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HIGHLIGHTS

This issue contains detailed information on the following:

- Six Federal Agencies Propose New Qualified Residential Mortgage Standards, including:
  - Increased Degrees of Flexibility for Meeting Risk Retention Requirements
  - QRM Equals QM
  - Possible Alternative QRM Approach

In addition, it summarizes other notable legislative, regulatory, and judicial developments that occurred during the second quarter of 2013.

Six Federal Agencies Propose New Qualified Residential Mortgage Standards

On August 28, 2013, six federal agencies proposed a new Qualified Residential Mortgage (QRM) rule that would revise a proposed rule requiring sponsors of securitization transactions to retain an exposure to risk in those transactions. These six federal agencies, which are the Board of Governors of the Federal Reserve System, the Department of Housing and Urban Development, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission, jointly issued the new proposal in response to comments from their first risk retention rule proposed in March 2011.[1]

The joint proposed rule still implements the credit risk retention requirements of Section 15G of the Securities Exchange Act of 1934, as added by Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 15G generally requires the securitizer of asset-backed securities to retain at least 5 percent of the credit risk of the assets collateralizing the asset-backed securities, but Section 15G also includes exemptions from these requirements, such as an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as QRMs. The new joint QRM rule lowers the standards for which residential mortgages can qualify as QRMs while increasing the degrees of flexibility for securitizers to meet risk retention requirements should their home loans not qualify as QRMs.

[1] For more information on the six agencies' original QRM rule from March 2011, see *Banking Legislation & Policy*, Volume 30, Number 1.

Increased Degrees of Flexibility for Meeting Risk Retention Requirements

The new proposed rule would provide asset-backed securities sponsors with several options to satisfy the risk retention requirements. Originally, the first proposal would measure compliance with the risk retention requirements based on the par value of securities issued in a securitization transaction. Sponsors would be allowed to select the following: a vertical risk retention option, a horizontal risk retention option, or an L-shaped risk retention option to satisfy the risk retention requirements. The vertical risk retention requirement would mandate that a sponsor retain at least 5 percent of each class of asset-backed securities issued; the horizontal risk retention requirement would mandate that a sponsor retain a first-loss residual interest of at least 5 percent of the par value of all asset-backed securities interests issued in the transaction. The L-shaped risk retention option would allow a sponsor to split risk retention equally between the vertical and horizontal approaches.

Now, the six agencies propose to measure compliance with the risk retention requirements generally based on fair value measurements of the securities issued in a securitization transaction. While the agencies' original use of par value sought to establish a simple and transparent measure of valuing asset-backed securities, the agencies' use of fair value instead aims to provide a consistent framework for calculating standard risk retention across very different securitization transactions and different classes of interests within the same type of securitization structure. In addition, the six agencies propose to combine the vertical, horizontal, and L-shaped risk retention options into a single risk retention option with a flexible structure. So long as a sponsor retains at least 5 percent of asset-backed securities interests involved in the transaction, a sponsor has greater flexibility to structure its retention of credit risk in a manner compatible with the practices of the securitization markets.

The original proposal also required a sponsor to establish and fund a premium capture cash reserve account that would cover losses on underlying assets before any other interest, including a horizontal interest or horizontal cash reserve account. However, under the new proposal, the six agencies have decided to no longer include a premium capture cash reserve account provision. The agencies believe that the use of fair value to measure the amount of risk retention held by sponsors should mitigate the ability of sponsors to evade the risk retention requirement through the use of deal structures.

Both Fannie Mae and Freddie Mac, while in conservatorship or receivership and have capital support from the U.S. government, will remain exempt from any risk retention requirements under the new proposed rule. Similar to the original proposal, the full guarantee on payments of principal and interest provided by Fannie Mae and Freddie Mac for their residential mortgage-backed securities satisfy the risk retention requirements of the new proposed rule.

In addition, securitizations of commercial loans, commercial mortgages, or automobile loans of low credit risk would not be subject to any risk retention requirements. Because securitized vehicles composed of commercial loans or commercial real estate loans are so heterogeneous — unlike those for residential mortgage-backed securities — the extra costs of creating underwriting standards for every major type of business in every economic cycle would be too great.

QRM Equals QM

In the greatest change between the original and the new proposed rules for risk retention requirements, the six federal agencies have defined QRMs the same as the Consumer Finance Protection Bureau (CFPB) has defined qualified mortgages (QMs).[2] The CFPB finalized its QM definition under its ability-to-repay rule in January 2013, which set underwriting standards for mortgage lenders to ensure that mortgage borrowers would be issued mortgages they would be able to repay.

Therefore, under the new proposed rule, a QRM would require a mortgage borrower to have a debt-to-income (DTI) ratio of no more than 43 percent. Also, mortgage loans with negative amortization, interest-only payments, balloon payments, or lifetimes greater than 30 years could not qualify as QRMs. Under the original proposed rule, a QRM would require a 20 percent down payment from a mortgage borrower, as well as a maximum debt-to-income ratio of 36 percent.

Possible Alternative QRM Approach

The new proposed rule also requested comment on an alternative definition of QRM that the six federal agencies have rejected for the time being. Known as QRM-plus, this alternative definition would begin with the core QM criteria adopted by the CFPB, but it would include certain additional underwriting standards. Most noteworthy, QRM-plus would require a 30 percent down payment from the borrower for a mortgage loan to qualify as a QRM. QRM-plus would also require all loans to be first-lien mortgages, secured by one-to-four family real properties that constitute the principle dwelling of the borrower, and for borrowers with a good credit history.

[2] For more information on the CFPB's QM rule, see *Banking Legislation & Policy*, Volume 32, Number 1.

Federal Regulation

Consumer Finance Protection Bureau

CFPB Finalizes April Clarifications to Improve Customer Protections in Qualified Mortgages and Mortgage Servicing

On July 10, 2013, the Consumer Finance Protection Bureau (CFPB) finalized corrections, clarifications, and amendments to its ability-to-repay and mortgage servicing rules from January 2013.[3] The clarifications, first proposed in April 2013, come in response to compliance questions raised by mortgage lenders and servicers.

The new rule clarifies how mortgage lenders can determine a borrower's debt-to-income (DTI) ratio. The CFPB's ability-to-repay rule stipulates that a borrower's DTI ratio cannot exceed 43 percent to qualify as a qualified mortgage (QM) loan. The new rule amends the way several factors, such as a borrower's employment record and income or a borrower's income from Social Security or rental properties, can be used to calculate a borrower's DTI ratio.

The CFPB also clarified its small mortgage servicer requirements. The CFPB's tougher mortgage servicing requirements from January included an exemption from some requirements for small servicers. The new rule states which mortgage loans will be considered in determining whether a mortgage servicer qualifies as small. For example, loans serviced on a charitable basis will not be included in making such a determination.

Furthermore, the new rule clarifies what standards a loan must meet if the creditor is underwriting a mortgage loan based on government-sponsored enterprise or agency standards. The new rule also establishes that the CFPB's Real Estate Settlement Procedures Act (RESPA) does not preempt the field of possible mortgage servicing regulation by states. State laws that are inconsistent with RESPA are preempted to the extent of the inconsistency, but RESPA will not annul or affect any other mortgage servicing regulations issued by states.

CFPB Finalizes Modifications to Resolve Implementation Issues with January 2013 Mortgage Rules

On September 13, 2013, the CFPB finalized amendments and clarifications to its January 2013 mortgage rules with a stated goal of helping the mortgage industry comply and to better protect its borrowers. The changes, first proposed in June 2013, respond to questions raised during the implementation process.

The new rule clarifies which mortgage servicer activities are prohibited in the first 120 days of delinquency. Now, mortgage servicers will be allowed to send certain early delinquency notices required under state law that may provide beneficial information about legal aid, counseling, or other resources to borrowers. The new rule also outlines procedures for obtaining follow-up information on loss-mitigation applications should mortgage servicers fail to identify and inform a borrower that certain information is missing from a borrower's loss mitigation application.

The CFPB clarified the best practices for informing borrowers about the address for error resolution documents and facilitated mortgage servicers' offering of short-term forbearance plans for delinquent borrowers who need only temporary relief. The new rule clarifies the financing of credit insurance premiums

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[3] For more information on the CFPB's ability-to-repay and mortgage servicing rules, see *Banking Legislation & Policy*, Volume 32, Number 1.

as well as the definition for a loan originator. In addition, the new rule updates the points and fees thresholds and loan originator compensation rules for manufactured housing employees, and it changes the effective date of many loan originator compensation rule provisions from January 10, 2014 to January 1, 2014.

Lastly, the CFPB has agreed to reexamine its definition of "rural" and "underserved" areas applicable to certain small creditors. Concerned that its definition of rural and underserved might exclude too many small creditors from exemptions for stricter mortgage servicing requirements, the CFPB has exempted all small lenders from a new ban on high-cost mortgages featuring balloon payments as long as the mortgage loans meet certain restrictions specified in the CFPB's ability-to-repay rule.

Federal Reserve System

U.S. District Court Strikes Down Portions of Federal Reserve's Regulations of Interchange Fees on Debit Transactions; Fed Moves to Appeal Ruling

On July 31, 2013, a U.S. District Court judge in Washington, D.C., invalidated portions of a Federal Reserve regulation that regulated interchange fees on debit transactions. The Federal Reserve created this regulation in June 2011, which created a cap on debit card interchange fees, prohibited network exclusivity arrangements, and limited routing restrictions as part of the Dodd-Frank Act.[4]

In his decision, U.S. District Court Judge Richard J. Leon argued that the Federal Reserve exceeded its authority granted under the Durbin Amendment of the Dodd-Frank Act, which requires that merchants have a choice of networks for routing transactions. Specifically, the judge ruled that Dodd-Frank requires merchants to be provided with a choice between multiple, unaffiliated networks for each transaction as opposed to a choice of two or more unaffiliated networks on each debit card. So, according to the judge and contrary to the Board's interpretation of the law, the Dodd-Frank Act does not permit a situation in which a merchant has only one network for PIN transactions and another network for signature transactions. The judge also stated that Congress had a clear intent to separate costs that must be included in the interchange transaction fee standard and "other costs" that must be excluded when creating the Durbin Amendment. Therefore, only incremental costs of individual transactions incurred by issuers for the purposes of authorization, clearing, and settlement could be considered by the Federal Reserve in determining the fee cap. The judge ruled that fixed costs, notably fixed authorization, clearing, and settlement costs could not be included. Furthermore, allowances for fraud losses should not have been included. Finally, the judge ruled that network processing fees should not be included because, according to the statute, the fees should cover only issuer costs and not network costs.

On August 21, 2013, the Federal Reserve decided to appeal Judge Leon's decision to the D.C. Circuit Court. In the meantime, Judge Leon has granted a stay on his July decision until the D.C. Circuit Court decides whether the Federal Reserve will have to rewrite its regulation of interchange fees on debit transactions. As a result, the Federal Reserve regulation and current interchange fees will remain in place.

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[4] For more information on the 2011 Federal Reserve debit interchange fee regulation, see *Banking Legislation & Policy, Volume 30, Number 2*.

Fed Releases Interim Final Rules Clarifying How Companies Should Incorporate Basel III Reforms into Capital and Business Projections

On September 24, 2013, the Federal Reserve published two interim final rules regarding how bank holding companies should incorporate Basel III regulatory capital reforms into their capital and business projections during the next cycle of capital plan submissions and stress tests. At the beginning of July 2013, the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) finalized heightened capital standards on U.S. banks consistent with Basel III standards and with changes as required by the Dodd-Frank Act.[5] While the interim final rules are effective immediately, the Federal Reserve will accept comments on the rules through November 25, 2013, after which the Federal Reserve could revise the rules.

The first interim final rule clarifies that bank holding companies with total consolidated assets greater than or equal to $50 billion must incorporate the revised Basel III capital standards for U.S. banks into their next capital planning and stress testing cycles. The first rule also clarifies that capital adequacy at large banking organizations would continue to be assessed against a minimum 5 percent tier 1 common ratio calculated in the same manner as under previous stress tests and capital plan submissions.

The second interim final rule allows banking organizations with between $10 billion and $50 billion in total consolidated assets to have one year of transition time to incorporate the new U.S. Basel III capital standards into their capital planning and stress test projections. These particular banking organizations will not have to use the advanced approaches in the Basel III capital rules to calculate their projected risk-weighted assets for the next testing cycle to allow time to adjust their internal systems to the revised capital framework.

Regulators Issue Proposal to Exempt Subset of Higher-Priced Mortgage Loans from Appraisal Requirements

On July 10, 2013, six federal financial regulatory agencies issued a proposal that would create exemptions from certain appraisal requirements for a subset of higher-priced mortgage loans. The six federal agencies, which are the Federal Reserve Board, the Consumer Finance Protection Bureau (CFPB), the FDIC, the Federal Housing Finance Agency, the National Credit Union Administration, and the OCC, released final rules on appraisals for higher-priced mortgage loans in January 2013.[6] For higher-priced mortgages, these appraisal requirements from January would require lenders to use a licensed or certified appraiser to prepare a written report based on a physical inspection of a dwelling's interior. Lenders would also have to provide a free copy of the written appraisals to their borrowers at least three days before consummation of the mortgage application process, and lenders would have to perform a second appraisal on homes recently purchased by a seller and marketed at a significantly higher price.

Mortgages are considered higher-priced if they are secured by a consumer's home and have interest rates above a certain threshold. The proposed rule would make certain exemptions from the Dodd-Frank Act appraisal requirements: loans less than or equal to $25,000, certain types of "streamlined" refinancings, and certain loans secured solely by an existing manufactured home, even if these categories of mortgage loans are

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[5] For more information on the Fed, FDIC, and OCC Finalizing U.S. Basel III capital standards, see *Banking Legislation & Policy*, Volume 32, Number 2.

[6] For more information on the final rules on appraisals for higher-priced mortgage loans, see *Banking Legislation & Policy*, Volume 32, Number 1.

considered higher-priced. "Streamlined" refinancings include standard refinancings, which, for example, do not lead to negative amortization or balloon payments.

Fed Does Not Object to Second BB&T 2013 Capital Plan
On August 23, 2013, the Federal Reserve stated that it was not opposed to a resubmitted 2013 capital plan from BB&T Corporation. On March 14, 2013, the Federal Reserve rejected the 2013 capital plan from BB&T on qualitative grounds during the Federal Reserve's annual Comprehensive Capital Analysis and Review.[7] As a result, the Federal Reserve required BB&T to submit a new capital plan by the end of the third quarter to address weaknesses in its capital proposal.

Fed, FDIC Release Public Sections of Revised Living Wills for 11 Big Banks
On October 3, 2013, the Federal Reserve and the FDIC released the public sections of the recently filed annual resolution plans for 11 big banking institutions.[8] These annual resolution plans, also known as living wills, describe a bank's strategy for rapid and orderly dissolution in case of major financial distress or failure. The living wills have both public and confidential sections; the public section can be found on the websites of the Federal Reserve or the FDIC.

As part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, bank holding companies with at least $50 billion in total consolidated assets and nonbank financial companies designated by the Financial Stability Oversight Council (FSOC) must submit living wills to the Federal Reserve and the FDIC. In July 2013, 11 big banking institutions generally with U.S. nonbank assets greater than $250 billion filed their initial living wills. Both the Federal Reserve and the FDIC required these same 11 big banking institutions to submit revised living wills to the agencies by October 1, 2013. In April 2013, the agencies issued guidance to these institutions on information that should be included in the 2013 plans concerning certain obstacles to resolvability under bankruptcy.

A second group of institutions, generally firms with between $100 billion and $250 billion in U.S. nonbank assets, submitted their initial living wills on July 1, 2013. A third group, generally firms subject to the rule with less than $100 billion in U.S. nonbank assets, must submit their initial living wills by December 31, 2013.

Financial Stability Board
FSB Tags Nine Insurance Firms as Global Systemically Important
On July 18, 2013, the Financial Stability Board (FSB) identified nine major insurance firms as global systemically important (G-SII) in its first list of G-SII firms.[9] As a result, these nine insurers may be subject to additional capital requirements and enhanced supervision. However, the FSB has not decided whether to designate any major reinsurers as G-SII until July 2014. The list of G-SII firms will be updated annually and will be released every November based on new data and an assessment methodology provided by the

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[7] For more information on the 2013 CCAR results, see *Banking Legislation & Policy*, Volume 32, Number 1.
[8] These 11 big banking institutions are Bank of America Corporation; Bank of New York Mellon Corporation; Barclays PLC; Citigroup, Inc.; Credit Suisse Group AG; Deutsche Bank AG; Goldman Sachs Group, Inc.; JPMorgan Chase & Co.; Morgan Stanley; State Street Corporation; and UBS AG.
[9] These nine major insurance firms are Allianz; American International Group, Inc.; Assicurazioni Generali; Aviva Axa; MetLife; Ping An Insurance (Group) Company; Prudential Financial (US); and Prudential (UK).

International Association of Insurance Supervisors (IAIS). The current list of G-SII firms is based on 2011 data submitted by insurers.

Insurers designated as G-SII will be subject to backstop capital requirements that will apply to all group activities, which the IAIS will develop by the G20 Summit in November 2014. These backstop capital requirements will be in addition to any primary capital requirements that insurers face from their respective national regulators. Also, by the end of 2015, the IAIS will develop some additional higher loss absorbency (HLA) requirements on G-SII firms. These requirements would target particular non-traditional, non-insurance activities such as trading in credit default swaps on top of any normal capital requirements applicable to insurers. These extra HLA requirements will take effect in January 2019 for insurers designated as G-SII from November 2017.

G-SII firms will have to draw up recovery and resolution plans to deal with major financial distress or failure. By July 2014, the initial nine G-SII firms will have to establish a Crisis Management Group (CMG) to create recovery and resolution plans to deal with severe stress scenarios by the end of 2014. Lastly, G-SII firms will have to develop institution-specific cross-border cooperation agreements among relevant national authorities to ensure the smooth resolution of G-SII firms in case of failure.

Financial Stability Oversight Council

FSOC Determines that Prudential Is Systemically Important

On September 20, 2013, the Financial Stability Oversight Council (FSOC) announced that it had voted 7 to 2 to designate Prudential Financial, Inc. as a systemically important financial institution. Prudential joins American International Group, Inc. (AIG) and GE Capital Corporation (GECC) as the third nonbanking institution to be given this distinction. As a result, Prudential will face stricter financial regulations such as stricter capital requirements and having to prepare an institutional living will as overseen by the Federal Reserve Board.

On June 3, 2013, the FSOC had notified Prudential that it would designate the company as systemically important. Unlike AIG or GECC, Prudential decided to appeal the FSOC's designation.[10] However, citing factors such as Prudential's size and interconnectedness to insurance companies and other financial firms through its products and capital market activities, the FSOC decided to maintain its rating of Prudential as systemically important.

Federal Deposit Insurance Corporation

FDIC Approves Final Rule Clarifying that Deposits at Foreign Branches of U.S. Banks Are Not Insured

On September 10, 2013, the Federal Deposit Insurance Corporation (FDIC) approved a final rule stating that deposits in foreign branches of U.S. banks are not FDIC-insured, even though they can be deposits for purposes of the national depositor preference statue enacted in 1993. The FDIC rule was originally proposed in February 2013.[11] The final rule does not affect deposits in overseas military banking facilities governed by regulations of the Department of the Defense, as these funds will continue to be insured by the FDIC to the same extent that they were in the past.

[10] For more information on FSOC's first designations of these three nonbanking institutions as systemically important, see *Banking Legislation & Policy*, Volume 32, Number 2.

[11] For more information on the FDIC's proposed rule, see *Banking Legislation & Policy*, Volume 32, Number 1.

Commodity Futures Trading Commission

CFTC Approves Final Cross-Border Guidance, with Phase-In, of Swap Provisions of Dodd-Frank Act

On July 12, 2013, the Commodity Futures Trading Commission (CFTC) voted 3 to 1 to adopt guidance interpreting the application of the Dodd-Frank Act to cross-border swaps trading activity and voted 3 to 1 to include a phase-in period that will extend relief from Dodd-Frank Act compliance for up to five months. The Dodd-Frank Act amended the Commodity Exchange Act (CEA) to establish comprehensive regulation of swaps by the CFTC. The guidance explains the policy of the CFTC in implementing section 2(i) of the CEA, which deals with the CFTC and cross-border swaps activity that affects the commerce of the U.S., as amended by the Dodd-Frank Act.

The new guidance defines U.S. persons largely on a territorial basis. Any U.S. persons, as defined by the new guidance, engaged in cross-border swaps activity would be regulated under the several entity-level requirements and transaction-level requirements for cross-border swaps.[12] The definition of U.S. persons would include collective investment vehicles such as hedge funds directly or indirectly majority-owned by U.S. persons or whose principal place of business is located in the U.S. Any non-U.S. person who is guaranteed by an affiliate of a U.S. person, however, would not be considered a U.S. person.

In the meantime, the phase-in period will extend relief from the Dodd-Frank Act provisions for up to five months. Most notably, non-U.S. swap dealers from the EU, Australia, Canada, Hong Kong, Japan, and Switzerland may comply with their home country law until December 21, 2013, with respect to their transactions that would otherwise trigger Dodd-Frank Act supervision.

CFTC Proposes New Standards for Systemically Important Derivatives Clearing Organizations and Allows Exemptions for Certain Cooperatives

On August 13, 2013, the CFTC proposed rules to establish additional standards for systemically important derivatives clearing organizations (SIDCOs) consistent with the Basel Committee on Banking Supervision's *Principles for Financial Market Infrastructures* (PFMIs).[13] The proposed rules are intended to address any remaining gaps between the Commodity Exchange Act's core principles for SIDCOs and the PFMIs by including requirements ranging from governance and financial resources to default rules for uncovered losses and shortfalls. As a result, the proposed rules, along with existing derivatives clearing organizations (DCOs) rules, would allow SIDCOs to remain eligible as qualifying central counterparties (QCCPs) under international bank capital standards.

In addition, the proposed rules would create another category of DCO called the Subpart C DCO. This particular DCO would voluntarily comply with the new capitalization and system safeguard requirements that SIDCOs would have to follow to enjoy the benefits of being a QCCP. International bank capital standards

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[12] Entity-level requirements deal with issues such as capital adequacy and swap data repository reporting, while transaction-level requirements deal with issues such as required clearing and swap processing and margining for uncleared swaps.

[13] Developed in April 2012, the Basel Committee created these international standards to strengthen payment, clearing, and settlement systems by requiring the trading of standardized over-the-counter derivative products to be cleared through central counterparties. For more information, see *Principles for Financial Market Infrastructures*.

provide incentives for banks, including their subsidiaries and affiliates, to clear derivatives through QCCPs by setting lower capital charges for derivatives cleared through a QCCP.

On August 13, 2013, the CFTC also approved an exemption that would exclude swaps entered into by certain cooperatives from clearing requirements. The exemption would pertain to swaps transacted by cooperatives whose members are either non-financial entities or other cooperatives whose members are non-financial entities. Also, the swap must be entered into in connection with originating loans to cooperative members or to hedge a commercial risk related to swaps or loans with members. Therefore, the exemption allows qualifying cooperatives to come under the end-user exception from clearing.

Federal Housing Finance Agency

Fannie, Freddie File Paperwork to Form Combined Securitization Platform

On October 7, 2013, the Federal Housing Finance Agency (FHFA) announced that Fannie Mae and Freddie Mac filed a certificate of formation with the Secretary of State of Delaware that would create a new entity called Common Securitization Solutions LLC. This joint venture, an equally-owned subsidiary of Fannie Mae and Freddie Mac, is now a legally recognized entity that will merge the two companies' securitization platforms into a single unit. The FHFA has reported that the new joint venture will be based in Bethesda, MD.

Federal Legislation

Proposed Legislation

Representative Garrett Release Bill to Replace Fannie, Freddie with Private Capital

On July 22, 2013, Representative Scott Garrett (R-N.J.) introduced the Protecting American Taxpayers and Homeowners Act of 2013 (H.R. 2767) that would eliminate the government-sponsored enterprises Fannie Mae and Freddie Mac with a new mortgage finance system dominated by private capital. This House bill is in contrast with S.1217, also known as the Corker-Warner bill, which would also replace Fannie Mae and Freddie Mac with a newly created government agency called the Federal Mortgage Insurance Corporation.[14]

The House bill, also known as the PATH Act, would replace Fannie Mae and Freddie Mac in five years and establish a private, nonprofit market entity called the National Mortgage Market Utility. This utility would replace Fannie Mae and Freddie Mac's roles in the secondary mortgage market by creating standards for the private origination, servicing, pooling, and securitization of mortgages, as well as operating a publicly accessible securitization outlet to match loan originators with investors. Any remaining government involvement in the secondary mortgage market would be mostly limited to those loans guaranteed by the FHA.

The PATH Act would also change the FHA's mission specifically to insuring loans for first-time homebuyers as well as low-income and moderate-income borrowers. The bill would also increase the FHA's minimum down-payment requirement for those who are not first-time homebuyers from 3.5 percent to 5 percent. It would also require the FHA to establish a risk-sharing program with private mortgage insurers and others in the private mortgage market that would cover at least 10 percent of the FHA's new business each year.

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[14] For more information on the Corker-Warner bill, see *Banking Legislation & Policy*, Volume 32, Number 2.

Senators Warren, McCain, Cantwell, and King Introduce Bill to Separate Commercial Banking from Investment Banking
On July 11, 2013, Senators Elizabeth Warren (D-Mass.), John McCain (R-Ariz.), Maria Cantwell (D-Wash.), and Angus King (I-Maine) introduced the 21st Century Glass-Steagall Act of 2013 (S. 1282) in the Senate. The proposed legislation would bring back provisions of the Banking Act of 1933, also known as the Glass-Steagall Act, that would prevent banks from being affiliated with insurance companies, securities entities, or swaps entities. In 1999, the Gramm-Leach-Bliley Act removed the separation provision between commercial banking and investment banking from the original Glass-Steagall Act.

Senators Johnson, Crapo Issue Draft Legislation to Improve FHA's Financial Condition
On July 15, 2013, Senators Tim Johnson (D-S.D.) and Mike Crapo (R-Idaho) released the FHA Solvency Act of 2013 (S. 1376) that would raise the minimum capital reserve ratio of the FHA's Mutual Mortgage Insurance Fund from 2 percent to 3 percent. The Mutual Mortgage Insurance Fund is a fund that insures mortgages made by the FHA on single-family homes. If the Mutual Mortgage Insurance Fund's capital ratio fails to reach the new minimum ratio, the FHA would have to take immediate action under this legislation to address the shortfall such as imposing a premium surcharge on any newly insured FHA mortgages.

Under the draft legislation, the FHA would have increased flexibility to raise insurance premiums charged to borrowers. The bill also would strengthen the FHA's reimbursement authority made under its direct endorsement and lender insurance programs, as well as require the FHA to evaluate and revise its underwriting standards.

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