things, we do that.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

I appreciate the gentleman for offering this. This is the central question we will be debating today, and I realize we are going to be debating it in a number of forums, I hope not all 17 that are offered, but several.

There was a legitimate question here. I have to say I do want to defend my friend, the gentleman from Alabama, from my friend, the gentleman from California, who said that anybody who would support such an idea is advocating socialism. I do not think the gentleman from Alabama was advo-

cating socialism when he joined 208 other Republicans in voting for the Housing Trust Fund 2 years ago. I think that's a little bit excessive.

We have, I think, some economic disputes here. First of all, the notion that all of this money, \$500 million, roughly 5 percent of the profits of the two institutions together, the notion that all of it will be passed along to the people who take out the mortgages, the banks and everybody else, incorrectly assumes that Fannie Mae and Freddie Mac have a degree of pricing power that virtually allows them to set prices however they wish.

In fact, there was a time when they had a very large share of the market, and might have had such monopoly power. They no longer do. There is economic competition. Fannie Mae and Freddie Mac are not the only games in town. The notion that this will all get passed along and none of it go to the shareholders is faulty economics.

In fact, this will come out of the profits of these institutions, and it will, I believe, reduce the return of the shareholders. Now, I think that's legitimate. These are institutions that receive significant benefits because of various Federal laws and the way those laws are interpreted by the market.

We say that they shouldn't keep all of the benefits. By the way, those who believe this ought not just to be opposing the Affordable Housing Fund. We have long had goals of, affordable housing goals, which dictate to Fannie Mae and Freddie Mac that they must buy certain kinds of loans rather than others. We have got that to the point where they have to give preference to people whose incomes are at 80 percent and medium and below. That also impinges upon the profitability of Fannie Mae.

In other words, the argument is that anything that impinges on the argument of Fannie and Freddie will automatically be passed along to the home buyers. I think that's faulty economics. But if you think that's true, then why are you supporting, I would ask the Members on the other side, the housing goals.

Why would Members be voting for the amendment offered by the gentleman from New Jersey, which would severely restrict the portfolio? Eighty-five percent of the profits of Fannie Mae are being made on the portfolio. Now many on the administration and many on the other side want to severely restrict the portfolio, reduce it or say they can only be used for the lowest income mortgages.

That amendment, which many on the other side apparently plan to vote for, would have a far more serious impact on the profitability of Fannie Mae and Freddie Mac than on this housing fund by 8, 10 times as much. It is simply inconsistent to argue that you cannot impinge on the profitability of Fannie Mae and Freddie Mac without hurting the average mortgage buyer, and then

be for this much more significant impact on the profitability, and the economics are the same.

The argument is no direct pass-through here. The argument is that if you impinge on that profitability, they will raise their prices. First of all, the answer is, of course, they wish. They wish they had that kind of pricing power. I don't think they do.

To the extent that there is some impact, it will be far more greatly achieved if the amendment were to be adopted by the gentleman from New Jersey and other efforts to restrict the portfolio.

The gentleman from Alabama also said we have all these other housing programs. No. We do not have enough programs currently being funded that build affordable housing for families. We have 202 for the elderly. We have 811 for the disabled, both of which the administration has tried to cut back.

We are not building public housing. We have the voucher program. The voucher program, on an annual basis, adds to the demand for housing in a way that does not increase supply. There is not now a generally funded affordable housing construction program for families, for working people.

So the notion, and I would challenge Members who say there is duplication, show me which program this duplicates. It doesn't restrict it to the elderly and the disabled. It is a general family affordable housing program. That's what we think we should get into. It does it without taking money from the general Treasury. It pays for itself.

Finally, people have said, well, how is it going to be spent? We made this point very clear.

In the first year, it will go to Mississippi and Louisiana State authorities. Subsequently, none of it will be spent until a second bill passes this House and the Senate, and we will collectively decide how to spend it. I know there are people who think the Federal Government should provide affordable housing. That's the only argument for this amendment.

Mr. PRICE of Georgia. Mr. Chairman, I move to strike the requisite number of words, and I yield to my good friend from Alabama.

Mr. BACHUS. I thank the gentleman from Georgia and I thank the chairman.

I would like to briefly respond to two things that the chairman said. But before I do, I would like to acknowledge and thank the chairman. He said, in voting against this bill 2 years ago, I was not promoting and voting for it, I was not promoting socialism. Let me also acknowledge that 2 years ago, when the chairman voted for this bill, he was not opposing socialism. So, I think we both acknowledge that I was not promoting socialism, and you certainly weren't opposing socialism, nor are you today.

Now, the chairman has said that this isn't going to cost anything. It's out of the profits. It's not going to come from

homeowners, it's not going to come from Fannie Mae, it's not going to come from Freddie Mac.

Mr. FRANK of Massachusetts. Would the gentleman yield?

Mr. BACHUS. Yes.

Mr. FRANK of Massachusetts. I said it would come from the shareholders. I didn't say it wouldn't come from Fannie Mae or Freddie Mac.

Mr. BACHUS. Oh, it would come from shareholders.

Mr. FRANK of Massachusetts. Yes.

Mr. PRICE of Georgia. Reclaiming my time.

I yield to the gentleman from Alabama.

Mr. BACHUS. Let me say this, the shareholders, that's the profits of the company, and the profits have to be generated somewhere. This idea that it doesn't cost anybody anything, and there is not a cost to the customers of the corporations, who are homeowners, it would be, indeed, a historic moment in this body if we passed legislation that cost billions of dollars, but it didn't cost anybody anything.

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It would probably be the first time in the history of this universe. And if it does happen, we should pause, because we will have figured out basically how to defy the principles of mathematics and economics.

Third, the chairman mentioned Katrina, and I mentioned Katrina earlier in this debate, and let me point out, and I think this is probably conclusive evidence of why we do not need to pass a \$3 billion additional housing fund.

The chairman correctly said that we passed this bill before, and I voted for it and it had money in there for Katrina. Well, this bill creates \$3 billion, much of which will go to Katrina. Well, it was only 2 months ago that we appropriated \$3 billion for Katrina. That is the \$3 billion that we voted for; and there is no reason to pass legislation, which actually passed this body, went to the President and passed appropriating \$3 billion, and here we come appropriating another \$3 billion.

So I will continue to say we determined we needed \$3 billion when I voted for this bill before, and I stand by that. We didn't need \$6 billion, we needed \$3 billion. That is why we voted for \$3 billion. That is why 2 months ago we said this is what it will cost.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Do we not go back and forth between the parties in recognition?

The CHAIRMAN. The Chair accords priority to members of the committee.

Mr. FRANK of Massachusetts. Without regard to party? The gentleman from Colorado is a member of the committee.

The CHAIRMAN. The Chairman did not see the gentleman from Colorado standing at the time he recognized the gentlewoman from Illinois.

The Chair will go to the gentlewoman from Illinois, and that will be followed by the gentleman from Colorado. So there is an understanding, the Chair intends to recognize members of the committee first in the order in which they are standing, regardless of which side of the aisle they may come from.

Mrs. BIGGERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment to strike the Affordable Housing Fund.

I think the reason that we are having so much trouble talking about this, I know that in our March 15 hearing we urged the chairman if we could spend some time working this out prior to coming to the floor, and obviously that hasn't happened. But I think, because of all the questions, because we haven't had a hearing on this and we don't know what the national fund is; and he keeps saying we have got an Affordable Housing Fund now.

It is estimated by CBO that it is going to be \$3 billion over a 5-year period. If that is 1.2 basis points, then it will be the \$3 billion. But there is still no dollar limit as to how large the fund can become. Where will the money for the fund ultimately come from? We don't know, talking about is it going to be from lower and middle Americans, or is it going to be from shareholders?

But I think these are all things that need to be considered before we have the fund. And I know it is, "Trust me. We are going to have a national fund and we will figure out how it is going to work." But I think that, in this day and age, that we really need to give the regulator some idea of what their job is.

I agree with so much of this bill. I think it is a shame. I voted for the bill last time, and I was very proud to do that. A lot of people didn't vote for the bill. And suddenly, most of the bill that was in that bill is now in this bill.

But unlike last year's legislation, I think this bill has included in this provision that doesn't permit the regulator to focus on the very important duties in this bill, and rather to have this Affordable Housing Trust Fund I think it is too bad. The new regulator has the duty to write those regulations and then administer an Affordable Housing Grant Fund program from day one, when we don't know what this national trust fund is going to end up being. I don't think that this is an appropriate time to do it.

So I urge that we would strike the Affordable Housing Trust Fund from this bill, and would urge support of that amendment.

Mr. PERLMUTTER. Mr. Chairman, I move to strike the last word, and I yield to Mr. FRANK from Massachusetts.