SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the **[**short title of the Act**]**.

(b) Table of Contents.—The table of contents for this Act is as follows: **[]**

SEC. 2. PURPOSES.

The purposes of this Act are—

This will reduce bank RWC from 20% to 0% on conforming MBS & HQLA from 15% to zero. Guarantees overstimulation of future housing market and reinforces TBTF as any SIFI that fails in the future will cause a battle in receivership between the FDIC (protecting taxpayers) and the Mortgage Insurance Fund protecting MBS investors. The federal government will be forced to choose to bail-out one or the other! In other words, this reinforces TBTF and moral hazard.

(1) to offer a guarantee backed by the full faith and credit of the Federal Government of the timely payment of principal and interest on eligible mortgage-backed securities in order to foster a liquid housing finance market across the United States and during changing economic conditions and to promote the continued availability of an affordable, fixed rate, pre-payable, long-term mortgage loan, such as the 30-year fixed rate mortgage loan;

(2) to protect taxpayers against losses that might arise out of that guarantee by arranging for private sector entities to assume the risk of loss on guaranteed mortgage-backed securities and to capitalize a mortgage insurance fund;

(3) to protect taxpayers against bailouts of any of those entities by ensuring that none becomes "too big to fail";

(4) to foster a competitive secondary mortgage market;

(5) to promote access to affordable mortgage credit and affordable housing across the United States, including to underserved borrowers;

(6) to ensure that mortgage lenders of all sizes, charter types, and locations have equitable access to the secondary mortgage market; and

(7) to provide for a gradual and smooth transition to the housing finance system contemplated by this Act.

SEC. 3. DEFINITIONS.

In this Act:

It appears this bill allows a TBTF bank or another firm (like BlackRock)to own up to 25% of a guarantor. It is important to remember that the pre-crisis GSE problems were driven by the procyclicality created by a secondary market player creeping into the primary market. This will create at least the same procyclicality by allowing primary market players to creep into the secondary market. It will also lead to further concentration of the origination market by the largest originators as they can overpay for volume (subsidized through other lines of business) so that they can turn community banks into third party originators.

(1) AFFILIATE.—The term "affiliate" means an entity that controls, is controlled by, or is under common control with another entity.

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

(3) BUSINESS OF SECURITIZING GUARANTEED MORTGAGE-BACKED SECURITIES.—The term "business of securitizing guaranteed mortgage-backed securities" means—

This creates what will need to be the most sophisticated regulator with the most necessary capabilities out of whole cloth and then splits its authorities with Ginnie. This re-creates many of the problems that existed in the failed OFHEO.

(A) the business of arranging for eligible mortgage loans to be securitized into guaranteed mortgage-backed securities, which may include, in accordance with any regulations prescribed by the Agency, purchasing eligible mortgage loans, guaranteeing eligible mortgage loans, guaranteeing securities or other pools secured by eligible mortgage loans, operating, controlling, and owning subordinated or other residual interests in issuing vehicles, servicing eligible mortgage loans, holding and disposing of property acquired in connection with collecting on eligible mortgage loans, performing loss mitigation activities on delinquent eligible mortgage loans, operating a cash window for eligible mortgage loans under section 401(b), investing in permissible investments, entering into credit risk transfer arrangements made by the Agency under section 101(b), administering legacy mortgage-backed securities, servicing mortgage loans securing legacy mortgage-backed securities, and any other acts appropriate to that securitizing, as determined by the Agency; and

(B) does not include—

(i) originating, making, or brokering mortgage loans other than in connection with loss mitigation activities with respect to a delinquent eligible mortgage loan; or

(ii) consumer-facing activities in connection with the routine servicing of an eligible mortgage loan that is not in default.

(4) COMMON SECURITIZATION PLATFORM.—The term "common securitization platform" means the functionality established by the enterprises to facilitate the issuance and administration of mortgage-backed securities issued and guaranteed by the enterprises, as operated by Common Securitization Solutions, LLC on the date of enactment of this Act, and any successor to that functionality or that entity.

(5) COMPETITIVE SECONDARY MORTGAGE MARKET.—The term "competitive secondary mortgage market" means—

See TBTF creep into secondary market and ensuing procyclicality

(A) there are single-family guarantors of number and size sufficient to reasonably ensure that no 1 single-family guarantor, together with any affiliate of the single-family guarantor, is likely to guarantee more than **[**20-25**]** percent of the principal amount of the collateral securing all guaranteed single-family mortgage-backed securities guaranteed under section 101 over the foreseeable future; and

(B) the activities of those single-family guarantors, together with the activities of the Agency under title V, provide access to affordable mortgage credit to underserved borrowers and in required markets.

(6) CONTROL.—

(A) IN GENERAL.—Any company has control over any company if—

The BlackRock/Wells Fargo clause

(i) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the company;

(ii) the company controls in any manner the election of a majority of the directors or trustees of the company; or

(iii) the Agency determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the company.

This should be called "The TBTF Enrichment Act of 2018"

(B) CONSISTENT FRAMEWORKS.—In prescribing any regulation or exercising any authority of the Agency under this Act, the Agency shall adopt a definition of the term "control" and any related terms that is consistent with the corresponding definition of the term "control" and any related terms adopted by the Board of Governors of the Federal Reserve System in prescribing regulations or exercising any authority under section 2(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(2)).

(7) CREDIT RISK TRANSFER ARRANGEMENT.—The term "credit risk transfer arrangement" means a contract or other arrangement that causes a person to bear credit risk on a guaranteed mortgage-backed security, including on collateral that secures a guaranteed mortgage-backed security.

(8) CREDIT RISK TRANSFER COUNTERPARTY.—The term "credit risk transfer counterparty" means a person that has agreed to bear credit risk pursuant to a credit risk transfer arrangement, including an arrangement made by the Agency under section 101(b).

(9) ELIGIBLE CREDIT RISK TRANSFER ARRANGEMENT.—The term "eligible credit risk transfer arrangement" means a credit risk transfer arrangement that is of a class of such arrangements that has been approved by the Agency under section 207, subject to any requirement or restriction that the Agency may prescribe under this Act.

(10) ELIGIBLE MORTGAGE-BACKED SECURITY.—The term "eligible mortgage-backed security" means an eligible single-family mortgage-backed security, an eligible multifamily mortgage-backed security, and a legacy mortgage-backed security.

(11) ELIGIBLE MORTGAGE LOAN.—The term "eligible mortgage loan" means an eligible single-family mortgage loan and an eligible multifamily mortgage loan.

(12) ELIGIBLE MULTIFAMILY MORTGAGE-BACKED SECURITY.—The term "eligible multifamily mortgage-backed security" means a security that—

(A) is secured by eligible multifamily mortgage loans, or securities or other pools secured by eligible multifamily mortgage loans, the timely payment of the required payments on that collateral—

(i) is an obligation of an issuing vehicle of a multifamily guarantor applying for a guarantee under section 101; and

(ii) has been fully and unconditionally guaranteed by that multifamily guarantor in accordance with any regulations prescribed by the Agency; and

Over time the politicization of the Agency will lead to relaxing of these standards so that the UST will be on the hook for exposures.

(B) satisfies any other requirement or restriction that the Agency may prescribe under this Act.

(13) ELIGIBLE MULTIFAMILY MORTGAGE LOAN.—The term "eligible multifamily mortgage loan" means a commercial real estate loan—

(A) secured by a property that is located in any State and has not less than 5 residential units;

(B) the primary source of income for repayment of which is expected to be derived from residential rental income;

(C) the term of which is not less than 5 years, but not more than 40 years, except that the term may be less than 5 years subject to standards set by the Agency;

(D) that satisfies underwriting criteria established by the Agency, including—

(i) a maximum loan-to-value ratio;

(ii) a minimum debt service coverage ratio; and

(iii) considerations for restrictive or special uses of a property, including non-residential uses, properties for seniors, manufactured housing, and affordability restrictions, and the impact of those uses on the ratios described in clauses (i) and (ii); and

(E) satisfies any other requirement or restriction that the Agency may prescribe under this Act.

(14) ELIGIBLE SINGLE-FAMILY MORTGAGE-BACKED SECURITY.—The term "eligible single-family mortgage-backed security" means a security that—

(A) is secured by eligible single-family mortgage loans, or securities or other pools secured by eligible single-family mortgage loans, the timely payment of the required payments on that collateral—

(i) is an obligation of an issuing vehicle of a single-family guarantor applying for a guarantee under section 101; and

(ii) has been fully and unconditionally guaranteed by that single-family guarantor in accordance with any regulations prescribed by the Agency; and

(B) [has the same form and terms as that of the form of single-family security issued and guaranteed by the Federal National Mortgage Association, or the single uniform form of single-family security issued by the common securitization platform, if any, as of the launch date, as may be varied under section 101(c)(3);] and

(C) satisfies any other requirement or restriction that the Agency may prescribe under this Act.

(15) ELIGIBLE SINGLE-FAMILY MORTGAGE LOAN.—The term "eligible single-family mortgage loan" means a closed-end residential mortgage loan that—

(A) is secured by a property that is located in any State and that—

(i) a borrower occupies as the principal residence of the borrower; or

(ii) has fewer than 5 residential units, each of which was, at the time of origination of the loan, affordable to families at or below 80% of the area median income for the area in which the property is located;

(B) has been originated in compliance with minimum standards prescribed by the Agency;

(C) has a maximum original principal obligation amount that does not exceed the applicable loan limitation established under section 206;

(D) provides for regular periodic payments that are substantially equal, except with respect to the effect that any interest rate change after consummation of the loan has on the payment in the case of an adjustable-rate or step-rate mortgage loan, that does not, except as might be permitted by regulations prescribed by the Agency:

(i) result in an increase of the principal balance;

(ii) allow under the terms of the loan the borrower to defer repayment of principal; or

(iii) result in a balloon payment;

(E) has a loan term that does not exceed 30 years, except to the extent extended in connection with loss mitigation activities;

(F) had total points and fees payable in connection with the loan that do not exceed the restrictions specified in the regulations prescribed by the Bureau of Consumer Financial Protection under section 129C(b) of the Truth in Lending Act (15 U.S.C. 1639c(b));

(G) has an outstanding principal balance at the time of the guarantee of the eligible mortgage-backed security under section 101 that is not more than 80 percent of the value of the property securing the loan, unless a private mortgage insurer or a credit risk transfer counterparty pursuant to an eligible credit risk transfer arrangement bears credit risk in an amount that is not less than—

This should be called the Mark Zandi Private Mortgage Insurance Relief Clause. Eases standards.

(i) 12 percent of the unpaid principal balance of the loan, accounting for any down payment required under subparagraph (H), for loans in which the unpaid principal balance is more than 80 percent but not more than 85 percent of the value of the property securing the loan;

(ii) 25 percent of the unpaid principal balance of the loan, accounting for any down payment required under subparagraph (H), for loans in which the unpaid principal balance is more than 85 percent but not more than 90 percent of the value of the property securing the loan;

(iii) 30 percent of the unpaid principal balance of the loan, accounting for any down payment required under subparagraph (H), for loans in which the unpaid principal balance is more than 90 percent but not more than 95 percent of the value of the property securing the loan; or

(iv) 35 percent of the unpaid principal balance of the loan, accounting for any down payment required under subparagraph (H), for loans in which the unpaid principal balance is more than 95 percent of the value of the property securing the loan;

Statutorily lowers standards as these numbers barely cover closing costs.

(H) has a down payment that is—

(i) for a first-time homebuyer, not less than 3.5 percent of the purchase price of the property securing the loan; or

(ii) for a homebuyer who is not a first-time homebuyer, not less than 5 percent of the purchase price of the property securing the loan; and

(I) contains such other terms and conditions as the Agency may prescribe under section 206, including with respect to down payment assistance, insurance, payment of taxes, escrow accounts, property maintenance, alterations, delinquency charges, foreclosure proceedings, and additional liens.

(16) ENTERPRISE.—The term "enterprise" means the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(17) FEDERAL HOME LOAN BANK.—The term "Federal Home Loan Bank" has the meaning given the term in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422).

(18) FUNCTIONALLY REGULATED MARKET PARTICIPANT.—The term "functionally regulated market participant" means—

(A) an institution described in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q));

(B) a broker or dealer, as those terms are defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), that is registered under section 15 of such Act (15 U.S.C. 78o);

(C) an investment adviser, as defined in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2), properly registered by or on behalf of the Securities and Exchange Commission under section 203 of such Act (15 U.S.C. 80b–3) or any State, with respect to the investment advisory activities of the investment adviser and activities incidental to the investment advisory activities;

(D) an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), that is registered under section 8 of such Act (15 U.S.C. 80a–8);

(E) an insurance company, as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2), that is subject to supervision by a State insurance regulator, with respect to insurance activities of the insurance company and activities incidental to the insurance activities; or

(F) an entity that is subject to regulation by, or registration with, the Commodity Futures Trading Commission, with respect to activities conducted as a futures commission merchant, commodity trading advisor, commodity pool, commodity pool operator, swap execution facility, swap data repository, swap dealer, major swap participant (as those terms are defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)), and activities that are incidental to such commodities and swaps activities.

(19) GINNIE MAE.—The term "Ginnie Mae" means the Government National Mortgage Association.

(20) GUARANTEED MORTGAGE-BACKED SECURITY.—The term "guaranteed mortgage-backed security" means a guaranteed single-family mortgage-backed security and a guaranteed multifamily mortgage-backed security.

(21) GUARANTEED MULTIFAMILY MORTGAGE-BACKED SECURITY.—The term "guaranteed multifamily mortgage-backed security" means an eligible multifamily mortgaged-backed security guaranteed under section 101.

(22) GUARANTEED SINGLE-FAMILY MORTGAGE-BACKED SECURITY.—The term "guaranteed single-family mortgage-backed security" means an eligible single-family mortgaged-backed security guaranteed under section 101.

(23) GUARANTOR.—The term "guarantor" means a single-family guarantor and a multifamily guarantor.

(24) ISSUING VEHICLE.—The term "issuing vehicle" means, with respect to a guarantor, an entity established by the guarantor under section 302 and then controlled by the guarantor.

(25) LAUNCH DATE.—The term "launch date" means the earliest date on which both—

(A) the Agency has certified in writing to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the chair and ranking member of the Committee on Financial Services of the House of Representatives that—

This will take years to effectuate.

(i) the Agency has taken all necessary and appropriate actions, including prescribing any necessary regulations, to arrange for the guarantee of eligible single-family mortgage-backed securities under this Act; and

(ii) the common securitization platform, or any platform approved under section 303(a)(4), has functionality appropriate for facilitating the issuance and administration of guaranteed single-family mortgage-backed securities;

Corker's "I hate the GSEs so much that I want to create many more" clause

(iii) the Agency has approved [5-6] or more single-family guarantors;

(iv) the Agency has determined that it is reasonably likely that a competitive secondary market will be achieved not later than 24 months after such date;

(v) the Agency has determined that the competitive secondary market described under clause (iv), together with the expected activities of the Agency under title V, is reasonably likely to ensure access to affordable mortgage credit to underserved borrowers and in required markets; and

(vi) the Agency has established under section 807(c) a procedure for holders of legacy mortgage-backed securities to arrange for those securities to be guaranteed under section 101; and

(B) Ginnie Mae has certified in writing to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate

and the chair and ranking member of the Committee on Financial Services of the House of Representatives that—

(i) Ginnie Mae has taken all necessary and appropriate actions, including prescribing any necessary regulations, to arrange for the guarantee of eligible single-family mortgage-backed securities under this Act; and

(ii) the common securitization platform, or any platform approved under section 303(a)(4), has functionality appropriate for facilitating the issuance and administration of guaranteed single-family mortgage-backed securities.

(26) LEGACY MORTGAGE-BACKED SECURITY.—The term "legacy mortgage-backed security" means a security that is or was guaranteed by an enterprise.

(27) LEGACY SINGLE-FAMILY GUARANTOR.—The term "legacy single-family guarantor" means a single-family guarantor that—

(A) was at any time a subsidiary or other affiliate of an enterprise; or

(B) consented to be designated by the Agency as a legacy single-family guarantor, including when organized or as a condition to a transfer of assets from an enterprise to the single-family guarantor.

(28) MARKET ACCESS AGREEMENT.—The term "market access agreement" means an agreement of the Agency made under section 504(a).

(29) MARKET ACCESS FUND.—The term "market access fund" means the fund established under section 502(a).

(30) MARKET ACCESS PLAN.—The term "market access plan" means a plan approved by the Market Access Committee under section 503(a).

(31) MARKET PARTICIPANT.—

(A) The term "market participant" means—

(i) any guarantor;

(ii) any holding company of a guarantor required by the Agency to be organized under section 301(l);

(iii) any issuing vehicle;

(iv) any sponsor, or other person that arranges for the issuance, of a guaranteed mortgage-backed security;

(v) any platform;

(vi) any credit risk transfer counterparty that has a material payment, performance, or other obligation under a credit risk transfer arrangement; and

(vii) any entity that provides a material service, other than a support service provided to businesses generally or a similar ministerial service, to a market participant with respect to a guaranteed mortgage-backed security or collateral securing a guaranteed mortgage-backed security; and

(B) does not include a person to the extent that the person is—

(i) the lender of a mortgage loan;

(ii) a mortgage broker on a mortgage loan or otherwise serves as an intermediary between a borrower and a lender of a mortgage loan;

(iii) the servicer of a mortgage loan; or

(iv) a Federal or State agency or other governmental entity.

(32) MARKET PARTICIPANT-AFFILIATED PARTY.—The term "market participant-affiliated party" means—

(A) any director, officer, employee, or controlling stockholder of, or agent for, a market participant;

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

(C) any independent contractor for a market participant, including any attorney, appraiser, or accountant, if—

(i) the independent contractor knowingly or recklessly participates in any violation of this Act, including any regulation prescribed under this Act, or any breach of fiduciary duty; or

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

(33) MORTGAGE INSURANCE FUND.—The term "mortgage insurance fund" means the fund established under section 103.

(34) MULTIFAMILY GUARANTOR.—The term "multifamily guarantor" means, with respect to an eligible multifamily mortgage-backed security, an entity

approved by the Agency under section 205 that applied for a guarantee of the eligible multifamily mortgage-backed security under section 101.

(35) PLATFORM.—The term "platform" means any platform or other system approved under section 303 for facilitating the issuance or administration of guaranteed mortgage-backed securities.

(36) PRIMARY FINANCIAL REGULATORY AGENCY.—The term "primary financial regulatory agency" has the meaning given the term in section 2 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301).

(37) REQUIRED MARKET.—The term "required market" means any geographic, demographic, or product market for eligible single-family mortgage loans that the Agency determines, from time to time—

(A) does not have a single-family guarantor that is offering to acquire or guarantee eligible single-family mortgage loans from that market; or

(B) the single-family guarantors in that market together have earned, during the 2-year period preceding the date on which the Agency makes the determination, an average risk-adjusted rate of return in that market that is materially greater than the average risk-adjusted rate of return of single-family guarantors across all markets.

(38) SENIOR PREFERRED STOCK PURCHASE AGREEMENT.—The term "Senior Preferred Stock Purchase Agreement" means—

(A) the Amended and Restated Senior Preferred Stock Purchase Agreement, dated September 26, 2008, entered into between the Department of the Treasury and each enterprise, as such Agreement has been amended on May 6, 2009, December 24, 2009, August 17, 2012, and December 21, 2017, and as may be further amended or restated; and

(B) any provision of any certificate or other instrument that creates or designates the terms, powers, preferences, privileges, limitations, or any other conditions of the Variable Liquidation Preference Senior Preferred Stock or warrants for common stock of an enterprise issued or sold pursuant to such Agreement.

(39) SERVICER.—The term "servicer" has the meaning given the term in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2605(i)(2)).

(40) SEVERELY ADVERSE STRESS SCENARIO.—

(A) IN GENERAL.—The term "severely adverse stress scenario" means a severe recession that is accompanied by a period of heightened stress in residential real estate markets.

Over-reliance on a framework that is only theoretical and has not been tested in an actual adverse environment.

(B) CONSISTENT FRAMEWORKS.—In prescribing any regulation under this Act, the Agency shall adopt a definition of "severely adverse stress scenario" and any related terms that is consistent with the corresponding definition adopted by the Board of Governors of the Federal Reserve System in the regulations prescribed under section 165(i) of the Financial Stability Act of 2010 (12 U.S.C. 5365(i)).

(41) SINGLE-FAMILY GUARANTOR.—The term "single-family guarantor" means, with respect to an eligible single-family mortgage-backed security, an entity approved by the Agency under section 205 that applied for a guarantee of the eligible single-family mortgage-backed security under section 101.

(42) **[**SMALL LENDER GUARANTOR.—The term "small lender guarantor" means a single-family guarantor that—

(A) is an affiliate of a smaller lender; and

(B) is not an affiliate of any entity, other than a smaller lender, that is engaged in the business of originating, making, or brokering single-family mortgage loans.**]**

(43) **[**SMALLER LENDER.—

(A) IN GENERAL.—The term "smaller lender" means an entity that—

(i) is engaged in the business of originating, making, or brokering single-family mortgage loans on a community or regional basis;

(ii) does not have a nationwide presence, as defined by the Agency by regulation; and

(iii) has originated, made, or brokered not more than **[]** eligible single-family mortgage loans within a 12-month period in the preceding 2 years.

(B) RULE MAKING.—In defining and revising from time to time the term "smaller lender" by regulation, the Agency shall limit the scope of the definition so as to endeavor to ensure that—

(i) the guarantor established under section 402(a) could remain in compliance with section 301(d)(1) during changing economic conditions without increasing the fees charged to smaller lenders or to otherwise curtailing business with smaller lenders; and

(ii) the amount of collateral guaranteed by smaller lender guarantors securing guaranteed single-family mortgage-backed securities is less than **[**20-25**]** percent of the amount of originations of eligible

single-family mortgage loans during any 60-month period that begins 5 years after the launch date.**]**

(44) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any territory of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

Since the discretion to create these standards is left to the Agency they can adjust these, at any time, to prevent one or more of their regulated firms from becoming undercapitalized under the Act.

(45) UNDERCAPITALIZED.—The term "undercapitalized" means, with respect to a market participant, that the market participant is not in compliance with any applicable leverage restriction or risk-based or other capital requirement under this Act.

(46) UNDERSERVED BORROWER.—The term "underserved borrower" means any mortgagor of an eligible single-family mortgage loan who is—

(A) a member of a family that has an income that is less than **[**80**]** percent of the median income for the area in which the property subject to the mortgage is located; or

(B) is a first-time homebuyer and a member of a family that has an income that is less than **[**100**]** percent of the median income for the area in which the property subject to the mortgage is located.

TITLE I - GUARANTEED MORTGAGE-BACKED SECURITIES

SEC. 101 GUARANTEES.

(a) Ginnie Mae Guarantee Authority.—

Split oversight was a major cause of the relaxing of standards at the GSEs between the 1992 Act and the crisis. Much of this bill recreates many of the same risks within the banks with capital markets and origination capabilities

Corker has long argued we must shrink UST exposure here he is clearly increasing procyclicality and moral hazard.

(1) IN GENERAL.—Subject to sections 301(c)(3), 301(d)(2), and 301(e)(2)(A), in exchange for the fees set and collected under section 102, and on such terms and conditions as **[**the Agency and Ginnie Mae**]** may prescribe by regulation under this Act, Ginnie Mae shall guarantee the timely payment of principal and interest on any eligible mortgage-backed security.

(2) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of any amount that might be required to be paid under a guarantee under this section.

(b) Credit Risk Transfer Arrangements **[**of the Agency**]**.—

(1) AUTHORITY.—**[**The Agency**][**Ginnie Mae**]** shall endeavor to enter into credit risk transfer arrangements to transfer to private sector persons as much of the credit risk retained by Ginnie Mae with respect to guaranteed mortgage-backed securities as is economically sensible.

Think about it. Ginnie currently does not take credit risk and has no capacity to price or manage the risk but Corker now increases UST exposures.

(2) GUARANTOR ARRANGEMENTS.—In exercising the authority of **[**the Agency**][**Ginnie Mae**]** under paragraph (1), **[**the Agency**][**Ginnie Mae**]** shall consider any

adverse effect that the credit risk transfer arrangements **[**of the Agency**]** might have on the terms, pricing, or availability of credit risk transfer arrangements of guarantors.

(c) Guaranteed Single-Family Mortgage-Backed Securities.—

(1) PLATFORMS.—The Agency, in consultation with Ginnie Mae, shall ensure that guaranteed single-family mortgage-backed securities may be issued and administered through any platform approved under section 303.

(2) OPEN ISSUE MULTI-GUARANTOR SECURITY.—Except to the extent that the Agency may determine that a custom pool or other arrangement would promote a liquid secondary mortgage market or reduce costs in the aggregate to borrowers, **[**the Agency**][**Ginnie Mae**]** shall endeavor to ensure to the extent practicable that—

(A) single-family guarantors may apply for guarantees of eligible single-family guarantees under this section on a continuous basis; and

(B) at the time of a guarantee under this section, each guaranteed single-family mortgage-backed security is secured by collateral that—

(i) was contributed by multiple single-family guarantors;

(ii) is diverse as to the geographic location, borrowers, and lenders of the underlying eligible single-family mortgage loans; and

(iii) is similar in relevant respects to the collateral securing guaranteed single-family mortgage-backed securities recently guaranteed under this section.

(3) CHANGES TO FORM OF SECURITY.—**[**The Agency and Ginnie Mae shall not vary the terms or the form of the guaranteed single-family mortgage-backed security in any manner that would adversely impact the holder of any legacy mortgage-backed security or outstanding guaranteed mortgage-backed security or the liquidity or functioning of the secondary mortgage market.**]**

(4) Effective Date.—This section shall take effect on the launch date.

SEC. 102 FEES.

(a) Ginnie Mae Guarantee Fees.—

(1) IN GENERAL.—In exchange for the guarantees under section 101, **[**the Agency, in consultation with Ginnie Mae shall set, and Ginnie Mae shall collect,**]** fees from persons applying for the guarantees as necessary to recover any expected payments under the guarantees.

This tells Ginnie that it has to price credit risk. Given that Ginnie does not currently take credit-risk this requires they develop that capability.

(2) CONSIDERATIONS.—In setting and adjusting from time to time the fees under paragraph (1), the Agency and Ginnie Mae shall consider—

(A) the economic conditions affecting eligible mortgage loans so as to avoid sharp increases or decreases in the fees and provide for reasonable stability in the fees, notwithstanding the increased risk of payments under such guarantees that might exist during those less favorable economic conditions;

(B) the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees under section 101, excluding any assessments collected under section 103(f)(2), so as to endeavor to reduce that cost to zero in the aggregate over a multi-year period that contemplates fluctuations in economic conditions consistent with historical experience;

(C) the available pricing information for credit risk transfer arrangements of guarantors and credit risk transfer arrangements [of the Agency] made under section 101(b); and

(D) any other information or considerations as the Agency or Ginnie Mae determines to be appropriate.

(b) Ginnie Mae Administrative Fees.—

(1) IN GENERAL.—In exchange for each guarantee under section 101, Ginnie Mae shall set and collect a separate fee from each person applying for the guarantee as necessary to fully recover over time the salaries, expenses, and other administrative costs incurred by Ginnie Mae in carrying out the activities under this Act.

(2) CAP.—The fee set and collected under paragraph (1) shall not exceed $[15] for each $10,000 in principal amount of guaranteed mortgage-backed securities guaranteed by Ginnie Mae under section 101.

(c) Uniformity of Fees.—

(1) IN GENERAL.—Except as provided in paragraph (2), (3), (4), or (5), the Agency and Ginnie Mae shall—

(A) set each fee collected under this section on a pro rata basis; and

(B) not vary any fee collected under this section based on—

(i) any credit or other characteristic of the collateral that will secure the guaranteed single-family mortgage-backed security; or

(ii) any characteristic of the single-family guarantor that guarantees that collateral, including based on the assets of the single-family guarantor or the amount of collateral guaranteed by the single-

Can this really say you can't charge anybody a different fee based on the counterparty credit risk thus placing the Government at further credit risk as it charges a counterparty that is BBB the same as a counterparty that is AAA?!

family guarantor that secures other guaranteed single-family mortgage-backed securities.

(2) MARKET CONCENTRATION COMPLIANCE.—The Agency may increase or decrease under section 301(d)(3) any fee set and collected under this section.

(3) MULTIFAMILY GUARANTEES.—Nothing in this subsection may be construed to restrict the setting and collection of any fee with respect to guarantees under section 101 of eligible multifamily mortgage-backed securities.

(4) LEGACY MORTGAGE-BACKED SECURITIES.—Nothing in this subsection may be construed to restrict the setting and collection of any fee with respect to guarantees under section 101 of legacy mortgage-backed securities.

(5) DE NOVO SINGLE-FAMILY GUARANTORS.—Until the date on which the Agency certifies under section 804(d) that there is a competitive secondary mortgage market, the Agency may decrease any fee set and collected under this section from any single-family guarantor that is not a legacy single-family guarantor if—

(A) the reduction in the fee is offset by an increase in the fees set and collected under this section from the legacy single-family guarantors; and

(B) the Agency determines that the exercise of the authority of the Agency under **[**title VIII**][**section 804(a)(2)(B)-(D)**]** is not reasonably likely to establish a competitive secondary mortgage market.

SEC. 103 MORTGAGE INSURANCE FUND.

(a) Establishment.—There is established the mortgage insurance fund, which the Agency shall—

(1) maintain and administer;

(2) use to carry out the activities of the Agency and Ginnie Mae under this Act, other than under **[**a market access agreement**][**title V**]**, including to pay any amount required pursuant to a guarantee under section 101 and the salaries, expenses and other administrative costs of the Agency incurred in carrying out the activities under this Act; and

(3) invest in accordance with subsection (c).

(b) Deposits.—The mortgage insurance fund shall be credited with any amounts collected under section 102(a), subsection (e), section 203(e), or section 204 and any amounts earned on investments made under subsection (c).

(c) Investments.—Funds held in the mortgage insurance fund that are not otherwise obligated shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

(d) Guarantee Payments.—The Agency shall promptly transfer from the mortgage insurance fund to Ginnie Mae any amount paid or required to be paid by Ginnie Mae pursuant to a guarantee under section 101.

(e) Reserve Ratio Goal.—

(1) ESTABLISHMENT.—Before the beginning of each calendar year, the Agency shall, in consultation with Ginnie Mae, set by regulation the reserve ratio goal for the mortgage insurance fund for that year.

(2) MINIMUM RESERVE RATIO GOAL.—The reserve ratio goal shall not be less than **[]** percent of the unpaid principal balance of the guaranteed mortgage-backed securities.

(3) CONSIDERATIONS.—In setting the reserve ratio goal, the Agency and Ginnie Mae shall consider—

(A) the amounts expected to be paid from or credited to the mortgage insurance fund in that year and future years;

(B) the economic conditions affecting eligible mortgage loans so as to allow the mortgage insurance fund to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risk of loss that might exist during such less favorable conditions;

(C) the amount of credit risk transferred pursuant to any credit risk transfer arrangements made under section 101(b); and

(D) any other considerations that the Agency determines to be appropriate.

(f) Recapitalization.—

(1) RECAPITALIZATION PLAN.—If the amount in the mortgage insurance fund at the end of any calendar year is less than the amount necessary to achieve the reserve ratio goal for that calendar year, the Agency shall, in consultation with Ginnie Mae and after considering the considerations set forth under subsection (e)(3), publish a plan to achieve the reserve ratio goal as soon as is practicable, and in any event not later than 10 years after the end of that calendar year, through amounts deposited in the mortgage insurance fund under subsection (b).

(2) SPECIAL ASSESSMENTS.—The Agency may set and collect assessments from guarantors to the extent necessary to achieve the reserve ratio goal pursuant to the plan developed under paragraph (1) based on the revenues, profitability, or assets of, or the amount of collateral securing guaranteed mortgage-backed securities previously guaranteed by, guarantors.

Given the current concentration of the market by the top 5 originators, and the likely increase in concentration, there is no way the OCC, FDIC, FED or state banking regulators will support recapitalization of the MIF at the time that the banks need more capital due to an adverse economic environment. Moreover, if a SIFI goes down the correlation will likelt mean several will fail. This will leave the burden of recapitalization on the remaining smaller firms. Moreover, if a SIFI fails, the FDIC receivership will need to use its assets to protect depositors. Here, the bill sets up a conflict between the FDIC and the MIF - that is to say between the depositor and the MBS investor. This will certainly lead to a forced decision by the government to bail out the MBS investors.

(3) RULES OF CONSTRUCTION.—

(A) SINGLE AND MULTIFAMILY GUARANTORS.—Nothing in this subsection may be construed to restrict the Agency from setting and collecting different assessments under paragraph (2) from single-family guarantors and multifamily guarantors or with respect to guarantees of eligible single-family mortgage-backed securities or eligible multifamily mortgage-backed securities.

(B) 10-YEAR RECAPITALIZATION PERIOD.—Nothing in this subsection may be construed to require the Agency to set and collect assessments under paragraph (2) if the Agency determines that the reserve ratio goal is likely to be achieved not later than 10 years after the end of that calendar year through the amounts deposited in the mortgage insurance fund under subsection (b).

(g) Separate Accounting.—Ginnie Mae and the Agency shall maintain separate accounting with respect to guaranteed single-family mortgage-backed securities and with respect to guaranteed multifamily mortgage-backed securities of the salaries, expenses and other administrative costs of the Agency and Ginnie Mae incurred in carrying out the activities under this Act and the deposits in the mortgage insurance fund of fees and assessments collected under this Act.

(h) Mandatory Loss Review.—If Ginnie Mae makes any payment pursuant to a guarantee under section 101, the Inspector General of the Agency shall promptly, and in any case not later than 180 days after the date on which the payment is made, prepare and publish a written report on the circumstances of the payment and any recommendations for managing the risk of future payments under similar circumstances.

TITLE II - REGULATORY AUTHORITIES

SEC. 201 PRINCIPAL DUTIES.

(a) Agency.—The principal duties of the Agency under this Act are—

(1) to supervise and regulate market participants to ensure that each market participant complies with this Act and each guarantor and platform operates in a safe and sound manner and to mitigate risks to the mortgage insurance fund and the United States housing finance market;

(2) to ensure that there is private capital in the first loss position on guaranteed mortgage-backed securities in an amount sufficient to cover losses on the securities arising out of a severely adverse stress scenario;

This is meaningless if the Agency can waive first loss in an economically adverse environment, which this bill allows.

(3) to ensure that the funds in the mortgage insurance fund are sufficient to cover losses on guaranteed mortgage-backed securities in the event that private capital is exhausted;

(4) to foster a competitive secondary mortgage market;

(5) to promote access to affordable mortgage credit and affordable housing across the United States, including to underserved borrowers and in required markets; and

(6) to promote equitable access to the secondary mortgage market by mortgage lenders of all sizes, charter types, and geographic locations;

(7) to foster a liquid housing finance market across the United States and during changes in economic conditions, including a liquid secondary market for eligible mortgage loans;

(8) to facilitate a smooth transition to the United States housing finance system contemplated by Act; and

(9) to otherwise carry out this Act in a manner that fulfills the purposes of this Act.

(b) Ginnie Mae.—The principal duties of Ginnie Mae under this Act are—

(1) to offer a guarantee of the timely payment of principal and interest on eligible mortgage-backed securities for a fee;

(2) to regulate the issuance and administration of guaranteed mortgage-backed securities in consultation with the Agency to ensure the timely payment of principal and interest on those securities; and

(3) to regulate issuing vehicles to ensure that each issuing vehicle complies with the Act, including by maintaining in compliance with regulations prescribed under this Act governing the maintenance of liquid assets by issuing vehicles.

(c) Incidental Authorities.—The authority of each of the Agency and Ginnie Mae shall include the authority to exercise such incidental powers as may be appropriate to fulfill its duties under this Act.

SEC. 202 GENERAL REGULATORY AUTHORITIES.

(a) General Supervisory and Regulatory Authority.—

(1) IN GENERAL.—Each market participant shall, to the extent provided in this Act, be subject to the supervision and regulation of the Agency.

(2) AUTHORITY OVER MARKET PARTICIPANTS.—The Agency shall have general regulatory authority over each market participant and shall exercise that authority to carry out the purposes of this Act.

(b) Rule Making Authority.—

Where a bank acts as guarantor, issuer, servicer or in any other related capacity, this bill would split oversight between the primary regulator and the Agency. This will create the same regulatory arbitrage as existed in the GSEs when their mission regulator was HUS and prudential regulator was OFHEO. It is an unworkable tension that will support easing of standards in good times without the political will to tighten them as the economy weakens.

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(1) The Agency.—The Agency may prescribe regulations and issue guidance, interpretations, and orders as may be appropriate to carry out the purposes of this Act.

(2) Ginnie Mae.—Ginnie Mae may, in consultation with the Agency, prescribe regulations and issue guidance, interpretations, and orders governing the issuance and administration of guaranteed mortgage-backed securities and the regulation of issuing vehicles.

(c) Risk-based Supervision and Regulation.—In exercising any supervisory or regulatory authority under this Act, the Agency shall differentiate among market participants on an individual basis or by class based on an analysis of the risks posed to the mortgage insurance fund and the United States housing finance market, taking into consideration, as applicable, the activities, size, complexity, capital structure, interconnectedness with the financial system, and such other risk-related factors of market participants that the Agency determines are appropriate to fulfill the purposes of this Act.

SEC. 203 SUPERVISORY AUTHORITIES.

This will not be acceptable to primary prudential regulators of banks.

(a) General Examination Authority.—The Agency may require reports and conduct examinations of each market participant, and any subsidiary of a market participant, for the purposes of—

(1) assessing the compliance of the market participant with this Act, including any regulation prescribed under this Act;

(2) identifying and assessing risks to the mortgage insurance fund and the United States housing finance market; and

(3) obtaining information about—

(A) the financial condition of the market participant; or

(B) the activities of the market participant that are subject to this Act, including the risk management practices of the market participant.

(b) Examinations of Guarantors and Platforms.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Agency shall conduct an annual examination under subsection (a) of each guarantor and platform that shall assess at a minimum—

(A) the financial condition of the guarantor or the platform;

(B) any activities of the guarantor or platform that pose a risk to the safety and soundness of the guarantor or the platform, the mortgage insurance fund, or the United States housing finance market;

(C) the compliance of the guarantor with section 301(j) or the compliance of the platform with section 303(c); and

(D) in the case of a guarantor, the risk management policies and procedures of the guarantor, including the expected loss modeling, model inputs, and decision rules around model results of the guarantor.

(2) RISK-BASED EXAMINATION CYCLES.—The Agency may exercise the authority under section 202(c) to provide for less frequent than annual examinations under paragraph (1), but not less frequent than once every 2 years, for any guarantor that then guarantees not more than $[50,000,000,000] in unpaid principal amount of collateral securing guaranteed mortgage-backed securities

(c) Use of Existing Reports.—In carrying out subsections (a) and (b), the Agency shall, to the fullest extent possible, use—

(1) reports pertaining to market participants that have been provided to a Federal or State regulatory agency;

(2) information that has been reported publicly; and

(3) externally audited financial statements.

The coordination here is of monumental proportions never seen in financial oversight. It is unworkable.

(d) Coordination.—To reduce regulatory burden, the Agency shall coordinate the supervisory activities of the Agency under this Act with the supervisory activities conducted by financial regulatory agencies and other State or federal agencies that license, supervise, or examine market participants, including consultation regarding the respective schedules for examining market participants and requirements regarding reports to be submitted by market participants.

(e) Examination Fee.—The Agency may assess the cost of conducting an examination of a market participant under this section against the market participant.

Agency is allowed to delegate standards.

(f) Examiners.—The Agency may appoint examiners to conduct examinations under this section. The Agency may contract with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation for the services of examiners to conduct examinations under this section. The Agency shall reimburse such agencies for any costs of providing examiners.

(g) Law Applicable to Examiners.—The Agency and each examiner shall the same authority, and each examiner shall be subject to the same disclosures, prohibitions, obligations, and penalties, as are applicable to examiners employed by the Federal Reserve banks.

(h) Technical Experts.—The Agency may obtain the services of any technical experts that the Agency considers appropriate to provide temporary technical assistance relating to examinations to the Agency.

(i) Oaths, Evidence, and Subpoena Powers.—In connection with examinations under this section, the Agency shall have the authority provided under section 613.

(j) Appointment of Accountants, Economists, and Examiners.—

(1) APPLICABILITY.—This section shall apply with respect to any position of examiner, accountant, economist, and specialist in financial markets and in technology at the Agency, with respect to the supervision and regulation of market participants, that is in the competitive service.

(2) APPOINTMENT AUTHORITY.—The Agency 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 laws governing appointments in the competitive service.

(k) Authority to Provide for Review.—The Agency may, on such terms and conditions as the Agency determines appropriate, contract with an entity to conduct a review of a market participant.

(l) Ombudsman.—The Agency shall prescribe by regulation an Office of the Ombudsman within the Agency, which shall be responsible for considering complaints and appeals from any market participant regarding any matter relating to the supervision and regulation of the market participant by the Agency.

(m) Privilege.—

(1) IN GENERAL.—The submission by any person of any information to the Agency or Ginnie Mae for any purpose in the course of any supervisory or regulatory process of the Agency or Ginnie Mae under this Act shall not be construed as waiving, destroying, or otherwise affecting any privilege the person may claim with respect to the information under Federal or State law as to any person or entity other than the Agency or Ginnie Mae.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to imply or establish that any person—

(A) waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

(B) would waive any privilege applicable to any information by submitting the information to the Agency or Ginnie Mae.

SEC. 204 FUNDING.

(a) Annual Assessments.—Subject to subsection (b), the Agency shall collect from guarantors annual assessments in an amount sufficient to recover the salaries, expenses, and other administrative costs of the Agency in carrying out the activities under this Act, including such amounts in excess of actual expenses for any given year as deemed necessary by the Agency to maintain a working capital fund.

(b) Exception.—The assessments under subsection (a) shall not recover any salaries, expenses, and other administrative costs of the Agency and Ginnie Mae that are recovered under section 203(e).

(c) Allocations.—

(1) SINGLE-FAMILY.—Each single-family guarantor shall pay to the Agency a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the collateral guaranteed by the single-family guarantor that secures guaranteed single-family mortgage-backed securities bears to the collateral that secures all of the guaranteed single-family mortgage-backed securities.

(2) MULTIFAMILY.— Each multifamily guarantor shall pay to the Agency a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the collateral guaranteed by the multifamily guarantor that secures guaranteed multifamily mortgage-backed securities bears to the collateral that secures all of the guaranteed multifamily mortgage-backed securities.

(d) Timing of Payments.—Each guarantor shall pay the share of the guarantor of the assessment under subsection (a) semiannually on October 1 and April 1.

(e) Increased Costs of Regulation.—The Agency may adjust the amount of any semiannual payment for an assessment under subsection (a) that are to be paid by a guarantor under subsection (e) as necessary to ensure that only the guarantor bears the costs of enforcement activities under this Act against the guarantor.

(f) Transition Funding.—The Agency may collect from each enterprise periodic assessments as necessary to fully recover over time the salaries, expenses, and other administrative costs incurred by the Agency and by Ginnie Mae before the launch date, as reported from time to time by Ginnie Mae to the Agency, in carrying out the activities under this Act, including under titles III and IV.

SEC. 205 CHARTERING OF GUARANTORS.

(a) Standards.—The Agency shall prescribe by regulation the process and standards for approvals by the Agency—

(1) to organize as a guarantor; and

(2) to engage in the business of securitizing guaranteed mortgage-backed securities.

(b) Organization.—Upon approval by the Agency to organize as a guarantor, a guarantor shall become a body corporate organized under the laws of the United States.

(c) Corporate Powers.—Upon approval by the Agency to engage in the business of securitizing guaranteed mortgage-backed securities, each guarantor shall have all rights, privileges, and powers as are necessary and appropriate to engage in the business of securitizing guaranteed mortgage-backed securities in accordance with this Act.

(d) Management.—The management of each guarantor shall be by or under the direction of its board of directors of the guarantor.

(e) Internal Corporate Affairs.—Each guarantor shall elect to follow the corporate governance and indemnification practices and procedures set forth in either title 8, chapter 1 of the Delaware Code (commonly known as "Delaware General Corporation Law") or the Revised Model Business Corporation Act, to the extent such practices and procedures do not conflict with any Federal law.

(f) Preemption of State Consumer Financial Laws.—A State consumer financial law shall be preempted with respect to a guarantor to the same extent as if the guarantor were a national banking association organized under the laws of the United States.

(g) Changes of Control.—

Another "you figure it out" clause

(1) IN GENERAL.—A person shall not acquire control of a guarantor, including by merger or other consolidation, except with the prior approval of the Agency and in compliance with any regulation prescribed by the Agency.

(2) RESTRICTION.—The Agency shall not approve any change of control under paragraph (1) that would cause a single-family guarantor to not be in compliance with subsection (b) or (c) of section 301.

SEC. 206 ELIGIBLE MORTGAGE LOANS.

(a) Loan Limits.—

(1) IN GENERAL.—The Agency shall prescribe by regulation or order limits on the maximum original principal obligation of eligible single-family mortgage loans.

(2) MAXIMUM LIMITS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the maximum limitation amount under this subsection shall not exceed $453,100 for a mortgage loan secured by a 1-family residence, for a mortgage loan secured by a 2-family residence the limit shall equal 128 percent of the limit for a mortgage loan secured by a 1-family residence, for a mortgage loan secured by a 3-family

residence the limit shall equal 155 percent of the limit for a mortgage loan secured by a 1-family residence, and for a mortgage loan secured by a 4-family residence the limit shall equal 192 percent of the limit for a mortgage loan secured by a 1-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date of this Act, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Agency pursuant to subparagraph (C). If the change in such housing price index during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next upward adjustment shall take into account prior declines in the housing price index, so that any adjustment shall reflect the net change in the housing price index since the last adjustment. Declines in the housing price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines.

(B) HIGH-COST AREA LIMITS.—The limitations set forth in subparagraph (A) may be increased by not more than 50 percent with respect to properties located in Alaska, Guam, Hawaii, and the Virgin Islands. Such foregoing limitations shall also be increased, with respect to properties of a particular size located in any area for which 115 percent of the median housing price for such size residence exceeds the limitation for such size residence set forth under subparagraph (A), to the lesser of 150 percent of such limitation for such size residence or the amount that is equal to 115 percent of the median housing price in such area for such size residence.

(C) HOUSING PRICE INDEX.—The Agency shall establish and maintain a method of assessing a national average single-family housing price for use in calculating the loan limits for eligible single-family mortgage loans under subparagraph (A), and other averages as the Agency considers appropriate, including averages based on different geographic regions and an average for houses the mortgage of which secure guaranteed single-family mortgage-backed securities.

(b) Other Requirements and Restrictions.—The Agency may prescribe other regulations governing eligible mortgage loans that the Agency determines are appropriate to fulfill the purposes of this Act, including with respect to—

(1) the underwriting process; or

(2) the use of an automated underwriting system or other functionality for determining whether a mortgage loan is an eligible mortgage loan.

SEC. 207 ELIGIBLE CREDIT RISK TRANSFER ARRANGEMENTS.

(a) Required Rule Making.—The Agency shall prescribe regulations governing eligible credit risk transfer arrangements of guarantors, including—

(1) the procedures and standards for approval by the Agency of a class of eligible credit risk transfer arrangements;

(2) with respect to each class of eligible credit risk transfer arrangements, the capital relief (including with respect to any restriction on leverage), asset credit, or liability reduction afforded to a guarantor that enters into an arrangement of the class on an equity equivalent basis for committed capital; and

(3) any other requirement or restriction governing eligible credit risk transfer arrangements that the Agency determines is appropriate to fulfill the purposes of this Act.

(b) Required Considerations.—In regulating eligible credit risk transfer arrangements under this section, the Agency shall endeavor to mitigate—

(1) the risk that a counterparty to an arrangement of the class will not fully satisfy the obligations of the counterparty under the arrangement, including in the event of a severely adverse stress scenario;

(2) the risk that arrangements of the class together might lead to the concentration of credit risk in few or systemically important counterparties;

(3) the risk that the terms, pricing, or availability of an arrangement of the class could adversely vary across the business cycle;

(4) any impact that arrangements of the class together might have on the equitable access to the secondary mortgage market by mortgage lenders of all sizes, charter types, and geographic locations;

(5) any impact that arrangements of the class together might have on access to affordable mortgage credit or affordable housing, including to underserved borrowers and in required markets; and

(6) any other risk or impact that the Agency determines is relevant to fulfill the purposes of this Act.

(c) Diversity of Arrangements.—The Agency shall approve a variety of classes of eligible credit risk transfer arrangements, which shall include arrangements that provide for—

(1) a person other than the guarantor entering into the arrangement to bear credit risk on an eligible mortgage loan that secures an eligible mortgage-backed security;

(2) a person other than the guarantor entering into the arrangement to bear credit risk on a security or other pool of eligible mortgage loans that will secure an eligible mortgage-backed security;

(3) the seller of an eligible single-family mortgage loan to bear credit risk on that loan;

(4) the holder of a subordinated interest in a security or other pool of eligible mortgage loans that will secure an eligible mortgage-backed security to bear credit risk on that security or other pool; and

(5) a person other than the guarantor entering into the arrangement to assume the master servicing obligations on an eligible mortgage loan that secures an eligible mortgage-backed security.

(d) Limits on Arrangements.—To mitigate any risk or adverse impact described in subsection (b), to foster a diversity of eligible credit risk transfer arrangements, or to otherwise fulfill the purposes of this Act, the Agency may by regulation or order—

(1) restrict the amount or share of any specific eligible credit risk transfer arrangement used by a guarantor either in the aggregate or with respect to the collateral guaranteed by the guarantor that will secure a guaranteed mortgage-backed security; or

(2) restrict the specific attachment points, range, or portion of credit risk that a credit risk transfer counterparty bears under any specific eligible credit risk transfer arrangement.

TITLE III - REGULATION OF MARKET PARTICIPANTS

SEC. 301 GUARANTORS.

(a) First Loss Private Capital.—

(1) IN GENERAL.—The Agency shall prescribe by regulation risk-based capital requirements and leverage restrictions to ensure each guarantor operates in a safe and sound manner.

(2) MINIMUM REQUIREMENTS.—Except as provided in subparagraph (D), in accordance with regulations prescribed by the Agency, a guarantor shall maintain—

THIS LANGUAGE WILL LEAD TO POLITICIZATION BY LOBBBYING/CONGRESS IN THE SAME MANNER OFHEO BECAME WEAKENED

(A) eligible credit risk transfer arrangements that together cause credit risk transfer counterparties to bear, to the extent economically sensible, a significant portion of the credit risk on the collateral guaranteed by the guarantor that secures guaranteed mortgage-backed securities;

(B) an amount of capital, after taking into account any capital relief, asset credits, or liability reductions afforded by the eligible credit risk sharing arrangements of the guarantor, sufficient to satisfy—

29 versions of a draft that ensures systemic risk, doesn't provide adequate capital and exempts guarantors that expose the UST to losses in excess of the Treasury lines provided to the GSEs under the PSPAs?

(i) a leverage restriction requiring capital not less than [] percent of the unpaid principal amount of the collateral guaranteed by the guarantor that secures guaranteed mortgage-backed securities;

(ii) a risk-based capital requirement sufficient to ensure that the guarantor could continue to engage in the business of securitizing guaranteed mortgage-backed securities following a severely adverse stress scenario; and

(iii) a countercyclical capital buffer; and

This is the too big to fail guarantor act.

(C) an amount of additional outstanding external total loss-absorbing capacity, after taking into account any asset credits or liability reductions afforded by the eligible credit risk sharing arrangements of the guarantor, that is not less than [] percent of the unpaid principal amount of the collateral guaranteed by the guarantor that secures guaranteed mortgage-backed securities.

(3) EXEMPTIONS.—Subparagraph (A) and (C) of paragraph (2) shall not apply to any guarantor that then guarantees less than $[250,000,000,000] in unpaid principal amount of collateral securing guaranteed mortgage-backed securities.

(4) ADDITIONAL AUTHORITIES AND LIMITATIONS.—

(A) LOSS-ABSORBING CAPACITY.—In prescribing any regulation governing the additional outstanding external total loss-absorbing capacity of a guarantor required under subparagraph (2)(C), the Agency—

We know that regulators are loathe to trigger contingent capital in adverse scenarios. This is irresponsible and absurd.

(i) may permit external long-term debt, debt securities, contingent capital, preferred shares, or other capital instruments to qualify as outstanding external total loss-absorbing capacity, subject to any requirement or restriction that the Agency may prescribe in such regulation;

(ii) may provide for any additional outstanding external total loss-absorbing capacity of a holding company of a guarantor organized under subsection (l) to be treated as additional outstanding external total loss-absorbing capacity of the guarantor; and

(iii) shall not permit any eligible credit risk transfer arrangement to qualify as outstanding external total loss-absorbing capacity.

(B) FUTURE GUARANTEE FEES.—In prescribing regulations governing the capital of a guarantor required under subparagraph (2)(B), the

Agency shall not classify the right of a guarantor to receive a payment as an asset of the guarantor except to the extent permitted under generally accepted accounting principles as used in the United States.

(b) Liquidity Requirements.—In compliance with a minimum liquidity standard prescribe by regulation by the Agency, each guarantor shall maintain liquid assets sufficient to satisfy the liquidity needs of the guarantor over a temporary stress scenario, such liquid assets and liquidity needs to be determined on a consolidated basis that includes any issuing vehicles of the guarantor.

(c) Separation Between Primary and Secondary Markets.—

(1) RESTRICTIONS ON ACTIVITIES.—

(A) SINGLE-FAMILY GUARANTORS.—A single-family guarantor shall not engage directly or indirectly in any business other than the business of securitizing guaranteed mortgage-backed securities that are secured by eligible single-family mortgage loans.

(B) MULTIFAMILY GUARANTORS.—A multifamily guarantor shall not engage directly or indirectly in any business other than the business of securitizing guaranteed mortgage-backed securities that are secured by eligible multifamily mortgage loans.

This would allow the 5 largest bank originators to own a guarantor.

(2) RESTRICTIONS ON AFFILIATIONS.—A guarantor or other person shall not knowingly take any action that would cause—

(A) an entity engaged in the business of originating, making, or brokering mortgage loans to own, control, or hold, directly or indirectly—

(i) the power to vote 5 percent or more of the outstanding shares of any class of voting securities of the guarantor; or

(ii) 10 percent or more of the outstanding voting and nonvoting equity of the guarantor; or

(B) a guarantor to become an affiliate of an entity engaged in the business of originating, making, or brokering mortgage loans.

(3) GINNIE MAE GUARANTEES.—Ginnie Mae shall not guarantee under section 101 an eligible mortgage-backed security secured by collateral guaranteed by a guarantor that, at the time of the guarantee, is not in compliance with this subsection.

(4) EXCEPTIONS.—

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(A) LENDER COOPERATIVES.—Notwithstanding anything to the contrary in this subsection, an entity engaged in the business of originating, making, or brokering mortgage loans may own, control, or hold, directly or

indirectly, the power to vote not more than 10 percent of the outstanding shares of any class of voting securities of a guarantor that is owned and operated on a cooperative basis only by entities engaged in the business of originating, making, or brokering mortgage loans, none of which controls the guarantor.

(B) **[**SMALL LENDER GUARANTORS.—Paragraph (2) of this subsection shall not restrict any affiliation with a small lender guarantor.**]**

(C) ORDINARY COURSE EXCEPTIONS.—This subsection shall not restrict any affiliation with, or otherwise apply to, a person that, in accordance with regulations prescribed by the Agency, acquires control of a guarantor or a person engaged in the business of originating, making, or brokering mortgage loans—

(i) in a fiduciary capacity in good faith under applicable fiduciary law if the acquired assets are held in the ordinary course of business and not acquired for the benefit of the person or the shareholders, employees, or subsidiaries of the guarantor or the person engaged in the business of originating, making, or brokering mortgage loans;

(ii) in the ordinary course of collecting a debt previously contracted in good faith if the acquired assets are divested within the time period permitted by the Agency; or

(iii) in connection with a bona fide underwriting or market-making activities.

(d) Single-Family Market Concentration Limits.—

(1) IN GENERAL.—Beginning after the date that is 3 years after the date on which the Agency certifies under section 804(d) that a competitive secondary market has been achieved, a single-family guarantor or other person shall not knowingly take any action that would cause a single-family guarantor, together with any affiliate of the single-family guarantor, to have in the preceding 60-month period—

(A) assumed additional risk-in-force in an amount greater than **[**20-25**]** percent of the additional risk-in-force assumed by all single-family guarantors during that period; or

(B) guaranteed collateral securing guaranteed single-family mortgage-backed securities in an amount greater than **[**20-25**]** percent of the collateral securing guaranteed single-family mortgage-backed securities guaranteed under section 101 during that period.

(2) GINNIE MAE GUARANTEES.—Ginnie Mae shall not guarantee under section 101 the timely payment of principal and interest on an eligible single-family mortgage-backed security if, after the guarantee, a single-family guarantor would not be in compliance with paragraph (1).

(3) GINNIE MAE FEES.—In accordance with regulations prescribed by the Agency, the Agency may increase or decrease the fees set and collected under section 102 by single-family guarantor or with respect to the collateral that will secure an eligible single-family mortgage-backed security to ensure that each single-family guarantor would remain in compliance with paragraph (1).

(4) PUBLICATION.—To facilitate compliance with this subsection, the Agency shall publish not less frequently than every month the additional risk-in-force assumed by each single-family guarantor in the preceding 60 months and the amount of collateral guaranteed by each single-family guarantor in the preceding 60 months that secures guaranteed single-family mortgage-backed securities.

(e) Multifamily Restrictions.

(1) AFFORDABILITY OF UNITS.—In accordance with regulations prescribed by the Agency, each multifamily guarantor shall ensure that not less than **[**60**]** percent of the rental housing units that were funded by the multifamily mortgage loans that were collateral guaranteed by the multifamily guarantor for guaranteed multifamily mortgage-backed securities during the preceding 24-month period were, at the time of origination, affordable to families at or below 80 percent of the area median income for the area in which the unit is located.

(2) CAP ON MARKET SIZE.—

A statutory cap will not fly with multifamily players and is not good for the consumer market.

(A) GINNIE MAE GUARANTEES.—Ginnie Mae shall not guarantee under section 101 the timely payment of principal and interest on an eligible multifamily mortgage-backed security if, after the guarantee by Ginnie Mae, the unpaid principal balance of guaranteed multifamily mortgage-backed securities would exceed $**[**Fannie/Freddie multifamily UPB as of end of 2017**]**.

(B) ALLOCATIONS.—In accordance with regulations prescribed by the Agency, the Agency shall on a periodic basis grant to multifamily guarantors through a competitive bidding process permits for guarantees under section 101 of eligible multifamily mortgage-backed securities in an aggregate amount not to exceed the amount permitted under subparagraph (A).

(C) MARKET ACCESS FUND.—The Agency shall transfer to the market access fund all amounts collected from the competitive bidding process under subparagraph (A).

(D) INFLATION ADJUSTMENT.—**[**The Agency shall adjust annually the dollar amounts under subparagraph (A) by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest $1,000,000,000.**]**

(f) Resolution Plans.—

(1) REQUIRED PLAN.—Each guarantor shall report to the Agency each year with a plan for the rapid and orderly resolution of the guarantor in the event of the material financial distress or failure of the guarantor.

(2) NOTICE OF DEFICIENCIES.—If the Agency determines that the resolution plan of a guarantor is not credible or would not facilitate an orderly resolution of the guarantor **[**under title 11, United States Code**]**—

(A) the Agency shall notify the guarantor of the deficiencies in the resolution plan; and

(B) the guarantor shall resubmit the resolution plan within a time frame determined by the Agency, with revisions demonstrating that the plan is credible and would result in an orderly resolution **[**under title 11, United States Code**]**.

(g) Stress Testing.—

(1) ANNUAL TESTS REQUIRED.—The Agency shall conduct an annual analysis of each guarantor to evaluate whether the guarantor has the capital necessary to absorb losses resulting from adverse economic conditions.

(2) TEST PARAMETERS AND CONSEQUENCES.—The Agency shall—

(A) provide for not less than 2 different sets of conditions under which each analysis required under paragraph (1) shall be conducted, including baseline and severely adverse;

(B) require each guarantor to update the resolution plan of the guarantor required under subsection (f), as the Agency determines appropriate, based on the results of the analysis; and

(C) publish a summary of the results of the each analysis required under paragraph (1).

(3) CONSISTENT FRAMEWORKS.—The Agency, in consultation with the Board of Governors of the Federal Reserve System, shall issue regulations to implement this subsection that are consistent and comparable to the regulations issued by the Board of Governors of the Federal Reserve System under section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365(i)).

(h) Permissible Investments.—

(1) MORTGAGE ASSETS.—Except to the extent necessary to engage in the business of securitizing guaranteed mortgage-backed securities, a guarantor shall not directly or indirectly purchase, invest in, or otherwise hold any mortgage loans, mortgage-backed securities, or other mortgage assets.

(2) OTHER INVESTMENTS.—In accordance with regulations prescribed by the Agency, each guarantor may invest in—

(A) obligations of the United States;

(B) obligations issued, insured, or guaranteed by a department or agency of the United States, if the obligation, insurance, or guarantee commits the full faith and credit of the United States for the repayment of the obligation;

(C) obligations issued by a department or agency of the United States, or an agency or political subdivision of a State, that represent an interest in a loan or a pool of loans made to third parties, if the full faith and credit of the United States has been validly pledged for the full and timely payment of interest on, and principal of, the loans in the event of non-payment by the third party obligor; and

(D) marketable debt obligations that are investment grade.

(i) Affiliate Transactions.—The Agency shall prescribe by regulation requirements or restrictions governing transactions between the guarantor and an affiliate of the guarantor, including—

(1) requirements as to the terms of those transactions; and

(2) restrictions on the amount of those transactions with an affiliate or in the aggregate.

(j) Other Prudential Standards.—The Agency may prescribe by regulation or guideline requirements or restrictions to ensure that each guarantor operates in a safe and sound manner, including as to—

(1) the adequacy of internal controls and information systems;

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

(3) the management of interest rate risk exposure;

(4) the 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;

(5) the adequacy and maintenance of liquidity and reserves;

(6) the management of asset and investment portfolio growth;

(7) the investments and acquisitions of assets;

(8) the overall risk management processes, including adequacy of oversight by senior management and the board of directors;

(9) the management of credit and counterparty risk, including processes to identify concentrations of credit risk and prudential limits to restrict exposure of the guarantor to a single counterparty or groups of related counterparties;

(10) the maintenance of adequate records, in accordance with consistent accounting policies and practices that enable the Agency to evaluate the financial condition of the guarantor; and

(11) such other operational and management standards as the Agency determines to be appropriate to fulfill the purposes of this Act.

(k) Capital Distributions.—

NO NEED FOR ANYONE OF YOU TO READ THIS ENTIRE POS BILL. IT IS NOT A SERIOUS PROPOSAL IT IS SENATOR CORKER'S JOB APPLICATION TO MBA, WFC, BLK OR THE ROUNDTABLE

(1) IN GENERAL.—Except as provided in paragraph (2), a guarantor shall not make a capital distribution if, after making the distribution, the guarantor would be undercapitalized.

(2) EXCEPTION—The Agency may permit a guarantor to repurchase or otherwise acquire an ownership interest in the guarantor if the repurchase or other acquisition is in connection with the issuance of additional shares or other obligations of the guarantor that the Agency determines will improve the financial condition of the guarantor.

(l) Holding Companies.—

(1) IN GENERAL.—The Agency may by regulation or order require a guarantor to organize a holding company that would be subject to supervision and regulation by the Agency as if the holding company were a guarantor.

(2) RULE MAKING AUTHORITY.—The Agency may prescribe regulations with respect to the outstanding external total loss-absorbing capacity and other capital instruments of, and resolution planning by, a holding company required under paragraph (1).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to authorize the Agency to prescribe any requirements or restrictions on a company that controls a guarantor other than a holding company required under paragraph (1).

SEC. 302 [ISSUING VEHICLES.]

(a) [Dedicated Liquidity.—In accordance with any regulations prescribed by the Agency and Ginnie Mae, each guarantor shall—

(1) establish 1 or more issuing vehicles of the guarantor;

(2) allocate among, and transfer to, the issuing vehicles of the guarantor all of the rights, titles, and other interests of the guarantor in any eligible mortgage loan, or

security or other pool secured by eligible mortgage loans, that is collateral guaranteed by the guarantor securing a guaranteed mortgage-backed security;

(3) ensure that each issuing vehicle of the guarantor to which any portion of that collateral has been transferred is obligated to make the required payments on that collateral;

(4) fully and unconditionally guarantee the timely payment of the required payments on that collateral by the issuing vehicle in accordance with any regulations prescribed by the Agency; and

(5) ensure that each issuing vehicle of the guarantor maintains liquid assets in an amount not less than the lesser of—

(A) $**[**20**]** for each $10,000 in the aggregate required payments to be made by the issuing vehicle; and

(B) an amount sufficient to satisfy the liquidity needs of the issuing vehicle over a temporary stress scenario, including any liquidity need relating to the funding of delinquent mortgage loans.

(b) Book Segments.—

(1) IN GENERAL.—In prescribing regulations under subsection (a), to facilitate the orderly resolution of a guarantor under title 11 of the United States Code, title VII, or other applicable law, the Agency and Ginnie Mae shall restrict the maximum amount of required payments that are an obligation of any 1 issuing vehicle of a guarantor.

(2) NUMBER OF ISSUING VEHICLES.—Nothing in this section may be construed to restrict the number of issuing vehicles that may be established by a guarantor.

(c) Other Requirements and Restrictions.—The regulations prescribed under this section shall—

(1) permit a guarantor to own a subordinate or other residual interest in an issuing vehicle of the guarantor;

(2) vary the amount of liquid assets that must be maintained by an issuing vehicle based on the characteristics of the underlying eligible mortgage loans, including by decreasing the required liquid assets to the extent those loans remain performing loans over time;

(3) permit an issuing vehicle of the guarantor to distribute to the guarantor any liquid assets that are in excess of the amount necessary to satisfy the liquidity requirements applicable to the issuing vehicle;

(4) treat such excess liquid assets that have not been distributed to the guarantor as liquid assets of the guarantor for the purposes of any liquidity requirements or restrictions prescribed by the Agency that are applicable to the guarantor; and

(5) treat any subordinate or other residual interest in an issuing vehicle of the guarantor, and the liquid assets maintained in the issuing vehicle, as assets of the guarantor for the purposes of any leverage restrictions or other capital requirements prescribed by the Agency that are applicable to the guarantor.**]**

SEC. 303 PLATFORMS.

(a) Approval.—

(1) IN GENERAL.—The Agency shall prescribe by regulation the process and standards for approval to become a platform.

Uneconomic

(2) CAP.—The Agency shall not approve under this subsection an additional platform for facilitating the issuance or administration of guaranteed single-family mortgage-backed securities if there are **[**2 or more**]** such platforms then in operation.

(3) COMMON SECURITIZATION PLATFORM.—The common securitization platform shall be deemed a platform approved under this subsection upon a determination by the Agency that the common securitization platform has the functionality appropriate to facilitate the issuance and administration of guaranteed single-family mortgage-backed securities.

(4) BACKUP PLATFORM.—The Agency shall arrange for and approve a platform or other system for facilitating the issuance and administration of guaranteed single-family mortgage-backed securities if the Agency has not determined that the common securitization platform has functionality appropriate to facilitate the issuance and administration of guaranteed single-family mortgage-backed securities by the date that is the earlier of the date that is 2 years after the date of enactment of this Act and the date that is 12 months before the launch date contemplated under the transition plan published under section 810.

(b) Governance and Operations.—The Agency shall prescribe by regulation requirements and restrictions to ensure that each platform—

(1) maintains functionality appropriate for facilitating the issuance and administration of guaranteed single-family mortgage-backed securities;

(2) is available to existing and prospective market participants on an equitable and nondiscriminatory basis, including with respect to the ownership structure, management, or operations of the platform;

(3) is operated in a manner that ensures that mortgage lenders of all sizes, charter types, and locations have equitable access to the secondary mortgage market; and

(4) fosters a competitive secondary mortgage market.

(c) Other Prudential Standards.—The Agency may prescribe by regulation or guideline requirements or restrictions to ensure that each platform operates in a safe and sound manner.

(d) Eligible Mortgage Loans.—The Agency may by regulation or order require any platform to make available to guarantors an automated underwriting system or other functionality that facilitates the underwriting of eligible mortgage loans or the determination as to whether a mortgage loan is an eligible mortgage loan.

(e) Historical Data.—

Here Corker has granted the transfer of private property of the GSEs through eminent domain.

(1) IN GENERAL.—The common securitization platform after approval under subsection (a)(3), or any other platform after approval under subsection (a)(4), shall make publicly available to market participants and other interested persons the source code for the automated underwriting systems, historical data, and other records of the enterprises acquired under section 805.

(2) PRIVACY PROTECTIONS.—[Researching language]

(f) Fees.—

(1) AMOUNT.—A platform may set and collect fees approved by the Agency to fully recover over time the salaries, expenses, and other administrative costs incurred by the platform, including the costs of acquiring any assets and records of the enterprises under section 805.

(2) NONDISCRIMINATION.—A platform shall not rebate or otherwise reduce any fee that the platform collects under paragraph (1) from a single-family guarantor based on the amount of collateral guaranteed by, or the assets of, a single-family guarantor.

FHFA has no empirical capability to oversee. This will increase systemic risk to these new central market utilities.

(g) Private-Label Securitization.—The Agency may by regulation or order require or allow a platform to facilitate the issuance and administration of mortgage-backed securities that are not guaranteed mortgage-backed securities.

SEC. 304 CREDIT RISK TRANSFER COUNTERPARTIES.

In addition to any other regulations applicable to credit risk transfer counterparties, the Agency may prescribe by regulation minimum risk-based capital requirements, leverage restrictions, and collateral requirements applicable to each credit risk transfer counterparty that has a material payment, performance, or other obligation under a credit risk transfer arrangement.

SEC. 305 THIRD-PARTY RELATIONSHIPS.

(a) Guarantor Requirements.—A guarantor shall manage the risks arising out of each relationship of the guarantor with a seller or servicer of eligible mortgage loans or other

third party in accordance with regulations prescribed by the Agency, which may include requirements or restrictions with respect to—

(1) the risk-based capital, leverage, or net worth of the seller, servicer, or other third party;

(2) the oversight of the seller, servicer, or other third party by the guarantor; and

(3) any other requirements or restrictions the Agency determines are appropriate to manage the risks arising out of these relationships.

(b) Liquidity Requirements.—The regulations prescribed by the Agency under subsection (a) shall require a guarantor to require each seller or servicer of eligible mortgage loans with which the guarantor has a relationship to maintain liquid assets sufficient to satisfy the liquidity needs of the seller or servicer over a temporary stress scenario.

(c) Agency Authorities.—Nothing in this Act may be construed to authorize the Agency to supervise or regulate sellers or servicers of eligible mortgage loans.

SEC. 306 CAPITAL RESTORATION PLANS.

(a) Submission of Plan.—A market participant that is undercapitalized shall submit a capital restoration plan in compliance with regulations prescribed by the Agency.

(b) Acceptance of Plan.—The Agency shall not accept a capital restoration plan submitted under subsection (a) unless the Agency determines the capital restoration plan is in compliance with the regulations prescribed by the Agency and is likely to succeed in restoring the capital of the market participant.

(c) Other Corrective Action.—The Agency may require a capital restoration plan submitted under subsection (a) to include requirements or restrictions with respect to asset or other growth, material transactions, compensation of management, or such other activities as the Agency determines to be appropriate.

(d) Enforcement.—A capital restoration plan submitted under subsection (a) that is accepted by the Agency is an order of the Agency that is enforceable under section 601.

SEC. 307 FAIR HOUSING.

The Agency shall—

(a) by regulation, prohibit each guarantor from discriminating in any manner in the acquisition or guarantee of any eligible mortgage loan because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(b) by regulation, require each guarantor to submit data to the [Secretary of Housing and Urban Development] to assist the Secretary in investigating whether a mortgage lender with which the guarantor does business has failed to comply with the Fair Housing Act (42 U.S.C. 3601 et seq.);

(c) by regulation, require each guarantor to submit data to the [Secretary of Housing and Urban Development] to assist in investigating whether a mortgage lender with which the guarantor does business has failed to comply with the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.), and shall submit any such information received to the appropriate Federal agencies, as provided in section 704 of the Equal Credit Opportunity Act (15 U.S.C. 1691c), for appropriate action;

(d) obtain information from other regulatory and enforcement agencies of the Federal Government and State and local governments regarding violations by lenders of the Fair Housing Act and the Equal Credit Opportunity Act and make such information available to the guarantors;

(e) direct the guarantors to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or the Equal Credit Opportunity Act, 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; and

(f) periodically review and comment on any underwriting and appraisal guidelines of each guarantor to ensure that such guidelines are consistent with the Fair Housing Act and this section.

SEC. 308 EXIGENT CIRCUMSTANCES.

increases pro-cyclicality as investors will exist the market in advance of liquidity event to place the risk on the taxpayer.

(a) Temporary Waiver Authority.—The Agency may, with the approval of the Secretary of the Treasury, modify or waive for a period not more than 180 days any requirement or restriction under sections 102(a) [Ginnie wrap fee], 301(a) [capital, debt financing, and CRT requirements], or 301(d) [market concentration limit] upon a determination by the Agency and the Secretary of the Treasury that—

(1) exigent circumstances have had, or threaten to have, a significant and adverse effect on the United States housing finance market;

(2) the modification or waiver would mitigate the likelihood or magnitude of that effect; and

(3) the benefits of that mitigation exceed the incremental risk to the mortgage insurance fund.

(b) Notice.—Not later than 7 days after exercising the authority under subsection (a), the Agency shall submit to the Committee on Banking, Housing, and Urban Affairs of the

Senate and the Committee on Financial Services of the House of Representatives a report that includes a justification for exercising that authority.

(c) Transfer of Incremental Credit Risk.—As soon as practicable after the expiration of a modification or waiver under subsection (a), the Agency shall enter into credit risk transfer arrangements under section 101(b) to transfer to the private sector any incremental risk posed to the mortgage insurance fund by the modification or waiver.

(d) Successive Waivers.—Nothing in this section may be construed to restrict successive or other additional modifications or waivers under subsection (a).

TITLE IV - SMALL AND COMMUNITY LENDER ACCESS

SEC. 401 EQUAL ACCESS FOR ALL LENDERS.

(a) Nondiscrimination.—

(1) IN GENERAL.—Each single-family guarantor shall afford equal treatment to similarly situated lenders and sellers of, and issuers and sponsors of securities or other pools secured by, eligible single-family mortgage loans.

(2) EQUAL PRICING.—A single-family guarantor shall not vary the pricing or any other term of the guarantee or the acquisition by the single-family guarantor of an eligible single-family mortgage loan or the guarantee or acquisition by the single-family guarantor of a security or other pool secured by those loans based on the size, charter, or volume of business of the lender or seller of the loan or the issuer or the sponsor of the security or other pool.

(b) Required Cash Window.—Each single-family guarantor shall offer at all times to purchase for cash consideration, for the same price (subject to an adjustment for the value of the servicing rights), on substantially the same terms, and with mortgage servicing rights retained or released by the seller, any eligible single-family mortgage loan that the single-family guarantor then—

(1) offers to guarantee or acquire for other consideration; or

(2) accepts as collateral for securities or other pools of those loans that the single-family guarantor then offers to guarantee or acquire.

(c) Rule of Construction.—Nothing in this subsection may be construed to restrict a single-family guarantor from imposing any restriction or requirement with respect to the terms or underwriting of the eligible single-family mortgage loans that the single-family guarantor offers to acquire or guarantee or that the single-family guarantor accepts as security for securities or other pools of such loans that the single-family guarantor offers to acquire or guarantee.

(d) **[**Small Lender Guarantor.—This section shall not apply to any small lender guarantor.**]**

SEC. 402 FEDERAL HOME LOAN BANK GUARANTOR.

(a) Organization.—The Agency may require each Federal Home Loan Bank to cooperate under the direction of the Agency to—

(1) jointly establish 1 or more single-family guarantors; and

(2) ensure the continued operation of any single-family guarantor established under this subsection.

(b) Activities.—Any single-family guarantor established under subsection (a) shall engage only in the business of securitizing guaranteed mortgage-backed securities secured by eligible single-family mortgage loans originated by smaller lenders or securities or other pools secured by such loans.

(c) Participation.—The Agency shall ensure that small lenders that are not eligible to become members of, or are not otherwise members of, a Federal Home Loan Bank may participate in any single-family guarantor established under subsection (a) in compliance with any regulations that the Agency might prescribe, including as to any required capital contribution or equity ownership.

(d) Joint and Several Liability.—Each Federal Home Loan Bank shall be jointly and severally liable for the obligations of any single-family guarantor established under subsection (a).

(e) Capital Structure.—The Agency may prescribe regulations governing the capital structure of any single-family guarantor established under subsection (a), including requirements or restrictions as to the ownership of equity or other interests of the guarantor by participating lenders or by entities that are not participating lenders.

SEC. 403 [SMALL LENDER GUARANTORS.]

(a) **[**Organization.—If the Agency has not certified under section 804(d) that there is a competitive secondary mortgage market before the date that is **[**three**]** years after the date of enactment of this Act, the Agency shall prescribe by regulation a process and standards for any smaller lender to organize a small lender guarantor.

(b) Exemptions.—Section 301(c)(2) and Section 401 shall not impose any requirements or restrictions on, or otherwise apply to, any small lender guarantor.**]**

SEC. 404 SUPPORT OF NATIONAL HOUSING FINANCE MARKET.

(a) Ongoing and Equitable Presence in Required Markets and Underserved Markets.—A single-family guarantor shall make and maintain under this section a publicly posted good faith offer, on terms consistent with the processes by which the single-family guarantor determines offers for comparable classes of eligible single-family mortgage loans in other markets, to acquire any eligible single-family mortgage loan that—

(1) was made to an underserved borrower or to a borrower in a required market;

(2) is of a class of eligible single-family mortgage loans that the single-family guarantor offers to acquire or guarantee in other markets, or accepts as collateral for securities or other pools that the single-family guarantor offers to acquire or guarantee in other markets; and

(3) satisfies any restrictions or requirements imposed by the single-family guarantor with respect to the terms or underwriting of that class of loans.

(b) Offer Terms.—Each offer made under subsection (a) shall include—

(1) an offer to acquire the loan with the servicing rights retained by the seller;

(2) an offer to acquire the loan with the servicing rights released by the seller; and

(3) an offer to acquire the loan for guaranteed mortgage-backed securities or any other consideration to the extent that the single-family guarantor offers guaranteed mortgage-backed securities or that other consideration for other loans of that class.

(c) Safe Harbor.—A single-family guarantor shall be deemed to have complied with subsection (a) if the single-family guarantor made the offer based on any automated or other method used by the single-family guarantor for developing pricing, credit overlays, or other similar changes to the pricing or other terms of the acquisition of eligible single-family mortgage loans by the single-family guarantor, which method—

(1) is generally applicable across the other markets in which the single-family guarantor offers to acquire the relevant class of loans; and

(2) includes the credit risk and other risk models, the data inputs into the models, the decision rules, and the governance around the model results.

(d) De Novo Review.—Notwithstanding section 706 of title 5, United States Code, in any action for judicial review of a determination by the Agency with respect to compliance by a single-family guarantor with this section, the reviewing court shall review the determination de novo.

(e) Notice of Required Markets.—The Agency shall publish on a bimonthly basis notice of the required markets.

(f) Rules of Construction.—Nothing in this section may be construed to restrict a single-family guarantor from changing the processes of the single-family guarantor for setting the prices at which the single-family guarantor is willing to acquire eligible single-family mortgage loans or changing the pricing or other terms of any offer made pursuant to those processes, to the extent that any change is generally applicable across the other markets in which the single-family guarantor offers to acquire the relevant class of loans.

TITLE V - BORROWER ACCESS AND AFFORDABILITY

SEC. 501 MARKET ACCESS FEE.

Not much thought given to affordability

(a) Annual Fee.—In each calendar year, the Agency shall collect directly or indirectly from each borrower of an eligible mortgage loan that secures a guaranteed mortgage-backed security that is not a legacy mortgage-backed security fees in the aggregate equal to [X] of the unpaid principal balance of the loan, remitted to the Agency on a periodic basis in a manner prescribed by the Agency.

(b) Legacy Mortgage-Backed Securities.—

(1) OUTSTANDING SECURITIES.—The Agency shall collect from each holder of a legacy mortgage-backed security issued before the date of the enactment of this Act that applies for a guarantee under section 101 a fee equal to [Y] of the unpaid principal balance of the security.

(2) NEW ISSUANCES.—Until the launch date, the Agency shall collect from each enterprise on a periodic basis a fee equal to [Z] of the unpaid principal balance of mortgage-backed securities issued by the enterprise in that period.

(c) Allocations.—Of the fees collected under subsections (a) and (b)—

(1) 65 percent shall be transferred to the Housing Trust Fund established under section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568) until such amounts transferred from any source for a calendar year equal an amount determined by the Agency for that calendar year, which shall be not less than $**[]** and not more than $**[]**;

(2) 35 percent shall be transferred to the Capital Magnet Fund established under section 1339 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4569) until such amounts transferred from any source for a calendar year equal an amount determined by the Agency for that calendar year, which shall be not less than $**[]** and not more than $**[]**; and

(3) any remaining funds shall be transferred to the market access fund established under section 502.

(d) Adjustments for Inflation.—The Agency shall adjust the annually the dollar amounts under paragraphs (1) and (2) of subsection (c) by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest $100,000.

(e) Existing Enterprise Assessments.—Nothing in this section may be construed to suspend, extinguish, or otherwise modify any requirement of an enterprise under section 1337 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4567).

SEC. 502 MARKET ACCESS FUND.

(a) Establishment.—There is established the market access fund, which the Agency shall—

(1) maintain and administer;

(2) use to implement market access plans; and

(3) invest in accordance with subsection (c).

(b) Deposits.—The market access fund shall be credited with any amounts collected under sections 301(e)(2)(C) and 501 and any amounts earned on investments made under subsection (c).

(c) Investments.— Funds held in the market access fund that are not otherwise obligated shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

SEC. 503 MARKET ACCESS PLANS.

(a) Multiyear Plan.— For each calendar year, the Agency shall develop and implement under this section a plan that will govern the payments from the market access fund by the Agency to remediate impediments to the access of underserved borrowers to affordable mortgage credit in that calendar year and the following 4 calendar years.

(b) Required Content.—Subject to subsections (c) and (d), the market access plan for a calendar year shall—

(1) identify impediments to the access of underserved borrowers to affordable mortgage credit;

(2) state the expected payments from the market access fund by the Agency to remediate the identified impediments by—

(A) reducing the cost to underserved borrowers of home purchases through down-payment assistance or payments of settlement costs;

(B) reducing the upfront or periodic cost to underserved borrowers of mortgage loans through reductions in interest rates charged on mortgage loans or provision of mortgage insurance or other credit enhancement on mortgage loans;

(C) contributing to savings accounts of underserved borrowers to fund required payments on mortgage loans or home repairs in the event of the unemployment or other economic distress of the underserved borrower;

(D) providing financial counseling or homebuyer education to underserved borrowers in connection with a home purchase; or

So, the Market Access fund is actually to be used to reimburse activities that should not be borne by borrowers.

(E) supporting the servicing of delinquent loans to underserved borrowers, including loss mitigation activities on those loans; and

(3) respond to the recommendations made by any guarantor in a market access proposal submitted since the last market access plan.

(c) Restrictions.—A market access plan shall not provide for the Agency to make any expected payment from the market access fund that—

(1) reduces at any time the market access fund to less than zero;

(2) is not tailored to remediate an identified impediment to the access of an underserved borrower to affordable mortgage credit;

(3) contemplates any payment to a person other than—

(A) directly to an underserved borrower; or

(B) to a guarantor, mortgage lender, servicer, or Federal or State agency, which payment is—

(i) only for the benefit of an underserved borrower; and

(ii) does not result in the recipient retaining any portion of the payment;

(4) **[**results in payments to guarantors for the benefit of underserved borrowers in an amount greater than $**[]** in each calendar year covered by the market access plan;**]**

(5) materially increases the risk that an underserved borrower who is an intended beneficiary of the payment will default on his or her mortgage loan;

(6) would be used for political activities, advocacy, lobbying, whether directly or through other parties, counseling services, travel expenses, or preparing or providing advice on tax returns; or

(7) contemplate payments from the market access fund by the Agency other than pursuant to an enforceable market access agreement or a regulation prescribed by the Agency.

(d) Other Considerations.—In developing each market access plan, the Agency shall endeavor to—

(1) use the existing programs and infrastructure of the State housing finance agencies and the Federal Home Loan Banks;

(2) seek to partner with private sector entities to expand the resources available to underserved borrowers;

(3) pair reductions in interest rates charged on mortgage loans with reductions in the amortization on those loans; and

(4) structure any down-payment assistance provided to underserved borrowers as payments that—

(A) match funds provided by the underserved borrower; or

(B) are delivered over time as the underserved borrower makes the required payments on the mortgage loan, including through payments on short-term junior mortgages on the underlying residence; and

(5) require any amount contributed to a saving account of the underserved borrower be conditioned on a similar amount be contributed by the underserved borrower.

(e) Independent Assessment.—Promptly after each calendar year, the Comptroller General shall publish a report of the findings and recommendations on the effectiveness of the uses of the market access fund in the preceding calendar year to remediate impediments to the access of underserved borrowers to affordable mortgage credit.

SEC. 504 MARKET ACCESS PROPOSALS.

(a) Annual Proposals by Guarantors.—Each guarantor shall submit to the Agency a good faith proposal for each calendar year that states—

Subject to politicization

(1) the actions that the guarantor is committed to perform in that calendar year to remediate impediments to the access of underserved borrowers to affordable mortgage credit consistent with—

(A) the market access plan for that calendar year; and

(B) the business judgment, the current business plan, and the current business activities of the guarantor;

(2) any payments proposed to be provided by the Agency to the guarantor for the benefit of underserved borrowers to support the actions under paragraph (1); and

(3) any recommendations the guarantor has to enhance the effectiveness of future market access plans, including any concerns regarding market stability or liquidity arising from challenges in securitizing mortgage loans originated with assistance from the market access fund.

(b) Limitations on the Agency.—The Agency shall not—

(1) review, challenge, or otherwise interfere with the exercise of business judgment of a guarantor in developing a market access proposal or determining which actions the guarantor is committed to perform under that proposal; or

(2) require the prior review or approval by the Agency of that proposal.

(c) Market Access Proposals by Others.—The Agency shall establish a competitive application process for payments to mortgage lenders, servicers, or Federal or State agencies for the benefit of underserved borrowers.

(d) Public Comment.—The Agency shall prescribe by regulation a process for soliciting public comment on market access proposals.

(e) Market Access Agreements.—To the extent authorized by the market access plan then in effect, the Agency may enter into an enforceable agreement with a guarantor, mortgage lender, mortgage servicer, or State or Federal agency that has submitted a market access proposal that—

(1) will govern the implementation by the counterparty to the agreement of all or part of the market access proposal submitted by the counterparty;

(2) entitles the Agency to examine or otherwise monitor on terms the Agency determines to be appropriate the performance of the counterparty of the obligations of the counterparty under the agreement; and

(3) specifies the remedies available to the Agency upon the failure of the counterparty to perform obligations of the counterparty under the agreement.

(f) De Novo Review.—Notwithstanding section 706 of title 5, United States Code, in any action for judicial review of a determination by the Agency with respect to compliance by a guarantor with subsection (a), the reviewing court shall review the determination de novo.

TITLE VI - ENFORCEMENT AUTHORITIES

SEC. 601 CEASE-AND-DESIST PROCEEDINGS.

(a) Issuance for Unsafe or Unsound Practices and Violations.—If, in the opinion of the Director, a market participant or market participant-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the market participant or market participant-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of a guarantor or a platform, or is violating or has violated, or the Director has reasonable cause to believe is about to violate, this Act, including any regulation prescribed under this Act, or any condition imposed in writing by the Director in connection with the granting of any application or other request by the market participant or any written agreement entered into with the Director, the Director may issue and serve upon the market participant or market participant-affiliated party a notice of charges in respect thereof.

(b) Procedure.—

(1) Notice of Charges.—Each notice of charges under this section shall contain a statement of the facts constituting the alleged practice or violation and shall fix a time and place at which a hearing will be held to determine on the record whether an

order to cease and desist from such practice or violation should issue, unless the party served with a notice of charges shall appear at the hearing personally or by a duly authorized representative, the party shall be deemed to have consented to the issuance of the cease and desist order.

(2) Issuance of Order.—If the Director finds on the record made at such hearing that any practice or violation specified in the notice of charges has been established (or the market participant or market participant-affiliated party consents pursuant to section 603(a)(4)), the Director may issue and serve upon the market participant or market participant-affiliated party an order requiring such party to cease and desist from any such practice or violation and to take affirmative action to correct or remedy the conditions resulting from any such practice or violation.

(c) Affirmative Action to Correct Conditions Resulting from Unsafe or Unsound Practices and Violations.—The authority under this section and section 602 to issue any order requiring a market participant or market participant-affiliated party to take affirmative action to correct or remedy any condition resulting from any practice or violation with respect to which such order is issued includes the authority to require a market participant or market participant-affiliated party—

(1) to make restitution to, or provide reimbursement, indemnification, or guarantee against loss, if—

(A) such market participant or market participant-affiliated party was unjustly enriched in connection with such practice or violation; or

(B) the practice or violation involved a reckless disregard for the Act or prior order of the Director;

(2) to require a market participant to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the market participant;

(4) to require the market participant to dispose of any loan or asset involved;

(5) to require the market participant to rescind agreements or contracts;

(6) to require the market participant to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(7) to require the market participant to take such other action as the Director determines appropriate.

(d) Authority to Limit Activities.—The authority to issue an order under this section or section 602 includes the authority to place limitations on the activities or functions of the market participant or market participant-affiliated party.

(e) Effective Date.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the market participant or market participant-affiliated party concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this title.

SEC. 602 TEMPORARY CEASE-AND-DESIST PROCEEDINGS.

(a) Grounds for Issuance.—

(1) IN GENERAL.—If the Director determines that the actions specified in the notice of charges served upon a market participant or any market participant-affiliated party pursuant to section 601(a), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of a guarantor or platform, or is likely to weaken the condition of a guarantor or platform prior to the completion of the proceedings conducted pursuant to sections 601 and 603, the Director may—

(A) issue a temporary order requiring that market participant or market participant-affiliated party to cease and desist from any such violation or practice; and

(B) require that market participant or market participant-affiliated party to take affirmative action to prevent or remedy such insolvency, dissipation, condition, or prejudice pending completion of such proceedings.

(2) ADDITIONAL REQUIREMENTS.—An order issued under paragraph (1) may include any requirement authorized under subsection 601(c).

(b) Effective Date.—An order issued pursuant to subsection (a) shall become effective upon service upon the market participant or market participant-affiliated party and, unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until the Director dismisses the charges specified in the notice or until superseded by a cease-and-desist order issued pursuant to section 601.

(c) Incomplete or Inaccurate Records.—

(1) TEMPORARY ORDER.—If a notice of charges served under subsection (a) or (b) of section 601 specifies on the basis of particular facts and circumstances that the books and records of the market participant served are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of the market participant or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that market participant, the Director may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore the books or records to a complete and accurate state.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 601 in connection with the notice of charges; or

(ii) the date the Director determines, by examination or otherwise, that the books and records of the market participant are accurate and reflect the financial condition of the market participant.

(d) Judicial Review.—A market participant or market participant-affiliated party that has been served with a temporary order pursuant to this section may apply to the United States District Court for the District of Columbia within 10 days after such service for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the market participant or market participant-affiliated party under section 601(a) or (b). Such court shall have jurisdiction to issue such injunction.

(e) Enforcement by Attorney General.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Director may bring an action in the United States District Court for the District of Columbia for an injunction to enforce such order. If the court finds any such violation, threatened violation, or failure to obey, the court shall issue such injunction.

SEC. 603 HEARINGS.

(a) Requirements.—

(1) VENUE AND RECORD.—Any hearing under section 601, 606(c), or 607 shall be held on the record and in the District of Columbia.

(2) TIMING.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 601 or 607 or determination to impose a penalty under section 606, unless an earlier or a later date is set by the hearing officer at the request of the party served.

(3) PROCEDURE.—Any such hearing shall be conducted in accordance with chapter 5 of title 5.

(4) FAILURE TO APPEAR.—If the party served fails to appear at the hearing through a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist or removal or prohibition order or the imposition of the penalty for which the hearing is held.

(b) Issuance of Order.—

(1) IN GENERAL.—After any such hearing, and within 90 days after the parties have been notified that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with this title.

(2) MODIFICATION.—Judicial review of any such order shall be exclusively as provided in section 604. Unless such a petition for review is timely filed as provided in section 604, and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

SEC. 604 JUDICIAL REVIEW.

(a) Commencement.—Any party to a proceeding under section 601, 606, or 607 may obtain review of any final order issued under this title by filing in the United States Court of Appeals for the District of Columbia Circuit, 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. The clerk of the court shall transmit a copy of the petition to the Director.

(b) Filing of Record.—Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) Jurisdiction.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of section 603(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(d) Review.—Except as provided under sections 403(d) and 505(e), review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) Order to Pay Penalty.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Director under this title.

(f) No Automatic Stay.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

SEC. 605 ENFORCEMENT AND JURISDICTION.

(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 market participant is located, for the enforcement of any effective and outstanding notice or order issued under this title, 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.

(b) Limitation on Jurisdiction.—No court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under sections 601, 606, or 607 or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 606 CIVIL MONEY PENALTIES.

(a) In General.—The Director may impose a civil money penalty in accordance with this section on any market participant or any market participant-affiliated party.

(b) Amount of Penalty.—

(1) FIRST TIER.—A market participant or market participant-affiliated party shall forfeit and pay a civil penalty of not more than $[5,000] for each day during which a violation continues, if such market participant or market participant-affiliated party—

(A) violates any provision of this Act, including any regulation prescribed under this Act, or any order or condition under this Act;

(B) violates any final or temporary order or notice issued pursuant to this Act;

(C) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by such market participant; or

(D) violates any written agreement between the market participant and the Director.

(2) SECOND TIER.—Notwithstanding paragraph (1), a market participant or market participant-affiliated party shall forfeit and pay a civil penalty of not more than $[25,000] for each day during which a violation, practice, or breach continues, if—

(A) the market participant or market participant-affiliated party, respectively—

(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 a guarantor or platform; 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 a guarantor or platform; or

(iii) results in pecuniary gain or other benefit to such party.

(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any market participant or market participant-affiliated party 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, if such market participant or market participant-affiliated party—

(A) knowingly—

(i) commits any violation described in any subparagraph of paragraph (1);

(ii) engages in any unsafe or unsound practice in conducting the affairs of a guarantor or platform; or

(iii) breaches any fiduciary duty; and

(B) knowingly or recklessly causes a substantial loss to a guarantor or platform or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach.

(4) MAXIMUM AMOUNT OF PENALTIES FOR ANY VIOLATION DESCRIBED UDNER 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 paragraph (3) is—

(A) in the case of any market participant-affiliated party, an amount not to exceed $**[**1,000,000**]**; and

(B) in the case of any market participant, $**[**1,000,000**]**.

(5) INFLATION ADJUSTMENTS.—The Agency shall adjust annually the dollar amounts under this subsection by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest $1,000,000,000.

(c) Procedures.—

(1) ESTABLISHMENT.—The Director shall establish standards and procedures governing the imposition of civil money penalties under subsections (a) and (b). Such standards and procedures—

(A) shall provide for the Director to notify the market participant or market participant-affiliated party in writing of the Director's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the market participant or market participant-affiliated party has been given an opportunity for a hearing on the record pursuant to section 603; and

(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Director shall give consideration to such factors as the gravity of the violation, any history of prior violations, the effect of the penalty on the safety and soundness of a guarantor or platform, any injury to the public, any benefits received, and deterrence of future violations, and any other factors the Director may determine by regulation to be appropriate.

(3) REVIEW OF IMPOSITION OF PENALTY.—The order of the Director imposing a penalty under this section shall not be subject to review, except as provided in section 604.

(d) Action to Collect Penalty.—If a market participant or market participant-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), the Director may 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 market participant is located, to obtain a monetary judgment against the market participant or market participant-affiliated party and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order of the Director imposing the penalty shall not be subject to review.

(e) Settlement by Director.—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) Availability of Other Remedies.—Any civil money penalty under this section shall be in addition to any other available civil remedy and may be imposed whether or not the Director imposes other administrative sanctions.

(g) Prohibition of Reimbursement or Indemnification.—A market participant may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(h) Deposit of Penalties.—The Director shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

SEC. 607 REMOVAL AND PROHIBITION AUTHORITY.

(a) Authority to Issue Order.—

(1) In General.—The Director may serve upon a party described in paragraph (2) a written notice of the intention of the Director to suspend or remove such party from office, or prohibit any further participation by such party, in any manner, in the conduct of the affairs of the market participant.

(2) Applicability.—A party described in this paragraph is a market participant-affiliated party, if the Director determines that—

(A) that party, officer, or director has, directly or indirectly—

(i) violated—

(I) this Act, including any regulation prescribed under this Act;

(II) any cease and desist order under this Act 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 market participant under this Act; or

(IV) any written agreement under this Act between such market participant and the Director;

(ii) engaged or participated in any unsafe or unsound practice in connection with any guarantor or platform; or

(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

(B) by reason of the violation, practice, or breach described in subparagraph (A)—

(i) such guarantor or platform has suffered or will probably suffer financial loss or other damage; or

(ii) such party has received financial gain or other benefit; and

(C) the violation, practice, or breach described in subparagraph (A)—

(i) involves personal dishonesty on the part of such party; or

(ii) demonstrates willful or continuing disregard by such party for the safety or soundness of such guarantor or platform.

(b) Suspension Order.—

(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) upon a party subject to that subsection (a), the Director may, by order, suspend or remove such party from office, or prohibit such party from further participation in any manner in the conduct of the affairs of the market participant, if the Director—

(A) determines that such action is necessary for the protection of the guarantor or platform; and

(B) serves such party with written notice of the order.

(2) EFFECTIVE PERIOD.—Any 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), shall remain in effect and enforceable until—

(i) the date on which 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 under subsection (b).

(3) COPY OF ORDER.—If the Director issues an order under subsection (b) to any party, the Director shall serve a copy of such order on any market participant with which such party is affiliated at the time such order is issued.

(c) Notice, Hearing, and Order.—

(1) NOTICE.—A notice under subsection (a) of the intention of the Director to issue an order under this section 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.

(2) TIMING OF HEARING.—A hearing shall be fixed for a date not earlier than 30 days, nor later than 60 days, after the date of service of notice under subsection (a), unless an earlier or a later date is set by the Director at the request of—

(A) the party receiving such notice, and good cause is shown; or

(B) the Attorney General of the United States.

(3) CONSENT.—Unless the party that is the subject of a notice delivered under subsection (a) appears 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 under this section.

(4) ISSUANCE OF ORDER OF SUSPENSION.—The Director may issue an order under this section, as the Director may deem appropriate, if—

(A) a party is deemed to have consented to the issuance of an order under paragraph (3); or

(B) upon the record made at the hearing, the Director finds that any of the grounds specified in the notice have been established.

(5) EFFECTIVENESS OF ORDER.—Any order issued under paragraph (4) shall become effective at the expiration of 30 days after the date of service upon the relevant market participant and party (except in the case of an order issued upon consent under paragraph (3), 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 market participant;

(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 market participant;

(3) violate any voting agreement previously approved by the Director; or

(4) vote for a director, or serve or act as a market participant-affiliated party of a market participant.

(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 market participant, or prohibited from participating in the conduct of the affairs of a market participant, 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 market participant.

(2) EXCEPTION IF DIRECTOR PROVIDES WRITTEN CONSENT.—If, on or after the date on which an order is issued under this section which removes or suspends from office any party, or prohibits such party from participating in the conduct of the affairs of a market participant, 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 market participant described in the written consent. Any such consent shall be publicly disclosed.

(3) VIOLATION OF PARAGRAPH (1) TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order issued under subsection (h) 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 entity.

(g) Stay of Suspension and Prohibition of Market Participant-Affiliated Party.—Not later than 10 days after the date on which any market participant-affiliated party has been suspended from office or prohibited from participation in the conduct of the affairs of a market participant 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 market participant is located, for a stay of such suspension or prohibition pending the completion of the administrative proceedings pursuant to subsection (c). The court shall have jurisdiction to stay such suspension or prohibition.

(h) Suspension or Removal of Market Participant-Affiliated Party Charged with Felony.—

(1) SUSPENSION OR PROHIBITION.—

(A) IN GENERAL.—Whenever any market participant-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 1 year under Federal or State law, the Director may, if continued service or participation by such party may pose a threat to the market participant or impair public confidence in the market participant, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any market participant.

(B) PROVISIONS APPLICABLE TO NOTICE.—

(i) COPY.—A copy of any notice under subparagraph (A) shall be served upon the relevant market participant.

(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information,

indictment, or complaint referred to in subparagraph (A) 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 market participant-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 market participant or impair public confidence in the market participant, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the market participant without the prior written consent of the Director.

(B) PROVISIONS APPLICABLE TO ORDER.—

(i) COPY.—A copy of any order under subparagraph (A) shall be served upon the relevant market participant, at which time the market participant-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such market participant.

(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 a party from office or to prohibit further participation in the affairs of a market participant pursuant to subsection (a) or (b).

(iii) EFFECTIVE PERIOD.—Unless terminated by the Director, 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).

(3) AUTHORITY OF REMAINING BOARD MEMBERS.—

(A) IN GENERAL.—If at any time, because of the suspension of 1 or more directors pursuant to this section, there shall be on the board of directors of a market participant 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.

(B) APPOINTMENT OF TEMPORARY DIRECTORS.—If all of the directors of a market participant are suspended pursuant to this section, the Director shall appoint persons to serve temporarily as directors pending the termination of such suspensions, or until such time as those who have been

suspended cease to be directors of the market participant and their respective successors take office.

(4) HEARING REGARDING CONTINUED PARTICIPATION.—

(A) IN GENERAL.—Not later than 30 days after the date of service of any notice of suspension or order of removal issued pursuant to paragraph (1) or (2), the market participant-affiliated party may request in writing an opportunity to appear before the Director to show that the continued service or participation in the conduct of the affairs of the market participant by such party does not, or is not likely to, pose a threat to the interests of the market participant, or threaten to impair public confidence in the market participant.

(B) TIMING AND FORM OF HEARING.—Upon receipt of a request for a hearing under subparagraph (A), the Director shall fix a time (not later than 30 days after the date of receipt of such request, unless extended at the request of such party) and place at which the market participant-affiliated party may appear, personally or through counsel, before the Director or 1 or more designated employees of the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument.

(C) DETERMINATION.—Not later than 60 days after the date of a hearing under subparagraph (B), the Director shall notify the market participant-affiliated party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the market participant 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 market participant will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for any adverse decision of the Director.

SEC. 608 CRIMINAL PENALTY.

Whoever, being subject to an order in effect under section 607, 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 market participant shall, notwithstanding section 3571 of title 18, United States Code, be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.

SEC. 609 NOTICE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a market participant-affiliated party shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this title against any such market participant-affiliated party, if such notice is served before the end of the 6-year period beginning on the date such market participant-affiliated party ceases to be associated with the market participant.

SEC. 610 PRIVATE RIGHT OF ACTIONS.

This title shall not create any private right of action on behalf of any person against a market participant or market participant-affiliated party or impair any existing private right of action under other applicable law.

SEC. 611 PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) In General.—The Agency shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Agency or any modification to or termination thereof, unless the Agency determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the market participant;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Agency under this title and that has become final; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) Hearings.—All hearings on the record with respect to any action of the Director or notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) Delay of Public Disclosure under Exceptional Circumstances.—If the Agency makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the market participant, the Agency may delay the public disclosure of such order for a reasonable time.

(d) Documents Filed under Seal in Public Enforcement Hearings.—The Agency may file any document or part thereof under seal in any hearing under this title if the Agency determines in writing that disclosure thereof would be contrary to the public interest.

(e) Retention of Documents.—The Agency shall maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Agency under this title.

(f) Disclosures to Congress.—This section may not be construed to authorize the withholding of any information from, or to prohibit the disclosure of any information to, the Congress or any committee or subcommittee thereof.

SEC. 612 NOTICE OF SERVICE.

Any service required or authorized to be made by the Director under this title may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

SEC. 613 SUBPOENA AUTHORITY.

(a) In General.—In the course of or in connection with any proceeding, examination, or investigation under this Act, the Director or any designated representative of the Director, including any person designated to conduct any hearing under this Act, shall have the authority—

(1) to administer oaths and affirmations;

(2) to take and preserve testimony under oath;

(3) to issue subpoenas and subpoenas duces tecum; and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum.

(b) Witnesses and Documents.—The attendance and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

(c) Enforcement.—

(1) IN GENERAL.—The Director, or any party to proceedings under this Act, may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district of the United States in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section.

(2) POWER OF COURT.—The courts described under paragraph (1) shall have the jurisdiction and power to order and require compliance with any subpoena issued under paragraph (1).

(d) Fees and Expenses.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by a market participant-affiliated party may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the market participant or from its assets.

(e) Penalties.—A person shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than

1 year, or both, if that person willfully fails or refuses, in disobedience of a subpoena issued under subsection (c),to—

(1) attend court;

(2) testify in court;

(3) answer any lawful inquiry; or

(4) produce books, papers, correspondence, contracts, agreements, or such other records as requested in the subpoena.

SEC. 614 [ISSUING VEHICLES.]

(a) **[**Failure to Make Required Payment.—Subject to subsection (c), if an issuing vehicle of a guarantor fails to fully perform any obligation of the issuing vehicle to make a timely payment of a required payment on collateral guaranteed by the guarantor securing a guaranteed mortgage-backed security, Ginnie Mae—

(1) shall, by operation of law, immediately succeed to all rights, titles, powers, and privileges of the guarantor of the issuing vehicle with respect to the issuing vehicle and the assets of the issuing vehicle; and

(2) may operate the issuing vehicle and conduct all business of the issuing vehicle, including by transferring to another guarantor any rights, titles, powers, or privileges with respect to the issuing vehicle.

(b) Other Violations.—Subject to subsection (c), Ginnie Mae may impose money or other penalties and exercise any other remedies set forth in any contractual arrangement between Ginnie Mae and the issuing vehicle entered into in compliance with any regulation prescribed by Ginnie Mae in consultation with the Agency.

(c) Limitations.—This section shall not apply to an issuing vehicle if—

(1) a case has been commenced with respect to the guarantor under title 7 or title 11, United States Code;

(2) the Agency been appointed conservator or receiver of the guarantor that controls the issuing vehicle under title VII; or

(3) the guarantor that controls the issuing vehicle has been designated a covered financial company within the meaning of section 201 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381).

(d) Rule of Construction.—This section, and the exercise by Ginnie Mae of any authority under this section with respect to an issuing vehicle, shall not be construed to extinguish or otherwise modify any guarantee or other obligations of the guarantor of an issuing vehicle.**]**

SEC. 615 FUNCTIONALLY REGULATED MARKET PARTICIPANTS.

(a) Referral.—If the Director determines that a condition or activity of a functionally regulated market participant that is also a market participant or market participant-affiliated party gives rise to a proceeding by the Director under this title, the Director may recommend in writing to the primary financial regulatory agency for the market participant that the primary financial regulatory agency initiate a supervisory action or enforcement proceeding, which recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

(b) Backup Authority.—If, during the 60-day period beginning on the date on which the primary financial regulatory agency receives a recommendation under subsection (a), the primary financial regulatory agency does not take supervisory or enforcement action against the market participant that is acceptable to the Director, the Director may take the recommended supervisory or enforcement action in accordance with this Act.

TITLE VII - RESOLUTION AUTHORITIES

TITLE VIII - RESTRUCTURING OF THE ENTERPRISES

SEC. 801 PURPOSES.

The purposes of this title are—

(1) to achieve a competitive secondary mortgage market as promptly as practicable after the date of enactment of this Act;

(2) to wind down and repeal the charter of each enterprise while providing for an ongoing role for the core operating businesses of each enterprise;

(3) to ensure that the holders of legacy mortgage-backed securities are not adversely affected by the wind down of each enterprise or the transition to the housing finance system contemplated by this Act;

(4) to otherwise ensure a gradual and smooth transition to the housing finance system contemplated by this Act; and

(5) to otherwise effectuate the purposes of this Act.

SEC. 802 CONTINUED CONSERVATORSHIP.

(a) Timing.—The conservatorship of each enterprise shall continue until a receiver is appointed with respect to the enterprise under section 809(b).

(b) No Privatization.—

(1) TREASURY.—The Secretary of the Treasury shall not sell or otherwise dispose of any senior preferred shares, any interest in the warrants, any common shares

Why would Corker require the US Treasury to flush over $100 billion in warrant value received through the PSPAs? Why would Treasury ever support this?

acquired upon the exercise of the warrants, or any other equity interest that were acquired pursuant to the Senior Preferred Stock Purchase Agreement.

(2) AGENCY.—Except as provided by this title, and except for any distribution on the senior preferred shares acquired pursuant to the Senior Preferred Stock Purchase Agreement, the Agency shall not, in the capacity of the Agency as conservator or otherwise, take any step toward privatizing an enterprise or otherwise removing an enterprise, or any material business or other asset of an enterprise, from the conservatorship of the Agency.

(c) Alignment of Purposes of Conservatorship.—Notwithstanding anything to the contrary in section 1367(b)(2)(D) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(b)(2)(D)) or any other provision of law, the Agency may, as conservator or receiver of each enterprise, take such actions as are appropriate to operate each enterprise in accordance with this title or to otherwise effectuate the purposes of this title.

SEC. 803 PROCEEDS OF RESTRUCTURING.

(a) Payments to Enterprises.—The Agency, as conservator for an enterprise, shall—

Proceeds will not make up for loss of enterprise value of the enterprises.

(1) cause the proceeds of any sale or other transfer of any asset of the enterprise under this title, including any interest of the enterprise in any legacy single-family guarantor, the common securitization platform, the multifamily business of an enterprise, and the legacy mortgage-backed securities of an enterprise, to be paid to the enterprise; and

(2) endeavor to maximize the proceeds described in paragraph (1) to the extent practicable considering the purposes of this title.

Debt is not equity

(b) Debt Consideration.—Nothing in this Act may be construed to restrict or otherwise prohibit the Agency from receiving debt securities or other debt instruments as consideration in the sale or other transfer of any asset of an enterprise under this title.

SEC. 804 SINGLE-FAMILY BUSINESSES.

(a) In General.—Subject to section 803 and subsection (c), the Agency shall take appropriate steps to foster the development of a competitive secondary mortgage market as promptly as practicable after the date of the enactment of this Act and to otherwise effectuate the other purposes of this title.

(b) Permissible Activities.—Subject to section 803 and subsection (c), and to effectuate subsection (a), the Agency may—

(1) approve 1 or more legacy single-family guarantors and arrange for each such legacy single-family guarantor to engage in the business of securitizing guaranteed mortgage-backed securities, including by:

(A) transferring operating assets of the single-family business of any enterprise to 1 or more legacy single-family guarantors;

(B) permitting any legacy single-family guarantor to retain earnings; and

(C) causing any legacy single-family guarantor to issue equity securities and other capital instruments to outside investors;

(2) approve other single-family guarantors and support the effort of each single-family guarantor to engage in the business of securitizing guaranteed mortgage-backed securities, including by:

(A) providing incentives for sellers, servicers, employees, and service providers of any enterprise or legacy single-family guarantor to enter into contracts or other arrangements with 1 or more single-family guarantors that are not legacy single-family guarantors;

(B) arranging for 1 or more single-family guarantors to administer some or all of the legacy mortgage-backed securities;

(C) entering into credit risk transfer arrangements with 1 or more single-family guarantors with respect to some or all of the legacy mortgage-backed securities; and

(D) establishing, transferring assets of any enterprise to, and selling the interests in, 1 or more businesses that is or will be a service provider to single-family guarantors or other market participants, including 1 or more businesses that manage and dispose of real estate acquired in connection with collecting on defaulted mortgage loans; and

(3) take any other step that the Agency determines appropriate to foster the development of a competitive secondary mortgage market or effectuate the other purposes of this title.

(c) Restrictions on Agency Authorities.—Notwithstanding anything to the contrary in subsection (a)—

(1) CONTINUED CONSERVATORSHIP.— Notwithstanding anything to the contrary in subsection (a), the Agency shall—

(A) not transfer a significant portion of the operating assets of the single-family business of an enterprise, other than a transfer of an interest in the common securitization platform under section 805, to any person that is not a legacy single-family guarantor; and

(B) ensure the Agency or the relevant enterprise retains control of each legacy single-family guarantor until the Agency certifies under subsection (c) that a competitive secondary mortgage market has been achieved.

(2) TRANSITION.—Promptly after the launch date, the Agency shall ensure that each legacy single-family guarantor engages in the business of securitizing guaranteed mortgage-backed securities.

(3) ENTERPRISE CONTRACTS.—

(A) SELLER AND SERVICER ARRANGEMENTS.—The Agency shall not assign or otherwise transfer to any single-family guarantor other than a legacy single-family guarantor any contract or other arrangement governing a relationship between an enterprise and any seller or servicer of single-family mortgage loans without the consent of the seller or servicer.

(B) CREDIT RISK TRANSFERS.—Except as provided under section 807, the Agency shall not assign or otherwise transfer to any entity any contract or other arrangement of an enterprise governing a credit risk transfer or other arrangement under which a person other than the enterprise bears credit risk with respect to legacy mortgage-backed securities.

(4) ARRANGEMENTS WITH SINGLE-FAMILY GUARANTORS.—The Agency shall ensure that any transaction or other arrangement between an enterprise or a legacy single-family guarantor and a single-family guarantor that is not a legacy single-family guarantor is on arm's length terms.

(5) COST TO BORROWER.—The Agency shall not cause under this section an enterprise to make any payment to a seller, servicer, employee, and service provider of the enterprise if the payment might be expected to result in a material increase in the costs incurred by borrowers of mortgage loans that will secure mortgage-backed securities guaranteed by the enterprise or a legacy single-family guarantor.

(d) Competitive Secondary Mortgage Market.—

(1) IN GENERAL.—Subject to paragraph (2), if the Agency determines that there is a competitive secondary mortgage market, the Agency shall promptly so certify in writing to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the chair and ranking member of the Committee on Financial Services of the House of Representatives.

(2) RESTRICTION.—The Agency shall not provide the certification under paragraph (1) until on or after the launch date.

(3) ADDITIONAL STEPS.—If the Agency has not certified before the date that is **[**five**]** years after the date of enactment of this Act under this subsection that there is a competitive secondary mortgage market, the Agency shall—

(A) endeavor to exercise the authorities under section 403 and this Act to foster the organization of additional small lender guarantors;

(B) submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 3 months after that date a written report of—

(i) any impediments to a competitive secondary mortgage market; and

(ii) any recommendations as to legislation or regulatory changes to remediate those impediments or to otherwise foster a competitive secondary mortgage market.

(e) Privatization.—After the Agency certifies under subsection (d) that there is a competitive secondary mortgage market, and subject to section 803, the Agency shall privatize each legacy single-family guarantor.

SEC. 805 SECURITIZATION INFRASTRUCTURE.

(a) Buildout.—As promptly as practicable after the date of enactment of the Act, [the Agency shall, in consultation with Ginnie Mae,] ensure that the common securitization platform has the functionality appropriate to facilitate the issuance and administration of guaranteed single-family mortgage-backed securities.

(b) Privatization.—As promptly as practicable after the date of enactment of the Act, and subject to section 803, the Agency shall cause—

DOES CORKER HAVE ANY UNDERSTANDING THAT THE GSEs HAVE REMAINING INVESTORS AND HIS PLAN TO DIMINISH FRANCHISE VALUE AND TRANSFER ASSETS WITHOUT RENUMERATION WILL LEAD TO NEW TAKINGS LAWSUITS.

WHY WOULD ANY REPUB WHO CARES ABOUT PROPERTY RIGHTS SUPPORT THIS REGARDLESS OF THEIR VIEWS ON THE GSEs?

(1) the common securitization platform to become an entity that is organized under State law, approved under section 303(a), and owned cooperatively by the participating guarantors; and

(2) each enterprise to transfer to the common securitization platform all of the interest of each enterprise in—

(A) the automated underwriting system of the enterprise commonly known as Desktop Underwriter and Collateral Underwriter at Federal National Mortgage Association and Loan Advisor at the Federal Home Loan Mortgage Corporation;

(B) the historical data and other records of the enterprise relating to the origination, servicing, and performance of single-family mortgage loans acquired by the enterprise, including any interest of the enterprise in historical data and other records relating to the property appraisals associated with those loans; and

(C) any other asset of the enterprise that the Agency determines necessary—

(i) for the common securitization platform to have the functionality to enable the issuance and administration of guaranteed single-family mortgage-backed securities; or

(ii) to foster a competitive secondary mortgage market.

SEC. 806 MULTIFAMILY BUSINESSES.

(a) Privatization.—As promptly as practicable after the launch date, and subject to section 803, the Agency shall cause the multifamily business of each enterprise to become a multifamily guarantor that is not controlled by an enterprise.

There is no consideration of loss of value to GSEs or compensation? MORE TAKINGS

(b) Rule of Construction.—Nothing in this Act may be construed to prohibit or otherwise restrict an affiliation between a multifamily guarantor and a single-family guarantor, including a legacy single-family guarantor.

SEC. 807 LEGACY MORTGAGE-BACKED SECURITIES.

(a) Continuing Provision.—

(1) IN GENERAL.—As promptly as practicable after the date of enactment of this Act, and subject to section 803, the Agency shall make appropriate arrangements to ensure that each holder of a legacy mortgage-backed security and each counterparty to a credit risk transfer arrangement of an enterprise is not materially and adversely affected by the wind down of an enterprise under this title.

(2) POTENTIAL ARRANGEMENTS.—In carrying out paragraph (1), the Agency may cause an enterprise—

Subtext: To be managed by BlackRock under long term contract

(A) to transfer the underlying obligations of the enterprise with respect to a legacy mortgage-backed security to a liquidating trust or other entity;

(B) to assign or otherwise transfer the Senior Preferred Stock Purchase Agreement of the enterprise to the liquidating trust or other entity described in subparagraph (A);

(C) to arrange for 1 or more guarantors or other entities to administer legacy mortgage-backed securities or service the mortgage loans securing the securities; and

(D) to take such other actions as the Agency determines to be appropriate to fulfill the purposes of this Act.

(b) First Loss Private Capital.—The Agency shall endeavor to the extent economically sensible to enter into credit risk transfer arrangements under section 101(b) with respect to legacy mortgage-backed securities that, together with any similar arrangements already in effect, provide loss absorbing capacity that is not less than the capital requirements under section 301.

(c) Conversion.—

(1) PROCEDURES.—Before the launch date, the Agency shall establish a procedure for holders of legacy mortgage-backed securities to arrange for those securities to be guaranteed under section 101 on or after the launch date.

(2) CONVERSION FEE.—The Agency shall set and collect a fee under section 102 for each guarantee under section 101 of a legacy mortgage-backed security, which fee may vary by legacy mortgage-backed security.

SEC. 808 SENIOR PREFERRED STOCK PURCHASE AGREEMENTS.

[Open pending further discussion] HILARIOUS

SEC. 809 TERMINATION OF ENTERPRISES.

(a) Residual Assets and Liabilities.—As promptly as practicable after the date of enactment of this Act, the Agency shall, on such timing, terms, and conditions as the Agency determines to be appropriate to fulfill the purposes of this Act, cause each enterprise to make arrangements to sell, transfer, or otherwise liquidate the assets, and make appropriate provision for any liabilities, of the enterprise that would remain with the enterprise after the implementation of the other provisions of this title.

(b) Mandatory Receivership.—As promptly as practicable after the Agency certifies under section 804(d) that there is a competitive secondary mortgage market, the Agency, with respect to each enterprise, shall—

(1) appoint the Agency as receiver under section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617); and

(2) carry out the receivership under the authority of that section.

(c) Repeal of Charter Acts.—

(1) FANNIE MAE.—Beginning on the date on which the Agency certifies to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the chair and ranking member of the Committee on Financial Services of the House of Representatives that the Agency has taken all necessary and appropriate steps under subsection (b) to liquidate the Federal National Mortgage Association, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is repealed, except to the extent the provisions of that Act relate to Ginnie Mae.

(2) FREDDIE MAC.—Beginning on the date on which the Agency certifies to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the chair and ranking member of the Committee on Financial Services of the House of Representatives that the Agency has taken all necessary and appropriate steps under subsection (b) to liquidate the Federal Home Loan Mortgage

Corporation, the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.) is repealed.

SEC. 810 TRANSITION PLAN.

(a) Plan Requirement.—The Agency shall publish a plan stating the steps the Agency plans to take, and the timing for each such step, to foster the development of a competitive secondary mortgage market and to otherwise effectuate the other purposes of this title.

(b) Notice and Comment.—The Agency shall provide for public notice and comment on the plan developed under subsection (a).

TITLE IX - OTHER PROVISIONS

SEC. 901 EFFECTIVE DATES.

This Act shall take effect on the date of enactment of this Act, except that sections 101 and 910 shall take effect on the launch date.

SEC. 902 REPORTS; TESTIMONY; AUDITS.

(a) Reports.—

(1) IN GENERAL.—Beginning after the launch date, the Agency shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than June 15 of each year a written report of the operations, activities, budget, receipts, and expenditures of the Agency under this Act for the preceding 12-month period.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include—

(A) an assessment of the financial condition of the guarantors and the platforms and the extent to which the guarantors and the platforms are operating in a safe and sound manner;

(B) a description of any enforcement activities by the Agency against market participants or market participant-affiliated parties under this Act;

(C) an analysis of the financial condition of the mortgage insurance fund, including the exposure of the mortgage insurance fund to economic conditions, an analysis of any stress tests conducted with respect to the mortgage insurance fund, and whether the mortgage insurance fund attained the reserve ratio goal;

(D) an assessment of the uses of the market access fund and an evaluation of the effectiveness of the activities of the Agency under title V in promoting access by underserved borrowers to affordable mortgage credit;

(E) an assessment of the compliance of each single-family guarantor with section 404 and, if applicable, an assessment of the performance of the single-family guarantor of the obligations under the market access agreement of the single-family guarantor;

(F) a justification of the expenses and other administrative costs of the Agency in carrying out the activities of the Agency under this Act;

(G) an assessment of the significant rules and orders prescribed or issued by, and any other significant initiatives of, the Agency under this Act and the plan for any such rules, orders, or initiatives in the next 12-month period following the date on which the report is submitted; and

(H) any recommendations for legislation to enhance the supervision and regulation of market participants;

(b) Testimony.—Beginning after the launch date, the Director of the Agency shall appear annually before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives to provide testimony on the report submitted under subsection (a).

SEC. 903 GINNIE MAE PERSONNEL.

(a) In General.—Notwithstanding the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, Ginnie Mae may compensate the officers and employees of Ginnie Mae as Ginnie Mae considers necessary to carry out the functions of Ginnie Mae under this Act. Ginnie Mae may provide additional compensation and benefits to employees of Ginnie Mae if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of Ginnie Mae, Ginnie Mae shall consult with, and seek to maintain comparability with, other Federal banking agencies.

(b) Comparability of Compensation with Federal Banking Agencies.—In fixing and directing compensation under subsection (a), Ginnie Mae shall consult with, and maintain comparability with compensation of officers and employees of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

(c) Personnel of Other Federal Agencies.—Ginnie Mae may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of the agency or department.

(d) Outside Experts and Consultants.—Notwithstanding any law limiting pay or compensation, Ginnie Mae may appoint and compensate such outside experts and consultants as Ginnie Mae determines necessary to assist the work of Ginnie Mae.

SEC. 904 LITIGATION AUTHORITY.

(a) In General.—The Director may act in the Director's own name and through the Director's own attorneys to enforce this Act 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 or receiverships under this Act.

(b) 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 market participant with respect to any matter under this Act in the United States district court for the judicial district in which the market participant 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. 905 INTERESTS IN MARKET PARTICIPANTS.

(a) Limitations on the Director.—The Director and each Deputy Director of the Agency may not—

(1) have any direct or indirect financial interest in any market participant or market participant-affiliated party;

(2) hold any office, position, or employment in any market participant or market participant-affiliated party; or

(3) have served as an executive officer or director of any market participant or market participant-affiliated party at any time during the 3-year period preceding the date of appointment or designation of such individual as Director or Deputy Director of the Agency, as applicable.

(b) Limitation on Subsequent Employment.—Neither the Director nor any former officer or employee of the Agency who, while employed by the Agency, was compensated at a rate in excess of the lowest rate for a position classified higher than GS-15 of the General Schedule under section 5107 of title 5, United States Code, may accept compensation from a market participant during the 2-year period beginning on the date of separation from employment by the Agency.

SEC. 906 TREATMENT OF ASSESSMENTS.

(a) Deposit.—Amounts collected by the Agency or Ginnie Mae under sections 102, 103(f), 203(e), 204, 301(d), or 501 may be deposited by the Agency or Ginnie Mae, as applicable, in the manner provided in 12 U.S.C. 192 for monies deposited by the Comptroller of the Currency.

(b) Not Government Funds.— Amounts collected by the Agency or Ginnie Mae under sections 102, 103(f), 203(e), 204, 301(d), or 501 shall not be construed to be Government or public funds or appropriated money.

(c) No Apportionment of Funds.—Notwithstanding any other law, amounts collected by the Agency or Ginnie Mae under sections 102, 103(f), 203(e), 204, 301(d), or 501 shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority.

(d) Use of Funds.—The Agency or Ginnie Mae may use amounts collected by the Agency or Ginnie Mae, as applicable, under sections 102, 103(f), 203(e), 204, 301(d), or 501 for compensation of employees of the Agency or Ginnie Mae, as applicable, and for all other expenses of the Agency or Ginnie Mae, as applicable.

(e) Treasury Investments.—

(1) AUTHORITY.—The Agency or Ginnie Mae may request the Secretary of the Treasury to invest such portions of amounts received by the Agency or Ginnie Mae, as applicable, from assessments under amounts collected by the Agency or Ginnie Mae under sections 102, 103(f), 203(e), 204, 301(d), or 501 that are not required to meet the current working needs of the Agency or Ginnie Mae, as applicable.

(2) GOVERNMENT OBLIGATIONS.—Pursuant to a request under paragraph (1), the Secretary of the Treasury shall invest such amounts in Government obligations guaranteed as to principal and interest by the United States with maturities suitable to the needs of the Agency or Ginnie Mae, as applicable, and bearing interest at a rate determined by the Secretary of the Treasury taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

SEC. 907 NATIONAL SERVICING STANDARDS.

(a) Required Standards.—The Agency shall, in consultation with the Bureau of Consumer Financial Protection, prescribe regulations governing the servicing of eligible single-family mortgage loans that secure guaranteed mortgage-backed securities.

(b) Delinquent Loans.—In prescribing the regulations required by subsection (a), the Agency may prescribe processes for performing loss mitigation and other servicing activities with respect to delinquent eligible single-family mortgage loans that provide for **[**loans to remain in pools**]**.

SEC. 908 GINNIE MAE REPORT.

Not later than 18 months after the launch date, but not before the launch date, Ginnie Mae shall, in consultation with the Agency, the Federal Housing Administration, the Department of Veteran Affairs, and the Department of Agriculture, submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the feasibility of, and any issues or other considerations posed by, establishing a program for the issuance of a single uniform security secured by guaranteed

mortgage-backed securities and the other mortgage-backed securities guaranteed by Ginnie Mae under the other authorities of Ginnie Mae.

SEC. 909 USE OF NAMES OF ENTERPRISES.

A guarantor shall not use as a name or other identifier of the guarantor the words "Federal National Mortgage Association", "Federal Home Loan Mortgage Corporation", "Fannie Mae", "Freddie Mac", "Fannie", or "Freddie" or any variation of those words.

Given the global recognition of these names this will have an adverse effect on the market and there is no provision herein to compensate the GSEs for a reduction in goodwill associated with these names. This will reasonably be expected to result in new takings lawsuits.

SEC. 910 OTHER LAWS.

(a) Qualified Mortgage.—Section 129C(b)(2) of the Truth in Lending Act (15 U.S.C. 1639c(b)(2)) is amended—

(1) in subparagraph (A)—

(A) in subclause (i), by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and adjusting the margins accordingly;

(B) by redesignating clauses (i) through (ix) as subclauses (I) through (IX), respectively, and adjusting the margins accordingly;

(C) in the matter preceding subclause (I), as so redesignated, by striking "means" and inserting the following: "—

"(i) means";

(D) in subclause (IX), as so redesignated, by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(ii) includes an eligible single family mortgage loan, as defined in section 3 of **[**short title of the Act**]**.";

(2) in subparagraph (D), by striking "subparagraph (A)(vii)" and inserting "subparagraph (A)(i)(VII)"; and

(3) in subparagraph (E)(i), by striking "subparagraph (A) (except clauses (i)(II), (ii), (iv), and (v) of such subparagraph)" and inserting "clause (i) of subparagraph (A) (except subclauses (I)(bb), (II), (IV), and (V) of that clause)".

(b) Qualified Residential Mortgage.—Section 15G(e)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–11(e)(4)) is amended by adding at the end the following:

"(D) REQUIREMENT FOR DEFINITION.—For purposes of this subsection, the term 'qualified residential mortgage' shall include an eligible single family mortgage loan, as defined in section 3 of **[**short title of the Act**]**.".

(c) Systemically Important Market Participants.—Nothing in this Act may be construed to limit the authority of the Financial Stability Oversight Council to—

(1) determine under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323) that a guarantor or other market participant is to be supervised by the Board of Governors of the Federal Reserve System; or

(2) designate a guarantor or other market participant as a designated financial market utility as defined in section 803 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5462).

(d) Functional Regulation of Guarantors.—Section 5(c)(5)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(5)(B)) is amended—

(1) in clause (iv), by striking "or" at the end;

(2) in clause (v), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(vi) a guarantor organized under section 205(b) of **[**short title of the Act**]** and any holding company of a guarantor required to be organized under section 301(l) of that Act.".

(e) Dodd-Frank Wall Street Reform and Consumer Protection Act.—The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (12 U.S.C. 5301 et seq.) is amended—

(1) in section 2(12)(E) (12 U.S.C. 5301(12)(E))—

(A) by striking "and"; and

(B) by striking the period at the end and inserting ", and with respect to each guarantor and platform chartered or approved by the Federal Housing Finance Agency in accordance with **[**short title of the Act**]**."

(C) by redesignating clause (iv) as clause (v);

(D) by inserting after clause (iii) the following

"(iv) The Federal Housing Finance Agency, with respect to a designated financial market utility that is a platform approved by the Federal Housing Finance Agency in accordance with section 303(a) of **[**short title of the Act**]**."; and

(E) in clause (v), as so redesignated, by striking "and (iii)" and inserting "(iii), and (iv)".

(f) Fair Lending Laws.—Nothing in this Act may be construed to amend or modify any requirements or restrictions applicable to a guarantor or other market participant under the

Fair Housing Act (42 U.S.C. 3601 et seq.) or the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.).

(g) Information, Meetings, and Records.—For purposes of subchapter II of chapter 5 of title 5, the Agency and Ginnie Mae shall be considered agencies responsible for the regulation or supervision of financial institutions.

(h) Limited Life Regulated Entities.—

(1) IN GENERAL.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(A) in section 1303 (12 U.S.C. 4502)—

(i) in paragraph (8)(A), by striking "limited-life regulated entity,";

(ii) by striking paragraph (13); and

(iii) by redesignating paragraphs (14) through (31) as paragraphs (13) through (30), respectively; and

(B) in section 1367 (12 U.S.C. 4617)—

(i) in subsection (b)(2)—

(I) in subparagraph (E), by striking ", the transfer of assets to a limited-life regulated entity established under subsection (i),";

(II) by striking subparagraph (F); and

(III) by redesignating subparagraphs (G) through (K) as subparagraphs (F) through (J), respectively;

(ii) in subsection (e)—

(I) in paragraph (1), by striking ", including transactions authorized under subsection (i),"; and

(II) in paragraph (2), by striking "without exercising the authority of the Agency under subsection (i)";

(iii) by striking subsections (i) and (k); and

(iv) by redesignating subsection (j) as subsection (i).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that the Agency certifies under section 704(c) that there is a competitive secondary mortgage market.

(i) Investment Company Act of 1940.— Section 3(c)(5)(C) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(5)(C)) is amended by inserting before the period at the end the following: ", including eligible credit risk transfer arrangements (as that term is defined in section 3 of **[**short title of the Act**]**) and any interests therein".

(j) REIT Eligibility.—Section 856(c) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (3)(B), by inserting before the semicolon at the end the following: ", and gross income resulting from participation in any eligible credit risk transfer arrangement (as that term is defined in section 3 of **[**short title of the Act**]**)"; and

(2) in paragraph (5)(B), in the first sentence—

(A) by striking ", and debt instruments" and inserting ", debt instruments"; and

(B) by inserting before the period at the end the following: ", and participation in any eligible credit risk transfer arrangement (as that term is defined in section 3 of **[**short title of the Act**]**)".

(k) Commodity Exchange Act.—

(1) DEFINITIONS.—In this subsection, the terms "commodity pool" and "swap" have the meanings given those terms in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

(2) EXEMPTION.—No person that enters into a swap for purposes of structuring or otherwise arranging an eligible credit risk transfer arrangement may be deemed, by reason of that swap, to be a commodity pool.

(3) PRIOR CONSULTATION REQUIRED.—The Agency shall consult with the Commodity Futures Trading Commission before approving a class of eligible credit risk transfer arrangements that would be exempt from the Commodity Exchange Act (7 U.S.C. 1 et seq.) under paragraph (2).

(l) Securities Act of 1933.—Section 27B(c) of the Securities Act of 1933 (15 U.S.C. 77z-2a(c)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2)(B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) the purchase or sale of any asset-backed security that is an eligible credit risk transfer arrangement (as defined in section 3 of **[**short title of the Act**]**) associated with a security guaranteed under section 101 of that Act.".

(m) Privilege Protections.—The Federal Deposit Insurance Act (12 U.S.C. 1812 et seq.) is amended—

(1) in section 11(t)(2)(A) (12 U.S.C. 1821(t)(2)(A)), by adding at the end the following:

"(viii) Government National Mortgage Association.";

(2) in section 18(x) (12 U.S.C. 1828(x))—

(A) by inserting "the Federal Housing Finance Agency, the Government National Mortgage Association," before "any Federal banking agency" each place that term appears; and

(B) by inserting "Agency, Association," after "such Bureau," each place that term appears.

(n) Federal Credit Reform Act of 1990.—Section 504(c) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(c)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) are credit programs of the Government National Mortgage Association under the **[**short title of the Act**]**; or".

(o) Government Corporation Control Act.—Chapter 91 of title 31, United States Code shall not apply to any guarantor established under section 402(a).

(p) Financial Privacy Act.—**[Question to FHFA: With respect to the Right to Financial Privacy Act, should guarantors or other market participants be added to "financial institution" definition, or FHFA to the "supervisory agency" definition?]**

(q) Authority to Establish Subsidiaries.—Each enterprise may incorporate, organize, or otherwise establish under the law of a State, and hold capital stock or other interests in, 1 or more corporations, limited liability companies, or other legal entities in connection with the restructuring of the enterprise under title VI.

SEC. 911 TECHNICAL AND CONFORMING AMENDMENTS.

(a) Ginnie Mae Charter Act.—Section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended by inserting "The Association may guarantee the timely

payment of principal of and interest of eligible mortgage-backed securities, as defined in section 3 of **[**short title of the Act**]**, as provided for in such Act." after "Housing and Community Development Act of 1992.".

(b) Safety and Soundness Act.—**[]**

SEC. 912 SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or any application of such provision or amendment to any person or circumstance, is held to be invalid, the remainder of the provisions of this Act and the amendments made by this Act and the application of the provision or amendment to any other person or circumstance shall not be affected.