

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY M. _____

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—WIND-DOWN OF FANNIE MAE AND FREDDIE MAC

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Sec. 102. Definitions.
Sec. 103. Termination of current conservatorship; mandatory receivership.
Sec. 104. Limitations on enterprise authority.
Sec. 105. Modifications to increases in conforming loan limits.
Sec. 106. Mandatory risk-sharing.
Sec. 107. Limitation of enterprise mortgage purchases to qualified mortgages.
Sec. 108. Prohibition relating to use of power of eminent domain.
Sec. 109. Receiver’s discretionary authority to create receivership entity.
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Sec. 212. Purposes.
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Sec. 216. Financial, underwriting, and operations systems.

- Sec. 217. Procurement.
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1 **TITLE I—WIND-DOWN OF FANNIE**
 2 **MAE AND FREDDIE MAC**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “GSE Bailout Elimination and Taxpayer Protection Act”.

6 **SEC. 102. DEFINITIONS.**

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

9 (1) CHARTER.—The term “charter” means—

10 (A) with respect to the Federal National
 11 Mortgage Association, the Federal National

1 Mortgage Association Charter Act (12 U.S.C.
2 1716 et seq.); and

3 (B) with respect to the Federal Home
4 Loan Mortgage Corporation, the Federal Home
5 Loan Mortgage Corporation Act (12 U.S.C.
6 1451 et seq.).

7 (2) DIRECTOR.—The term “Director” means
8 the Director of the Federal Housing Finance Agen-
9 cy.

10 (3) ENTERPRISE.—The term “enterprise”
11 means—

12 (A) the Federal National Mortgage Asso-
13 ciation; and

14 (B) the Federal Home Loan Mortgage
15 Corporation.

16 **SEC. 103. TERMINATION OF CURRENT CONSERVATORSHIP;**
17 **MANDATORY RECEIVERSHIP.**

18 (a) TERMINATION.—Upon the expiration of the 5-
19 year period beginning on the date of the enactment of this
20 Act, as such period may be extended under subsection (b),
21 the Director shall, with respect to each enterprise, imme-
22 diately appoint the Federal Housing Finance Agency as
23 receiver under section 1367 of the Federal Housing Enter-
24 prises Financial Safety and Soundness Act of 1992 and

1 carry out such receivership under the authority of such
2 section.

3 (b) DETERMINATION OF DURATION OF CON-
4 SERVATORSHIP.—

5 (1) REPORT AFTER 3 YEARS.—Upon the expira-
6 tion of the 3-year period beginning on the date of
7 the enactment of this Act, the Director shall submit
8 a report to the Congress regarding—

9 (A) the progress of the conservatorships of
10 the enterprises with respect to the goals of the
11 conservatorships, the goals of the receiverships
12 required pursuant to subsection (a), and the
13 goals of this Act; and

14 (B) the effects of the conservatorships of
15 the enterprises on the spread between prevailing
16 interest rates on comparable conforming mort-
17 gages, including 30-year fixed rate mortgages

18 (2) FIRST REQUIRED UPDATE TO REPORT.—
19 Upon the expiration of the 4-year period beginning
20 on the date of the enactment of this Act, the Direc-
21 tor shall submit to the Congress an updated version
22 of the report required in paragraph (1) based on
23 current data available to the Director.

24 (3) SECOND REQUIRED UPDATE TO REPORT.—
25 Upon the expiration of the 5-year period beginning

1 on the date of the enactment of this Act, the Direc-
2 tor shall submit to the Congress an updated version
3 of the report required in paragraph (1) based on
4 current data available to the Director.

5 (c) POSSIBLE EXTENSION OF CONSERVATORSHIP
6 TERMINATION DATE.—

7 (1) POSSIBLE EXTENSION UPON REVIEW OF
8 REPORT DATA.—If, in the update to the report re-
9 quired under paragraph (2) or (3) of subsection (b),
10 the Director determines that the average spread be-
11 tween prevailing interest rates on comparable con-
12 forming mortgages, including 30-year fixed rate
13 mortgages, for any three-week period over the six-
14 month period prior to the report exceeds 80 basis
15 points, the Director shall extend the period referred
16 to in subsection (a) for the termination of the con-
17 servatorship of the enterprise by an additional 12-
18 months.

19 (2) LIMIT ON EXTENSIONS.—The aggregate du-
20 ration of an extension to the period referred to in
21 subsection (a) made pursuant to paragraph (1) shall
22 not exceed 24 months.

23 (3) NOTIFICATION.—The Director shall notify
24 the Congress in writing of any determination under
25 this subsection to extend, or not to extend, the pe-

1 riod under subsection (a) for an enterprise and the
2 reasons for such determination.

3 (d) **CONFORMING MORTGAGE.**—For purposes of this
4 section, the term “conforming mortgage” means, with re-
5 spect to an enterprise, a conventional mortgage having an
6 original principal obligation that does not exceed the appli-
7 cable dollar limitation, in effect at the time of such origi-
8 nation, under, as applicable—

9 (1) section 302(b)(2) of the Federal National
10 Mortgage Association Charter Act; or

11 (2) section 305(a)(2) of the Federal Home
12 Loan Mortgage Corporation Act.

13 **SEC. 104. LIMITATIONS ON ENTERPRISE AUTHORITY.**

14 (a) **PORTFOLIO LIMITATIONS.**—Subtitle B of title
15 XIII of the Housing and Community Development Act of
16 1992 (12 U.S.C. 4611 et seq.) is amended by adding at
17 the end the following new section:

18 **“SEC. 1369F. RESTRICTION ON MORTGAGE ASSETS OF EN-**
19 **TERPRISES.**

20 “(a) **RESTRICTION.**—Subject to subsection (b), no
21 enterprise shall own, as of any applicable date in this sub-
22 section or thereafter, mortgage assets in excess of—

23 “(1) as of December 31, 2013,
24 \$550,000,000,000; or

1 “(2) as of December 31 of each year thereafter,
2 85 percent of the aggregate amount of mortgage as-
3 sets that the enterprise was permitted to own pursu-
4 ant to this section as of December 31 of the imme-
5 diately preceding calendar year.

6 “(b) LIMITATION.—In no event shall an enterprise be
7 required under this section to own less than
8 \$250,000,000,000 in mortgage assets.

9 “(c) DEFINITION OF MORTGAGE ASSETS.—For pur-
10 poses of this section, the term ‘mortgage assets’ means,
11 with respect to an enterprise, assets of such enterprise
12 consisting of mortgages, mortgage loans, mortgage-related
13 securities, participation certificates, mortgage-backed
14 commercial paper, obligations of real estate mortgage in-
15 vestment conduits and similar assets, in each case to the
16 extent such assets would appear on the balance sheet of
17 such enterprise in accordance with generally accepted ac-
18 counting principles in effect in the United States as of
19 September 7, 2008 (as set forth in the opinions and pro-
20 nouncements of the Accounting Principles Board and the
21 American Institute of Certified Public Accountants and
22 statements and pronouncements of the Financial Account-
23 ing Standards Board from time to time; and without giv-
24 ing any effect to any change that may be made after Sep-
25 tember 7, 2008, in respect of Statement of Financial Ac-

1 counting Standards No. 140 or any similar accounting
2 standard).”.

3 (b) EQUATABILITY IN GUARANTEE FEES.—Section
4 1327 of Federal Housing Enterprises Financial Safety
5 and Soundness Act of 1992 (12 U.S.C. 4547) is amended
6 by adding at the end the following new subsection:

7 “(f) EQUATABILITY IN GUARANTEE FEES.—

8 “(1) REQUIREMENT.—Subject only to para-
9 graph (3) and notwithstanding any other provision
10 of this section, the Director shall ensure, pursuant
11 to the annual review conducted under paragraph (2),
12 that each enterprise charges a guarantee fee, in con-
13 nection with any mortgage guaranteed after the date
14 of the enactment of the Protecting American Tax-
15 payers and Homeowners Act of 2013, in an amount
16 that the Director determines is equivalent to the
17 amount that the enterprise would charge if the en-
18 terprise were held to the same capital standards as
19 private banks or financial institutions.

20 “(2) ANNUAL DETERMINATION.—Not less often
21 than annually, the Director shall review the guar-
22 antee fees charged by each enterprise and determine
23 how such fees compare to the amount determined by
24 the Director under paragraph (1). If the Director
25 determines that such fees charged by an enterprise

1 are less than such amount, the Director shall, by
2 order, require the enterprise to increase such fees by
3 the lesser of—

4 “(A) such amount as the Director deter-
5 mines necessary to comply with paragraph (1);
6 or

7 “(B) the maximum amount allowable
8 under paragraph (3).

9 “(3) LIMITATION.—The amount of any increase
10 of guarantee fees under paragraph (2) may not ex-
11 ceed 25 percent of the amount of such fees in effect
12 immediately before such increase.

13 “(4) FLEXIBILITY IN DETERMINATION OF IN-
14 CREASE.—To determine the amount of any increase
15 under this subsection, the Director shall establish a
16 pricing mechanism as the Director considers appro-
17 priate, taking into consideration current market con-
18 ditions, including the current market share of an en-
19 terprise, and any data collected pursuant to section
20 1601 of the Housing and Economic Recovery Act of
21 2008 (12 U.S.C. 4514a).”.

22 (c) REPEAL OF MANDATORY HOUSING ACTIVI-
23 TIES.—

24 (1) REPEAL OF HOUSING GOALS.—The Federal
25 Housing Enterprises Financial Safety and Sound-

1 ness Act of 1992 is amended by striking sections
2 1331 through 1336 (12 U.S.C. 4561–6).

3 (2) CONFORMING AMENDMENTS.—Federal
4 Housing Enterprises Financial Safety and Sound-
5 ness Act of 1992 is amended—

6 (A) in section 1303(28) (12 U.S.C.
7 4502(28)), by striking “, and, for the purposes”
8 and all that follows through “designated dis-
9 aster areas”;

10 (B) in section 1324(b)(1)(A) (12 U.S.C.
11 4544(b)(1)(A)), by striking clauses (i), (ii), and
12 (iv);

13 (C) in section 1339(h) (12 U.S.C.
14 4569(h)), by striking paragraph (7);

15 (D) in section 1341 (12 U.S.C. 4581)—

16 (i) in subsection (a)—

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

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

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

24 (ii) in subsection (b)(2)—

1 (I) in subparagraph (A), by in-
2 serting “or” after the semicolon at the
3 end;

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

6 (III) by redesignating subpara-
7 graph (D) as subparagraph (B);

8 (E) in section 1345(a) (12 U.S.C.
9 4585(a))—

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

12 (ii) in paragraph (2), by striking the
13 semicolon at the end and inserting a pe-
14 riod; and

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

17 (F) in section 1371(a)(2) (12 U.S.C.
18 4631(a)(2)), by striking “with any housing goal
19 established under subpart B of part 2 of sub-
20 title A of this title, with section 1336 or 1337
21 of this title,”.

22 (3) REPEAL OF HOUSING TRUST FUND.—

23 (A) REPEAL.—The Federal Housing En-
24 terprises Financial Safety and Soundness Act

1 of 1992 is amended by striking sections 1337
2 and 1338 (12 U.S.C. 4567, 4568).

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

6 (i) in section 1303(24)(B) (12 U.S.C.
7 4502(24)(B)), by striking “1338 and”;

8 (ii) in section 1324(b)(1)(A) (12
9 U.S.C. 4544(b)(1)(A)), as amended by the
10 preceding provisions of this Act—

11 (I) by striking clause (iii);

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

15 (III) by striking clause (v);

16 (iii) in section 1339(b)—

17 (I) by striking paragraph (1);

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

21 (III) by striking paragraph (2);

22 and

23 (iv) in section 1345 (12 U.S.C. 4585),

24 by striking subsection (f).

1 **SEC. 105. MODIFICATIONS TO INCREASES IN CONFORMING**
2 **LOAN LIMITS.**

3 (a) FANNIE MAE.—Section 302(b)(2) of the Federal
4 National Mortgage Association Charter Act (12 U.S.C.
5 1717(b)(2)) is amended—

6 (1) in the 8th sentence—

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

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

11 (2) by striking the 9th and 10th sentences;

12 (3) by striking the last sentence;

13 (4) by inserting “(A)” after the paragraph des-
14 ignation; and

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

17 “(B) HIGH-COST AREAS.—

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

1 “(I) the amount that is equal to 150 per-
2 cent of the limitation under subparagraph (A)
3 for such size residence, as such amount may be
4 adjusted on January 1 of each year under
5 clause (ii);

6 “(II) the amount that is equal to 115 per-
7 cent of the median house price in such area for
8 such size residence; or

9 “(III) the limitation in effect for such size
10 residence for such area, pursuant to the last
11 sentence of this paragraph as in effect imme-
12 diately before the enactment of the Protecting
13 American Taxpayers and Homeowners Act of
14 2013, as of the date of such enactment.

15 “(ii) ADJUSTMENT.—Before January 1 of each
16 year, the Director shall determine whether the
17 spread between prevailing interest rates on com-
18 parable conforming mortgages and non-conforming
19 mortgages, including 30-year fixed rate mortgages,
20 exceeds 80 basis points. If the Director determines
21 that such spread does not exceed 80 basis points,
22 the Director shall, on such January 1, reduce the
23 amount determined under clause (i)(I), as such
24 amount may have been previously adjusted pursuant
25 to this clause, by—

1 “(I) \$20,000 in the case of a 1-family resi-
2 dence;

3 “(II) \$25,604 in the case of a 2-family resi-
4 dence;

5 “(III) \$30,950 in the case of a 3-family
6 residence; and

7 “(IV) \$38,463 in the case of a 4-family
8 residence.

9 “(iii) PROHIBITION ON NEW HIGH-COST
10 AREAS.—The limitations established pursuant to
11 subparagraph (A) may not be increased, with respect
12 to properties of any size located in a particular area
13 unless, as of the date of the enactment of the Pro-
14 tecting American Taxpayers and Homeowners Act of
15 2013, such foregoing limitations in effect for such
16 area for any size residence were determined under
17 the authority provided in the last sentence of this
18 paragraph, as in effect immediately before such en-
19 actment.”.

20 (b) FREDDIE MAC.—Section 305(a)(2) of the Fed-
21 eral Home Loan Mortgage Corporation Act (12 U.S.C.
22 1454(a)(2)) is amended—

23 (1) in the 7th sentence—

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

1 (B) by inserting “or decrease, respectively”

2 before the first comma; and

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

4 (3) by striking the last sentence;

5 (4) by inserting “(A)” after the paragraph des-
6 ignation; and

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

9 “(B) HIGH-COST AREAS.—

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

18 “(I) the amount that is equal to 150 per-
19 cent of the limitation under subparagraph (A)
20 for such size residence, as such amount may be
21 adjusted on January 1 of each year under
22 clause (ii);

23 “(II) the amount that is equal to 115 per-
24 cent of the median house price in such area for
25 such size residence; or

1 “(III) the limitation in effect for such size
2 residence for such area, pursuant to the last
3 sentence of this paragraph as in effect imme-
4 diately before the enactment of the Protecting
5 American Taxpayers and Homeowners Act of
6 2013, as of the date of such enactment.

7 “(ii) ADJUSTMENT.—Before January 1 of each
8 year, the Director shall determine whether the
9 spread between prevailing interest rates on com-
10 parable conforming mortgages and non-conforming
11 mortgages, including 30-year fixed rate mortgages,
12 exceeds 80 basis points. If the Director determines
13 that such spread does not exceed 80 basis points,
14 the Director shall, on such January 1, reduce the
15 amount determined under clause (i)(I), as such
16 amount may have been previously adjusted pursuant
17 to this clause, by—

18 “(I) \$20,000 in the case of a 1-family resi-
19 dence;

20 “(II) \$25,604 in the case of a 2-family resi-
21 dence;

22 “(III) \$30,950 in the case of a 3-family
23 residence; and

24 “(IV) \$38,463 in the case of a 4-family
25 residence.

1 “(iii) PROHIBITION ON NEW HIGH-COST
2 AREAS.—The limitations established pursuant to
3 subparagraph (A) may not be increased, with respect
4 to properties of any size located in a particular area
5 unless, as of the date of the enactment of the Pro-
6 tecting American Taxpayers and Homeowners Act of
7 2013, such foregoing limitations in effect for such
8 area for any size residence were determined under
9 the authority provided in the last sentence of this
10 paragraph, as in effect immediately before such en-
11 actment.”.

12 **SEC. 106. MANDATORY RISK-SHARING.**

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

17 **“SEC. 1328. MANDATORY RISK-SHARING TRANSACTIONS.**

18 “(a) IN GENERAL.—The Director shall require each
19 enterprise to develop and undertake transactions involving
20 the guarantee by the enterprises of securities and obliga-
21 tions based on or backed by mortgages on residential real
22 properties designed principally for occupancy of from 1 to
23 4 families that provide for private market participants to
24 share or assume credit risk associated with such mort-
25 gages, as follows:

1 “(7) Effective for mortgages with application dates
2 on or after January 10, 2014, the corporation may only
3 purchase, make commitments to purchase, service, sell,
4 lend on the security of, or otherwise deal in a mortgage
5 that is a qualified mortgage (as such term is defined in
6 section 129C(b) of the Truth in Lending Act (15 U.S.C.
7 1639c(b); as added by section 1412 of the Dodd-Frank
8 Wall Street Reform and Consumer Protection Act (124
9 Stat. 2145)), in accordance with the regulations issued by
10 the Bureau of Consumer Financial Protection to carry out
11 such section.”.

12 (b) FREDDIE MAC.—Section 305(a) of the Federal
13 Home Loan Mortgage Corporation Act (12 U.S.C.
14 1454(a)) is amended by adding at the end the following
15 new paragraph:

16 “(6) Effective for mortgages with application dates
17 on or after January 10, 2014, the Corporation may only
18 purchase, make commitments to purchase, service, sell,
19 lend on the security of, or otherwise deal in a mortgage
20 that is a qualified mortgage (as such term is defined in
21 section 129C(b) of the Truth in Lending Act (15 U.S.C.
22 1639c(b); as added by section 1412 of the Dodd-Frank
23 Wall Street Reform and Consumer Protection Act (124
24 Stat. 2145)), in accordance with the regulations issued by

1 the Bureau of Consumer Financial Protection to carry out
2 such section.”.

3 **SEC. 108. PROHIBITION RELATING TO USE OF POWER OF**
4 **EMINENT DOMAIN.**

5 (a) FANNIE MAE.—Subsection (b) of section 302 of
6 the Federal National Mortgage Association Charter Act
7 (12 U.S.C. 1717(b)) is amended by adding at the end the
8 following new paragraph:

9 “(7)(A) Notwithstanding any other provision of law,
10 the corporation may not purchase or guarantee any mort-
11 gage that is secured by a structure or dwelling unit that
12 is located within a county that contains any structure or
13 dwelling unit that secures or secured a residential mort-
14 gage loan which mortgage loan was obtained by the State
15 during the preceding 120 months by exercise of the power
16 of eminent domain.

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

19 “(i) The term ‘residential mortgage loan’ means
20 a mortgage loan that is evidenced by a promissory
21 note and secured by a mortgage, deed of trust, or
22 other security instrument on a residential structure
23 or a dwelling unit in a residential structure. Such
24 term includes a first mortgage loan or any subordi-
25 nate mortgage loan.

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

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

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

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

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

1 term includes a first mortgage or any subordinate
2 mortgage.

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

8 **SEC. 109. RECEIVER’S DISCRETIONARY AUTHORITY TO**
9 **CREATE RECEIVERSHIP ENTITY.**

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

14 “(i) RECEIVERSHIP ENTITY.—

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

20 “(2) POWERS.—Upon creation of such receiver-
21 ship entity, the Agency may transfer to it any assets
22 or liabilities of the regulated entity in default as the
23 Agency, in its discretion, determines to be appro-
24 priate, and may authorize the receivership entity to
25 perform any temporary function that the Agency, in

1 its discretion, prescribes in accordance with this sec-
2 tion. The transfer of any assets or liabilities of a
3 regulated entity for which the Agency has been ap-
4 pointed receiver shall be effective without any fur-
5 ther approval under Federal or State law, assign-
6 ment, or consent with respect thereto. Such author-
7 ity is in addition to any other power the Agency may
8 have as receiver or may confer on the receivership
9 entity.

10 “(3) EXEMPTION FROM TAXATION.—Notwith-
11 standing any other provision of Federal or State
12 law, any receivership entity established by the Agen-
13 cy pursuant to this section, its franchise, property
14 and income, shall be exempt from all taxation now
15 or hereafter imposed by the United States, by any
16 territory, dependency, or possession thereof, or by
17 any State, county, municipality, or local taxing au-
18 thority.

19 “(4) REGULATIONS.—The Agency may promul-
20 gate such regulations as the Agency determines to
21 be necessary or appropriate to implement this sub-
22 section.

23 “(5) NO FEDERAL STATUS.—A receivership en-
24 tity established pursuant to this section shall not be

1 an agency, establishment, or instrumentality of the
2 United States.”.

3 **SEC. 110. AUTHORITY OF RECEIVER TO REPEAL ENTER-**
4 **PRISE CHARTER.**

5 Section 1367 of the Federal Housing Enterprises Fi-
6 nancial Safety and Soundness Act of 1992 (12 U.S.C.
7 4617) is amended by striking subsection (k) and inserting
8 the following new subsection:

9 “(k) REPEAL OF ENTERPRISE CHARTERS.—

10 “(1) FANNIE MAE.—Effective five years after
11 the date of the enactment of the Protecting Amer-
12 ican Taxpayers and Homeowners Act of 2013, the
13 charter of the Federal National Mortgage Associa-
14 tion is repealed and the Federal National Mortgage
15 Association shall have no authority to conduct new
16 business under such charter, except that the provi-
17 sions of such charter in effect immediately before
18 such repeal shall continue to apply with respect to
19 the rights and obligations of any holders of—

20 “(A) outstanding debt obligations of the
21 Federal National Mortgage Association, includ-
22 ing any—

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

25 “(ii) capital lease obligations; or

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

4 “(B) mortgage-backed securities guaran-
5 teed by the Federal National Mortgage Associa-
6 tion.

7 “(2) FREDDIE MAC.—Effective five years after
8 the date of the enactment of the Protecting Amer-
9 ican Taxpayers and Homeowners Act of 2013, the
10 charter of the Federal Home Loan Mortgage Cor-
11 poration is repealed and the Federal Home Loan
12 Mortgage Corporation shall have no authority to
13 conduct new business under such charter, except
14 that the provisions of such charter in effect imme-
15 diately before such repeal shall continue to apply
16 with respect to the rights and obligations of any
17 holders of—

18 “(A) outstanding debt obligations of the
19 Federal Home Loan Mortgage Corporation, in-
20 cluding any—

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

23 “(ii) capital lease obligations; or

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

4 “(B) mortgage-backed securities guaran-
5 teed by the Federal Home Loan Mortgage Cor-
6 poration.

7 “(3) EXISTING GUARANTEE OBLIGATIONS.—

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

13 “(B) CONTINUED DIVIDEND PAYMENTS.—
14 Notwithstanding any other provision of law,
15 provision 2(a) (relating to Dividend Payment
16 Dates and Dividend Periods) and provision 2(c)
17 (relating to Dividend Rates and Dividend
18 Amount) of the Senior Preferred Stock Pur-
19 chase Agreement, or any provision of any cer-
20 tificate in connection with such Agreement cre-
21 ating or designating the terms, powers, pref-
22 erences, privileges, limitations, or any other
23 conditions of the Variable Liquidation Pref-
24 erence Senior Preferred Stock of an enterprise
25 issued pursuant to such Agreement—

1 “(i) shall not be amended, restated, or
2 otherwise changed to reduce the rate or
3 amount of dividends in effect pursuant to
4 such Agreement as of the Third Amend-
5 ment to such Agreement dated August 17,
6 2012, except that any amendment to such
7 Agreement to facilitate the sale of assets of
8 the enterprises shall be permitted; and

9 “(ii) shall remain in effect until the
10 guarantee obligations described under
11 paragraphs (1)(B) and (2)(B) of this sub-
12 section are fully extinguished.

13 “(C) APPLICABILITY.—All guarantee fee
14 amounts derived from the single-family mort-
15 gage guarantee business of the enterprises in
16 existence as of five years after the date of the
17 enactment of the Protecting American Tax-
18 payers and Homeowners Act of 2013 shall be
19 deposited into the United States Treasury, for
20 purposes of deficit reduction.

21 “(D) SENIOR PREFERRED STOCK PUR-
22 CHASE AGREEMENT DEFINED.—For purposes
23 of this paragraph, the term ‘Senior Preferred
24 Stock Purchase Agreement’ means—

1 “(i) the Amended and Restated Senior
2 Preferred Stock Purchase Agreement,
3 dated September 26, 2008, as such Agree-
4 ment has been amended on May 6, 2009,
5 December 24, 2009, and August 17, 2012,
6 respectively, and as such Agreement may
7 be further amended and restated, entered
8 into between the Department of the Treas-
9 ury and each enterprise, as applicable; and
10 “(ii) any provision of any certificate in
11 connection with such Agreement creating
12 or designating the terms, powers, pref-
13 erences, privileges, limitations, or any
14 other conditions of the Variable Liquidation
15 Preference Senior Preferred Stock of
16 an enterprise issued or sold pursuant to
17 such Agreement.”.

18 **TITLE II—FHA REFORM**

19 **SEC. 201. SHORT TITLE.**

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

22 **SEC. 202. DEFINITIONS.**

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

1 (1) BOARD.—The term “Board” means the
2 Board of Directors of the FHA established under
3 section 214.

4 (2) DIRECTOR.—The term “Director” means
5 the Director of the Federal Housing Finance Agen-
6 cy.

7 (3) FHA.—The term “FHA” means the Fed-
8 eral Housing Administration established under this
9 title.

10 (4) FIRST-TIME HOMEBUYER.—The term “first-
11 time homebuyer” means an individual who meets
12 any of the following criteria:

13 (A) An individual, and his or her spouse,
14 who has never had ownership in a principal res-
15 idence, as evidenced by inclusion of such indi-
16 vidual’s name on a mortgage, title, or deed in
17 connection with such ownership.

18 (B) A single parent (as such term is de-
19 fined in section 956 of the Cranston-Gonzalez
20 National Affordable Housing Act (42 U.S.C.
21 12713)) who has only owned a principal resi-
22 dence with a former spouse while married.

23 (C) An individual who is divorced, whose
24 only ownership in a principal residence was to-
25 gether with a previous spouse, as evidenced by

1 inclusion of such individual's name on a mort-
2 gage, title, or deed in connection with such
3 ownership.

4 (D) An individual who is a displaced home-
5 maker (as such term is defined in such section
6 956 of the Cranston-Gonzalez National Afford-
7 able Housing Act) and has only owned a prin-
8 cipal residence with a spouse.

9 (E) An individual who has only owned a
10 principal residence not permanently affixed to a
11 permanent foundation in accordance with appli-
12 cable regulations.

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

18 (5) NATIVE AMERICAN GOVERNMENT.—The
19 term “Native American government” means the gov-
20 ernment of any Indian or Alaska native tribe, band,
21 nation, pueblo, village or community that the Sec-
22 retary of the Interior acknowledges to exist as an In-
23 dian Tribe, pursuant to the Federally Recognized
24 Indian Tribe List Act of 1994.

1 (6) RESIDENTIAL HEALTH CARE FACILITY.—

2 The term “residential health care facility” includes
3 a nursing home, a facility for long-term care, an in-
4 termediate care facility, a board and care home, an
5 assisted living facility, a public health center, an out-
6 patient facility, and a rehabilitation facility.

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

9 (8) UNITED STATES.—The term “United
10 States” includes the States, the District of Colum-
11 bia, the Commonwealth of Puerto Rico, the Com-
12 monwealth of the Northern Mariana Islands, Guam,
13 the Virgin Islands, American Samoa, and Native
14 American governments.

15 **Subtitle A—Organization**

16 **SEC. 211. ESTABLISHMENT.**

17 (a) IN GENERAL.—There is hereby established the
18 Federal Housing Administration, which shall be a body
19 corporate without capital stock and shall have succession
20 until dissolved by Act of Congress.

21 (b) GOVERNMENT CORPORATION.—The FHA shall
22 be established as a wholly owned Government corporation
23 subject to chapter 91 of title 31, United States Code (com-
24 monly referred to as the Government Corporation Control
25 Act), except as otherwise provided in this subtitle.

1 (c) FEDERAL AGENCY.—

2 (1) IN GENERAL.—The FHA shall be an agency
3 of the United States, except that the FHA shall not
4 be considered an agency for purposes of holding,
5 managing, and disposing of assets acquired by the
6 FHA under the provisions of this title or the Na-
7 tional Housing Act.

8 (2) HOLDING, MANAGEMENT, AND DISPOSAL
9 AUTHORITY.—For purposes of this subsection, the
10 term “holding, managing, and disposing of assets”
11 includes the powers to—

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

18 (B) pursue collection by way of com-
19 promise or otherwise all assigned and trans-
20 ferred claims; and

21 (C) at any time, upon default, foreclose on
22 any property secured by any assigned or trans-
23 ferred mortgage.

1 (d) SELF-SUFFICIENT ENTITY.—The FHA shall op-
2 erate and conduct its business as a self-sufficient entity
3 in accordance with section 235(c).

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

11 (f) TAX STATUS.—The FHA, including its franchise,
12 activities, income, and assets, shall be exempt from all tax-
13 ation now or hereafter imposed by any taxing authority
14 in the United States, except that any real property of the
15 FHA (other than real property that the FHA uses as an
16 office) shall be subject to taxation to the same extent ac-
17 cording to its value as any taxing authority taxes other
18 real property.

19 (g) PROTECTION OF NAME.—

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

1 (2) ENFORCEMENT.—Violations of paragraph
2 (1) may be enjoined by any court of general jurisdic-
3 tion at the suit of the FHA. In any such suit, the
4 FHA may recover any actual damages resulting
5 from such violation, and, in addition, shall be enti-
6 tled to punitive damages (regardless of the existence
7 or nonexistence of actual damages) of not more than
8 \$100 for each day during which such violation is
9 committed or repeated.

10 **SEC. 212. PURPOSES.**

11 The FHA is established for the following purposes:

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

14 (A) single family homeownership to first-
15 time homebuyers, low- and moderate-income
16 homebuyers, homebuyers in areas subject to
17 counter-cyclical markets or Presidentially-de-
18 clared disasters;

19 (B) the financing of affordable rental
20 housing; and

21 (C) the provision of residential health care
22 facilities.

23 (2) To supplement private sector activity by
24 serving hard-to-serve markets, developing new mort-

1 gage products, and filling gaps in the provision and
2 delivery of mortgage credit.

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

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

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

16 (6) To establish uniformity in operations and
17 risk management and loss mitigation in housing
18 mortgage insurance and rural housing loan pro-
19 grams.

20 **SEC. 213. GENERAL POWERS.**

21 To further the purposes of this subtitle, in accordance
22 with chapter 91 of title 31 of the United States Code (re-
23 lating to government corporations), the FHA—

24 (1) may adopt, amend, and repeal by-laws, and
25 other written administrative guidance;

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

3 (3) may insure, and make commitments to in-
4 sure mortgages, to the extent authorized under this
5 title, and enhance and make commitments to other-
6 wise enhance credit, and in providing such insurance
7 may reinsure, advance, incur liabilities, pool loans,
8 and risk share;

9 (4) shall provide, among other mortgage insur-
10 ance products, for the availability of a 30-year fixed-
11 rate mortgage;

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

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

20 (7) may take any actions, including the restruc-
21 turing of debt, that the FHA determines are nec-
22 essary to manage any portfolio (including the port-
23 folio of the FHA) of property, assets, and obliga-
24 tions;

25 (8) may—

1 (A) create and supply, alone or in coopera-
2 tion with public or private entities or persons,
3 any product or service consistent with its cor-
4 porate purposes; and

5 (B) assess fees and charges for such prod-
6 ucts, information, and services in amounts, as
7 determined by the FHA, that—

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

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

12 (iii) permit the FHA to maintain the
13 level of capital determined by the FHA to
14 be necessary and sufficient to carry out the
15 public purposes of the FHA and as re-
16 quired under subtitle C;

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

20 (10) may qualify any person or entity to engage
21 in business with the FHA and may enforce and im-
22 pose penalties for the breach of any duties, obliga-
23 tions, and other commitments made by such persons
24 or entities;

1 (11) shall take actions necessary to administer
2 its business in a nondiscriminatory manner;

3 (12) may use the services or obtain the goods
4 of any Federal agency, including the Department of
5 Housing and Urban Development, under working or
6 cooperation agreements or contracts with such agen-
7 cies and make or receive payment for the cost of
8 such activities;

9 (13) shall have the power, in its corporate
10 name, to sue and be sued, and to complain and de-
11 fend, in any court of competent jurisdiction, State or
12 Federal, but no attachment, garnishment, injunc-
13 tion, or other similar process, mesne or final, shall
14 be issued against the property of the FHA or
15 against the FHA with respect to its property, and
16 the FHA shall not be liable for interest prior to
17 judgment, for punitive or exemplary damages, for
18 penalties, or for claims based upon unjust enrich-
19 ment, quasi-contract, or contracts implied-in-law,
20 nor shall the FHA be subject to trial by jury;

21 (14) notwithstanding any other provision of
22 law—

23 (A) shall be an agency of the United
24 States Government and the officers and employ-
25 ees of the FHA shall be officers and employees

1 of the United States Government for purposes
2 of part IV of title 28, United States Code;

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

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

16 (15) may—

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

22 (B) hold gifts and bequests of money and
23 the proceeds from sales of other property re-
24 ceived as gifts or bequests in a separate ac-

1 count, and such amounts shall be disbursed as
2 provided by the FHA;

3 except that property accepted pursuant to this para-
4 graph, and the proceeds thereof, shall be used as
5 nearly as possible in accordance with the terms of
6 the gift or bequest and, for the purpose of Federal
7 income, estate, and gift taxes, property accepted
8 under this paragraph shall be considered as a gift or
9 bequest to or for the use of the United States;

10 (16) shall have any transaction in which it par-
11 ticipates be exempt from the terms of any State or
12 other law or prohibition against payment of usurious
13 interest;

14 (17) may act as a fiduciary in connection with
15 any of its undertakings;

16 (18) may foreclose any single family mortgages
17 held by the FHA pursuant to the same procedures
18 and authority applicable to the Secretary under the
19 Single Family Mortgage Foreclosure Act of 1994;

20 (19) may foreclose any multifamily housing
21 mortgages held by the FHA pursuant to the same
22 procedures and authority applicable to the Secretary
23 under the Multifamily Mortgage Foreclosure Act of
24 1981;

1 (20) shall have the priority of the United States
2 with respect to the payment of debts out of bank-
3 rupt, insolvent, and decedents' estates;

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

7 (22) shall have and exercise all powers nec-
8 essary or appropriate to effect any of the purposes
9 of this title, including the power to carry out any au-
10 thority delegated to the FHA by the Secretary.

11 **SEC. 214. BOARD OF DIRECTORS.**

12 (a) IN GENERAL.—The powers of the FHA, including
13 direction over policy and operations, shall be vested in the
14 Board of Directors of the FHA.

15 (b) MEMBERS AND APPOINTMENT.—The Board of
16 Directors shall consist of 9 individuals appointed by the
17 President, who shall include the following individuals:

18 (1) The Secretary of Housing and Urban Devel-
19 opment.

20 (2) The Secretary of Agriculture.

21 (3) Not less than 5 individuals who have exper-
22 tise in mortgage finance.

23 (4) Not less than 2 individuals who have exper-
24 tise in affordable housing serving low- and mod-
25 erate-income populations.

1 (c) CHAIRPERSON.—The Secretary of Housing and
2 Urban Development shall serve as the chairperson of the
3 Board.

4 (d) TERMS.—

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

9 (2) TERMS OF INITIAL APPOINTEES.—As des-
10 ignated by the President at the time of appointment,
11 of the members first appointed to the Board pursu-
12 ant to paragraphs (3) and (4) of subsection (b)—

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

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

17 (3) VACANCIES.—Any member appointed to fill
18 a vacancy on the Board occurring before the expira-
19 tion of the term for which the member's predecessor
20 was appointed shall be appointed only for the re-
21 mainder of that term. A member may serve after the
22 expiration of that member's term until a successor
23 has taken office. A vacancy on the Board shall be
24 filled in the manner in which the original appoint-
25 ment was made.

1 (e) MEETINGS AND QUORUM.—The Board shall meet
2 at any time pursuant to the call of the Chairperson or
3 a majority of its members and as provided by the bylaws
4 of the FHA, but not less than quarterly. A majority of
5 the members of the Board shall constitute a quorum.

6 (f) POWERS.—The Board shall be responsible for the
7 general management of the FHA and shall have the same
8 authority, privileges, and responsibilities as the board of
9 directors of a private corporation incorporated under the
10 District of Columbia Business Corporation Act.

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

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

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

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

24 (4) assist the Secretary of Housing and Urban
25 Development and the Secretary of Agriculture in co-

1 ordinating the roles of Federal housing, banking,
2 and credit agencies generally, and particularly in the
3 delivery of housing credit enhancement to families,
4 communities, and hard-to-serve markets.

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

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

11 **SEC. 215. OFFICERS AND PERSONNEL.**

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

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

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

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

25 (3) shall be—

1 (A) responsible for all matters relating to
2 managing and mitigating risk to the mortgage
3 insurance programs of the FHA and ensuring
4 the performance of mortgages insured by the
5 FHA; and

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

12 (4) shall not be subject to the review or ap-
13 proval of the Board of Directors of the FHA or the
14 Secretary of Agriculture with respect to the exercise
15 of the responsibilities under subparagraph (A) or
16 (B), respectively, of paragraph (3);

17 (5) shall not be required to obtain the prior ap-
18 proval, comment, or review of any officer or agency
19 of the United States before submitting to the Con-
20 gress, or any committee or subcommittee thereof,
21 any reports, recommendations, testimony, or com-
22 ments if such submissions include a statement indi-
23 cating that the views expressed therein are those of
24 the Chief Risk Officer of the FHA and do not nec-

1 essarily represent the views of the Board of Direc-
2 tors of the FHA or the Secretary of Agriculture.

3 (c) CHIEF TECHNOLOGY OFFICER.—There shall be
4 in the FHA a Chief Technology Officer, who—

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

7 (2) shall be selected from among individuals
8 who possess demonstrated ability in the general
9 management of, and knowledge of and extensive
10 practical experience in, information technology man-
11 agement practices in, large governmental or business
12 entities;

13 (3) shall be—

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

18 (B) responsible for all matters relating to
19 information technology management relating to
20 the programs for making, insuring, and guaran-
21 teeing housing loans under title V of the Hous-
22 ing Act of 1949 (42 U.S.C. 1471 et seq.);

23 including analysis and assessment of the information
24 technology infrastructures, information technology
25 strategy, and use of information technology, ensur-

1 ing the security and privacy of information tech-
2 nology infrastructure and networks, and promoting
3 technological innovation;

4 (4) shall not be subject to the review or ap-
5 proval of the Board of Directors of the FHA or the
6 Secretary of Agriculture with respect to the exercise
7 of the responsibilities under subparagraph (A) or
8 (B), respectively, of paragraph (3);

9 (5) shall not be required to obtain the prior ap-
10 proval, comment, or review of any officer or agency
11 of the United States before submitting to the Con-
12 gress, or any committee or subcommittee thereof,
13 any reports, recommendations, testimony, or com-
14 ments if such submissions include a statement indi-
15 cating that the views expressed therein are those of
16 the Chief Technology Officer of the FHA and do not
17 necessarily represent the views of the Board of Di-
18 rectors of the FHA or the Secretary of Agriculture.

19 (d) APPOINTMENT OF EMPLOYEES.—Subject to sub-
20 title D, the Board shall appoint such other employees of
21 the FHA as the Board considers necessary for the trans-
22 action of the FHA's business.

23 (e) COMPENSATION, DUTIES, AND REMOVAL.—

24 (1) IN GENERAL.—The Board shall fix the com-
25 pensation of all officers and employees of the FHA

1 and define their duties. Officers and employees shall
2 be appointed, promoted, assigned, and removed on
3 the basis of qualifications, and any such actions
4 taken shall be consistent with the principles of fair-
5 ness, nondiscrimination, and due process.

6 (2) CONSIDERATIONS IN FIXING COMPENSA-
7 TION.—In fixing and directing compensation for offi-
8 cers and employees of the FHA, the Board shall
9 consult and maintain comparability with the com-
10 pensation provided by the Government National
11 Mortgage Association, the Federal Housing Finance
12 Agency, the Comptroller of Currency, the Board of
13 Governors of the Federal Reserve System, and the
14 Federal Deposit Insurance Corporation to officers
15 and employees of such entities.

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

24 (g) USE OF FEDERAL AGENCIES.—In carrying out
25 its purposes, the FHA may use information, services,

1 staff, and facilities of any executive agency, independent
2 agency, or department (including the Department of
3 Housing and Urban Development), with the consent of the
4 agency or department, and shall reimburse the agency or
5 department for the cost of such information, services,
6 staff, and facilities.

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

12 (1) the aggregate maximum amount of indem-
13 nification outstanding at any time shall not exceed
14 5 percent of the amount of capital required under
15 section 256 to be maintained by the Mutual Mort-
16 gage Insurance Fund; and

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

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

23 “(k) AUTHORITY OF CHIEF RISK OFFICER OF
24 FHA.—The Chief Risk Officer of the FHA appointed pur-
25 suant to section 215(b) of the FHA Reform and Mod-

1 ernization Act of 2013 shall be solely responsible for all
2 matters relating to evaluating, managing, and mitigating
3 risk to the programs under this title for making, insuring,
4 and guaranteeing housing loans and ensuring the perform-
5 ance of such housing loans, and such authority shall not
6 be subject to the review or approval of the Secretary.

7 “(1) **AUTHORITY OF CHIEF TECHNOLOGY OFFICER**
8 **OF FHA.**—The Chief Technology Officer of the FHA ap-
9 pointed pursuant to section 215(c) of the FHA Reform
10 and Modernization Act of 2013 shall be solely responsible
11 for all matters relating to information technology manage-
12 ment relating to the programs under this title for making,
13 insuring, and guaranteeing housing loans, and such au-
14 thority shall not be subject to the review or approval of
15 the Secretary.”

16 **SEC. 216. FINANCIAL, UNDERWRITING, AND OPERATIONS**
17 **SYSTEMS.**

18 (a) **IN GENERAL.**—The FHA shall develop and main-
19 tain such financial, underwriting, and operations systems
20 as may be necessary to carry out the responsibilities of
21 the FHA. Such systems shall be designed and developed
22 in a manner so that such systems shall also be used for
23 the financial, underwriting, and operations systems, re-
24 spectively, of the programs under title V of the Housing

1 Act of 1949 for making, guaranteeing, and insuring rural
2 housing loan programs.

3 (b) USE BY RURAL HOUSING SERVICE PROGRAMS.—

4 (1) AVAILABILITY.—All financial, underwriting,
5 and operations systems of the FHA shall be avail-
6 able to the Secretary of Agriculture to the extent
7 necessary to ensure compliance with section 501(m)
8 of the Housing Act of 1949 (42 U.S.C. 1471(l)).

9 (2) USE.—Section 501 of the Housing Act of
10 1949 (42 U.S.C. 1471), as amended by the pre-
11 ceding provisions of this title, is further amended by
12 adding at the end the following new subsection:

13 “(m) USE OF FHA SYSTEMS.—The Secretary, the
14 Chief Risk Officer of the FHA, and the Chief Technology
15 Officer of the FHA shall utilize the financial, under-
16 writing, and operations systems of the FHA in carrying
17 out all financial, underwriting, and operations functions
18 with respect to the programs under this title for making,
19 insuring, or guaranteeing housing loans.”.

20 **SEC. 217. PROCUREMENT.**

21 (a) IN GENERAL.—The FHA shall establish an eco-
22 nomical and results-oriented system for the procurement,
23 supply, and disposition by the FHA of personal property
24 and services, which shall include performance measures
25 and standards for determining the extent to which the

1 FHA’s procurement of property and services satisfies the
2 objective for which the procurement was undertaken. The
3 system shall be consistent with the principles of impar-
4 tiality and competitiveness.

5 (b) EXEMPTION FROM FEDERAL PROPERTY AND AD-
6 MINISTRATIVE SERVICE ACT REQUIREMENTS.—Section
7 113(e) of title 40, United States Code, is amended—

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

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

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

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

16 (c) EXEMPTION FROM PROCUREMENT PROTEST SYS-
17 TEM.—Subchapter V of chapter 35 of title 31, United
18 States Code, relating to the procurement protest system,
19 shall not apply to the FHA.

20 **SEC. 218. APPLICABILITY OF LAWS.**

21 (a) EXEMPTION FROM NOTICE AND COMMENT
22 RULEMAKING.—Any matter relating to credit enhance-
23 ment or other business activities of the FHA authorized
24 under this title shall be considered a matter relating to
25 agency management or personnel or to public property,

1 loans, grants, benefits, or contracts, for purposes of sec-
2 tion 553(a) of title 5, United States Code.

3 (b) **SUBSIDY LAYERING.**—For purposes of section
4 102(d) of the Department of Housing and Urban Develop-
5 ment Reform Act of 1989, mortgage insurance and other
6 credit enhancement provided under this title shall not be
7 considered assistance within the jurisdiction of the De-
8 partment.

9 (c) **GOVERNMENT CORPORATION CONTROL ACT.**—
10 Section 9101(3) of title 31, United States Code, is amend-
11 ed by adding at the end the following new subparagraph:

12 “(S) the Federal Housing Administration.”

13 (d) **TAX EXEMPT STATUS OF FHA.**—Section 501(l)
14 of the Internal Revenue Code of 1986 (26 U.S.C. 501(l))
15 is amended by adding at the end the following new para-
16 graph:

17 “(5) The Federal Housing Administration es-
18 tablished under the FHA Reform and Modernization
19 Act of 2013.”.

20 **SEC. 219. EVALUATION.**

21 (a) **IN GENERAL.**—The Director shall conduct a
22 study and submit a report to the President and the Con-
23 gress on—

24 (1) whether this title provides sufficient author-
25 ity to permit the FHA to accomplish its public pur-

1 poses efficiently and effectively, and in a safe and
2 sound manner;

3 (2) the impact of the limitations on business ac-
4 tivities as to mortgage amounts and aggregate com-
5 mitments, and any other statutory limitations, on
6 the current and anticipated business activity of the
7 FHA; and

8 (3) whether the provisions of subtitle C appro-
9 priately provide that the FHA will be operated in a
10 safe and sound manner and will fulfill the public
11 purposes of its establishment.

12 (b) **TIMING.**—The report required by this section
13 shall be submitted on the third January 1st occurring
14 after the conclusion of the transition period under section
15 281.

16 **SEC. 220. FUNDING.**

17 (a) **FUNDING OF SALARIES AND EXPENSES.**—There
18 is authorized to be appropriated for each fiscal year to
19 the FHA, for salaries, expenses, and technology for the
20 management and operations of the FHA an amount not
21 exceeding the amount of the negative subsidy credited to
22 the negative subsidy receipt account not needed for re-
23 serves of the funds of the FHA pursuant to sections 256
24 and 259.

25 (b) **FUNDING OF CLAIMS.**—

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

9 (2) BORROWING AUTHORITY.—

10 (A) IN GENERAL.—To the extent that such
11 amounts are insufficient for such purpose, the
12 FHA may borrow from the Treasury pursuant
13 to title V of the Congressional Budget Act of
14 1974.

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

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

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

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

5 **SEC. 221. EFFECTIVE DATE.**

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

8 **Subtitle B—Business Authority and**
9 **Requirements**

10 **SEC. 231. AUTHORITY TO CARRY OUT FHA AND OTHER**
11 **BUSINESS.**

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

14 (1) the FHA may exercise (in addition to pow-
15 ers set forth in section 282) any authority and un-
16 dertake any responsibilities of the Secretary of
17 Housing and Urban Development under the Na-
18 tional Housing Act (as amended by this title) relat-
19 ing to mortgage insurance, except as otherwise pro-
20 vided in this title and except that any authority that
21 requires an appropriation may be conducted only to
22 the extent that amounts are so appropriated;

23 (2) any amounts in the Mutual Mortgage Insur-
24 ance Fund under section 202(a) of the National
25 Housing Act (12 U.S.C. 1708(a)), any amounts in

1 the General Insurance Fund and Special Risk Insur-
2 ance Fund under sections 519 and 238(b), respec-
3 tively, of such Act (12 U.S.C. 1735c, 1715z-3(b)),
4 and any amounts in the Cooperative Management
5 Housing Insurance Fund under section 213(k) of
6 such Act (12 U.S.C. 1715e(k)), shall be used by the
7 FHA only—

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

11 (B) for carrying out the mortgage insur-
12 ance obligations of the FHA pursuant to sec-
13 tion 282(1) of this title and paragraph (1) of
14 this section; and

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

17 (b) TERMINATION OF SECRETARY'S FHA AUTHOR-
18 ITY.—After the expiration of the transition period under
19 section 281, the Secretary may not exercise any authority
20 under the National Housing Act relating to mortgage in-
21 surance. This subsection may not be construed to limit
22 or otherwise affect the Secretary's authority under title
23 I of the National Housing Act (12 U.S.C. 1702 et seq.).

24 (c) CONTINUATION OF OBLIGATIONS.—This section
25 and section 282(1) may not be construed to affect the va-

1 lidity of any right, duty, or obligation of the United States
2 or other person arising under or pursuant to any commit-
3 ment or agreement lawfully entered into with the Sec-
4 retary of Housing and Urban Development under the Na-
5 tional Housing Act.

6 **SEC. 232. ELIGIBLE SINGLE-FAMILY MORTGAGES.**

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

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

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

20 (B) AREA LIMITATION.—

21 (i) MAXIMUM LIMIT.—The lesser of
22 the following amounts:

23 (I) In the case of—

24 (aa) a 1-family residence,
25 115 percent of the median 1-fam-

1 ily house price in the area in
2 which such residence is located,
3 as determined by the FHA; and
4 (bb) in the case of a 2-, 3-
5 , or 4-family residence, the per-
6 centage of such median price
7 that bears the same ratio to such
8 median price as the dollar
9 amount limitation determined
10 under the sixth sentence of sec-
11 tion 305(a)(2) of the Federal
12 Home Loan Mortgage Corpora-
13 tion Act (12 U.S.C. 1454(a)(2))
14 for a 2-, 3-, or 4-family resi-
15 dence, respectively, bears to the
16 dollar amount limitation deter-
17 mined under such section for a 1-
18 family residence; or
19 (II) 150 percent of the dollar
20 amount limitation determined under
21 the sixth sentence of such section
22 305(a)(2) for a residence of the appli-
23 cable size.
24 For purposes of the preceding sentence,
25 the term “area” means a metropolitan sta-

1 tistical area as established by the Office of
2 Management and Budget; and the median
3 1-family house price for an area shall be
4 equal to the median 1-family house price of
5 the county within the area that has the
6 highest such median price. The dollar
7 amount limitations referred to in this
8 clause shall remain in effect for purposes
9 of this clause notwithstanding the receiver-
10 ship or dissolution of the Federal Home
11 Loan Mortgage Corporation.

12 (ii) MINIMUM LIMIT.—Notwith-
13 standing clause (i), the principal obligation
14 limitation in effect for any area under this
15 subparagraph may not be less than
16 \$200,000.

17 (2) DOWNPAYMENT.—The mortgage shall be
18 executed by a mortgagor who shall have paid on ac-
19 count of the property subject to the mortgage an
20 amount, in cash or its equivalent, equal to or exceed-
21 ing—

22 (A) 5 percent of the appraised value of the
23 property, as determined by the FHA; or

24 (B) in the case of a mortgage under which
25 the mortgagor is a first-time homebuyer, 3.5

1 percent of the cost of acquisition of the prop-
2 erty, as determined by the FHA.

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

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

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

15 (i) IN GENERAL.—A family having an
16 income that is less than 115 percent of the
17 median income, as determined by the
18 FHA, for the area in which the property
19 subject to the mortgage is located, except
20 that the FHA may establish income ceil-
21 ings higher or lower than 115 percent of
22 the median for the area to take into con-
23 sideration various sizes of families.

24 (ii) HIGH-COST AREAS.—A family
25 that—

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

13 (II) has an income that is less
14 than 150 percent of the median in-
15 come, as determined by the FHA, for
16 the area in which the property subject
17 to the mortgage is located, except that
18 the FHA may establish income ceil-
19 ings higher or lower than 150 percent
20 of the median for the area to take
21 into consideration various sizes of
22 families.

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

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

6 (i) DETERMINATION.—A mortgage
7 may be insured pursuant to this subpara-
8 graph only upon a determination by the
9 Board, in consultation with the Chief Risk
10 Officer that—

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

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

23 (III) available credit for the pur-
24 chase of housing or such other eco-
25 nomic conditions exist sufficient to

1 evidence a significant contraction of
2 capital in such county or counties, as
3 measured by a metric identified by the
4 Board, in consultation with the Chief
5 Risk Officer, in a written notice made
6 publicly available, and provided to the
7 Congress, in advance of such deter-
8 mination.

9 (ii) CONDITIONS OF TERMINATION.—

10 Upon making a determination under clause
11 (i), the Board, in consultation with the
12 Chief Risk Officer, shall also identify
13 measurable criteria for determining that
14 the conditions determined under clause (i)
15 for such county or counties have ceased to
16 exist.

17 (iii) NOTICE TO CONGRESS.—Upon
18 making a determination under clause (i),
19 the Board shall provide written notice to
20 the Congress of such determination and
21 the specific measurable criteria identified
22 pursuant to clause (ii).

23 (iv) LIMITATION.—The Board may
24 not, pursuant to the authority under this
25 subparagraph—

1 (I) reduce premiums required to
2 be paid for mortgage insurance under
3 this title by more than 50 basis points
4 from the premiums charged, imme-
5 diately before the determination under
6 this subparagraph was made for such
7 county or counties, for mortgage in-
8 surance for mortgages on properties
9 located in such county or counties;

10 (II) increase the limitation under
11 this title on the amount of the max-
12 imum principal obligation of a mort-
13 gage that may be insured;

14 (III) increase the limitation
15 under this title on the percentage of
16 the original principal obligation of a
17 mortgage that may be insured;

18 (IV) decrease the amount re-
19 quired to be paid, in cash or its equiv-
20 alent, on account of a property sub-
21 ject to a mortgage insured under this
22 title.

23 (v) TERMINATION.—The authority to
24 insure mortgages pursuant to this subpara-
25 graph on properties located in a county or

1 counties shall terminate upon the earlier
2 of—

3 (I) the expiration of the 18-
4 month period beginning upon the date
5 that notification under clause (iii) is
6 provided to the Congress of the deter-
7 mination under clause (i) with respect
8 to such county or counties; or

9 (II) the occurrence of the condi-
10 tions identified pursuant to clause (ii)
11 with respect to such county or coun-
12 ties.

13 (vi) MULTIPLE DETERMINATIONS.—
14 Nothing in this subparagraph may be con-
15 strued to prevent multiple or consecutive
16 periods for a county or counties during
17 which mortgages on properties located in
18 such county or counties may be insured
19 pursuant to this subparagraph.

20 (D) DISASTER AREA.—The Board of Di-
21 rectors exercises the authority to insure mort-
22 gages under this subparagraph, subject to the
23 following requirements:

24 (i) IMPLEMENTATION.—The Board of
25 Directors may implement authority to in-

1 sure mortgages under this subparagraph
2 only if the Board—

3 (I) by a vote of the majority of
4 its members, approves such implemen-
5 tation for a specific disaster area
6 under clause (iii) and a specific dis-
7 aster period under clause (iv); and

8 (II) notifies the Congress and the
9 President in writing of such approval,
10 such disaster period, and such dis-
11 aster area not less than 30 days be-
12 fore the commencement of the dis-
13 aster period.

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

18 (I) the mortgage is made for the
19 purchase of a principal residence by a
20 mortgagor whose home (that the
21 mortgagor occupied as an owner or
22 tenant) was located in a disaster area
23 described under clause (iii) and was
24 destroyed or damaged to such an ex-
25 tent that reconstruction is required,

1 as a result of a major disaster de-
2 clared by the President under the
3 Robert T. Stafford Disaster Relief
4 and Emergency Assistance Act; and

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

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

17 (iv) DISASTER PERIOD.—A disaster
18 period established for purposes of this sub-
19 paragraph shall—

20 (I) commence upon or after the
21 declaration of the major disaster re-
22 ferred to in clause (iii); and

23 (v) terminate on the date certain
24 approved by the Board of Directors
25 under clause (i)(I) and contained in

1 the notice under clause (i)(II), which
2 shall not be later than 18 months
3 after the commencement of the period.

4 (b) CONFORMING AMENDMENTS.—Section 203(b) of
5 the National Housing Act (12 U.S.C. 1709(b)) is amend-
6 ed—

7 (1) by striking paragraph (2); and

8 (2) in paragraph (9)—

9 (A) by striking subparagraph (A); and

10 (B) in subparagraph (B), by striking “this
11 paragraph” and inserting “section 202(a)(2) of
12 the FHA Reform and Modernization Act of
13 2013”.

14 **SEC. 233. RISK-SHARING.**

15 (a) DEVELOPMENT OF DEMONSTRATION MODEL.—

16 (1) IN GENERAL.—Not later than the expira-
17 tion of the 2-year period beginning on the date of
18 the enactment of this Act, the FHA shall develop
19 and implement a model and standards for entering
20 into loan level risk-sharing agreements with respect
21 to mortgages insured by the FHA, under which the
22 FHA shall insure a portion of the amount of the
23 mortgage and persons or entities determined under
24 the guidelines established pursuant to subsection (b)
25 to be qualified to participate in such an agreement

1 shall insure the remainder (or another) portion of
2 the amount of the eligible mortgage.

3 (2) CONSULTATION WITH GINNIE MAE.—In es-
4 tablishing the model and standards under para-
5 graph, the FHA shall consult with the Government
6 National Mortgage Association and shall review such
7 Association’s guidelines relating to risk-sharing and
8 other credit enhancement activities.

9 (b) QUALIFICATIONS OF RISK-SHARING PART-
10 NERS.—

11 (1) ESTABLISHMENT.—The model and stand-
12 ards established under this section shall include
13 guidelines for the qualification of persons or entities
14 to participate in risk-sharing and other credit en-
15 hancement activities with the FHA.

16 (2) PROCEDURES.—In establishing such guide-
17 lines, the FHA shall review the guidelines estab-
18 lished by the Director for qualification of persons or
19 entities to participate in risk-sharing and other cred-
20 it enhancement activities with the Federal National
21 Mortgage Association or the Federal Home Loan
22 Mortgage Corporation. The FHA shall determine
23 whether such guidelines for such enterprises are suf-
24 ficient for purposes of the FHA, including whether

1 such guidelines meet the requirements under para-
2 graph (3), and—

3 (A) if the FHA determines that such
4 guidelines are so sufficient, the FHA shall
5 adopt such guidelines for purposes of this sec-
6 tion, to the extent appropriate, with any
7 changes necessary to account for differences be-
8 tween the mortgages insured under this title
9 and the National Housing Act and the business
10 under such provisions and the business of such
11 enterprises; or

12 (B) if the FHA determines that such
13 guidelines are not so sufficient, the FHA shall
14 adopt such guidelines for purposes of this sec-
15 tion, to the extent appropriate and with changes
16 referred to in subparagraph (A), together with
17 additional criteria sufficient to address any
18 such insufficiency.

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

21 (A) persons or entities participating in
22 risk-sharing and other credit enhancement ac-
23 tivities pursuant to this section have sufficient
24 capital, credit worthiness, and liquidity, and are

1 otherwise capable of fulfilling their obligations
2 to the FHA;

3 (B) such persons or entities and their prin-
4 cipals or officers are not engaged in a business
5 the goals of which would conflict with the pur-
6 poses of the FHA or the National Housing Act;
7 for purposes of this section, private mortgage
8 insurance is not considered a business the goals
9 of which conflict with the purposes of the FHA
10 or the National Housing Act; and

11 (C) product or service delivery will be con-
12 ducted in a manner that is efficient and effec-
13 tive, and that will comply with the requirement
14 under section 211(d).

15 (c) RISK-SHARING REQUIREMENT.—

16 (1) REQUIREMENT.—After the expiration of the
17 2-year period referred to in subsection (a), the FHA
18 shall ensure that, in each fiscal year, not less than
19 10 percent of any new business in mortgages on 1-
20 to 4-family residential property is insured pursuant
21 to a risk-sharing agreement with respect to such
22 mortgage that complies with the standards estab-
23 lished pursuant to subsection (a).

24 (2) LIMITATION.—In any fiscal year, the FHA
25 may not comply with paragraph (1) by entering into

1 risk-sharing agreements with respect only to one or
2 a limited number of types or categories of mort-
3 gages, or mortgages having only particular, or a par-
4 ticular range of, original principal obligation
5 amounts, but shall enter into risk-sharing agree-
6 ments for all types and amounts of mortgages in-
7 sured by the FHA, to the extent required under
8 paragraph (1).

9 (3) NEW BUSINESS.—For purposes of this sub-
10 section, with respect to a fiscal year, the term “new
11 business” means the aggregate dollar amount of the
12 principal obligations of mortgages for which a com-
13 mitment to insure is made pursuant to the National
14 Housing Act or this title, as applicable, during such
15 fiscal year.

16 (d) REPORTS TO CONGRESS.—Upon the expiration of
17 each of the 3- and 5-year periods beginning on the date
18 of the enactment of this Act, the FHA shall submit a re-
19 port to the Congress on the findings and results of risk-
20 sharing activities under this section. Such reports shall de-
21 scribe the model and standards for entering into risk-shar-
22 ing agreements, analyze appropriate dollar amount limits
23 for the original principal obligations of mortgages that
24 should be subject to a risk-sharing requirement, identify
25 the effects of such risk-sharing activities on the Mutual

1 Mortgage Insurance Fund, identify the effects of such
2 risk-sharing activities with respect to the Government Na-
3 tional Mortgage Association, and make recommendations
4 regarding expanding the risk-sharing requirement under
5 subsection (e).

6 (e) **EFFECTIVE DATE.**—This section shall take effect
7 on the date of the enactment of this Act. During the tran-
8 sition period under section 281, any reference in this sec-
9 tion to the FHA shall be construed to refer to the Sec-
10 retary to the extent the Secretary has not delegated au-
11 thority under this section to the FHA pursuant to section
12 282(1).

13 **SEC. 234. LIMITATION ON MORTGAGE INSURANCE COV-**
14 **ERAGE.**

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

22 (1) In the case of any such mortgage insured
23 after the expiration of the 1-year period beginning
24 on the date of the enactment of this Act, 90 percent

1 of such original principal obligation, subject to para-
2 graphs (2) through (5).

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

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

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

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

22 (b) MARKET IMPACT STUDIES.—The Director shall
23 conduct an analysis of the state of the housing finance
24 markets, before and after the effective date of each of
25 paragraphs (1) through (5), to determine the impacts of

1 each such paragraph on such markets, on the availability
2 and affordability of housing credit, and on the Govern-
3 ment National Mortgage Association. Not later than the
4 expiration of the 6-month period beginning on the effective
5 date of each of such paragraph, the Director shall submit
6 a report to the Congress setting forth the conclusion of
7 such analysis with respect to such paragraph and making
8 any recommendations regarding the impacts of such para-
9 graph.

10 (c) **EFFECTIVE DATE.**—This section shall take effect
11 on the date of the enactment of this Act. During the tran-
12 sition period under section 281, any reference in this sec-
13 tion to the FHA shall be construed to refer to the Sec-
14 retary to the extent the Secretary has not delegated au-
15 thority under this section to the FHA pursuant to section
16 282(1).

17 **SEC. 235. PREMIUMS.**

18 (a) **ESTABLISHMENT.**—The FHA shall establish and
19 collect premium payments for mortgage insurance pro-
20 vided pursuant to this title and the amendments made by
21 this title, and shall provide for sharing of premiums with
22 entities entering into risk-sharing agreements with the
23 FHA pursuant to section 233 based on the relative portion
24 of the mortgage insured and the risk of loss borne.

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

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

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

18 (2) costs for administration, operations, man-
19 agement, and technology systems for the FHA for
20 carrying out this title;

21 (3) the capital ratio required for the Mutual
22 Mortgage Insurance Fund under section 256(b) and
23 under section 259 with respect to mortgage insur-
24 ance for mortgages on multifamily properties; and

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

3 (d) RISK-BASED PREMIUMS.—The FHA may, with
4 respect to mortgages on 1- to 4-family residential prop-
5 erties insured by the FHA, establish a mortgage insurance
6 premium structure involving a single premium payment
7 collected prior to the insurance of the mortgage or annual
8 payments (which may be collected on a periodic basis), or
9 both.

10 (e) SAVINGS PROVISION.—Nothing in this section
11 may be construed to affect premiums charged for mort-
12 gage insurance provided for mortgages insured before the
13 date of the enactment of this Act.

14 (f) LIMITATION.—Nothing in this section shall permit
15 or be construed to permit the FHA to apply different pre-
16 mium rates to the same mortgage product during the
17 same time period based solely on the characteristics of the
18 mortgagor.

19 **SEC. 236. DEFAULT AND FORECLOSURE STATEMENT.**

20 (a) WRITTEN STATEMENT.—The FHA shall ensure
21 that each mortgagor under a mortgage on a 1- to 4-family
22 residential property insured by the FHA is provided, by
23 the mortgagee at the time that such mortgage is origi-
24 nated, with a written statement containing the informa-
25 tion required under subsection (b).

1 (b) DEFAULT AND FORECLOSURE INFORMATION.—
2 The information required under this subsection with re-
3 spect to a mortgage is information identifying the percent-
4 age (as determined according to historical rates of default
5 and foreclosure) of mortgages on 1- to 4-family residential
6 properties that were insured pursuant to this title and the
7 National Housing Act and that had mortgagors who have
8 the same risk profile and mortgage product as the mort-
9 gagor receiving the written statement pursuant to this sec-
10 tion (as determined in accordance with guidelines estab-
11 lished by the FHA) that—

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

15 (2) were foreclosed upon during the terms of
16 such mortgages.

17 **SEC. 237. AFFORDABILITY REQUIREMENTS FOR MULTI-**
18 **FAMILY MORTGAGE INSURANCE.**

19 (a) IN GENERAL.—Notwithstanding any provision of
20 the National Housing Act or any other provision of law,
21 the FHA may not insure any mortgage on a residential
22 property having 5 or more dwelling units unless the prop-
23 erty complies with such affordability requirements as the
24 FHA shall establish to ensure that each such insured
25 mortgage contributes to the financing of affordable hous-

1 ing for low- and moderate-income families, including such
2 families in areas that the FHA determines to have high
3 housing costs.

4 (b) LIMITATION.—This section may not be construed
5 to require the FHA to establish or enforce annual income
6 verification or rent certification requirements for residen-
7 tial properties referred to in subsection (a).

8 **SEC. 238. EFFECTIVE DATE.**

9 This subtitle and the amendments made by this sub-
10 title, except for sections 233 and 234, shall take effect
11 upon the expiration of the transition period under section
12 281.

13 **Subtitle C—Financial Safety and**
14 **Soundness**

15 **SEC. 251. AUTHORITY OF DIRECTOR.**

16 (a) DUTY.—The Director of the Federal Housing Fi-
17 nance Agency shall supervise and regulate the safety and
18 soundness of the FHA and the programs of the Rural
19 Housing Service of the Department of Agriculture for
20 housing loans made, insured, or guaranteed under title V
21 of the Housing Act of 1949, and it shall be the duty of
22 the Director to ensure that the FHA and such Rural
23 Housing Service programs are adequately capitalized and
24 operating safely.

1 (b) AUTHORITY.—The Director may make such de-
2 terminations, take such actions, and perform such func-
3 tions as the Director determines necessary to meet the re-
4 sponsibilities of the Director under this subtitle.

5 **SEC. 252. BUDGETS AND BUSINESS PLANS.**

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

15 (b) SUBMISSION OF BUDGET AND CREDIT COST ES-
16 TIMATES TO OMB.—For purposes of inclusion in the
17 budget of the United States Government, the FHA shall
18 submit the annual budget of the FHA and the annual
19 credit subsidy cost estimates produced pursuant to section
20 255(c) of this title to the Director of the Office of Manage-
21 ment and Budget.

22 (c) RESERVES.—

23 (1) ESTABLISHMENT.—Subject to sections 256
24 and 259, the FHA may establish any reserve that

1 the FHA determines is necessary for the business
2 operations of the FHA.

3 (2) AMOUNTS.—The FHA may hold as a re-
4 serve in any financing account, as defined in section
5 502 of the Congressional Budget Act of 1974 (2
6 U.S.C. 661a), such amounts as the FHA considers
7 necessary to comply with the capital requirements
8 established for the FHA under sections 256 and 259
9 of this title and to fulfill the purposes of this title.

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

11 (a) ANNUAL BUSINESS PLAN.—The FHA shall es-
12 tablish a business plan on an annual basis and shall make
13 such plan available for review by the Director. Such plan
14 shall specify the products and operational strategy of the
15 FHA, including plans to address compliance with the safe-
16 ty and soundness requirements applicable to the FHA.

17 (b) USE OF GAAP.—Any financial reporting of the
18 FHA, including the preparation of the annual business
19 plan required by subsection (a), the annual budget re-
20 quired in accordance with section 252(a), and any finan-
21 cial statements of the FHA, shall be conducted in accord-
22 ance with generally accepted accounting principles applica-
23 ble to the private sector.

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

2 (a) EXAMINATIONS.—The Director shall conduct
3 such examinations of the FHA and the Rural Housing
4 Service programs referred to in section 251(a) as the Di-
5 rector determines necessary to evaluate the safety and
6 soundness of the FHA and such programs. Such examina-
7 tions shall be subject to and governed by subsections (c)
8 through (h) of section 1317 of the Federal Housing Enter-
9 prises Financial Safety and Soundness Act of 1992 (12
10 U.S.C. 4517), except that the last sentence of subsection
11 (c) shall not apply and any reimbursements referred to
12 in such sentence shall be made from amounts collected
13 under section 255 of this title.

14 (b) REPORTS.—The Director may require the FHA
15 and the Rural Housing Service to submit, within a reason-
16 able period of time, any regular or special report, data,
17 or other information whenever, in the judgment of the Di-
18 rector, such report, data, or information is necessary to
19 carry out the Director's responsibilities under this title.

20 (c) CREDIT SUBSIDY COST ESTIMATES.—

21 (1) IN GENERAL.—The Director shall produce
22 and submit to the Director of the Office of Manage-
23 ment and Budget the annual credit subsidy cost esti-
24 mates for the FHA and the Rural Housing Service
25 programs referred to in section 251(a) required for
26 the President's budget. Such estimates shall be con-

1 sistent with the estimates of performance generated
2 by the risk-based capital model developed in accord-
3 ance with section 257(b), and with the President's
4 economic forecast.

5 (2) UNIFIED ESTIMATES.—The annual credit
6 subsidy cost estimates produced under this sub-
7 section by the Director shall be reported on a unified
8 basis, which shall be based upon the business of the
9 FHA, and the Rural Housing Service programs re-
10 ferred to in section 251(a), as a whole.

11 (d) ANNUAL REPORT ON SAFETY AND SOUND-
12 NESS.—The Director shall submit an annual report to
13 Congress and the Director of the Office of Management
14 and Budget on the financial safety and soundness of the
15 FHA and the Rural Housing Service programs referred
16 to in section 251(a), as measured pursuant to this subtitle.

17 **SEC. 255. REIMBURSEMENT OF COSTS.**

18 (a) ASSESSMENT AND COLLECTION.—The Director
19 shall assess and collect from the FHA and the Secretary
20 of Agriculture annual assessments in such amounts deter-
21 mined by the Director as necessary to reimburse the Fed-
22 eral Housing Finance Agency for the reasonable costs and
23 expenses of the activities undertaken by such Agency to
24 carry out the duties of the Director under this subtitle,

1 including the costs of examination, enforcement, and over-
2 sight expenses.

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

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

6 (2) allocated among the FHA and the Secretary
7 of Agriculture proportionally based on the costs and
8 expenses of the Agency of carrying out the duties
9 under this subtitle with respect to FHA and the
10 Rural Housing Service program referred to in sec-
11 tion 251(a), respectively;

12 (3) collected at such time or times during each
13 assessment year as determined necessary or appro-
14 priate by the Director; and

15 (4) treated in the same manner as provided
16 under section 1316(f) of the Federal Housing Enter-
17 prises Financial Safety and Soundness Act of
18 1992(12 U.S.C. 4516(f)) with respect to amounts
19 received by the Director from assessments under
20 section 1316 of such Act, except that amounts from
21 assessments under this section may be used only for
22 expenses of the Director and the Agency relating to
23 the functions and responsibilities under this subtitle.

1 **SEC. 256. MUTUAL MORTGAGE INSURANCE FUND CAPITAL**
2 **RESERVE.**

3 (a) SEGREGATION OF BOOKS.—To ensure accurate
4 determinations of the capital ratio under subsection (b)
5 of this section and such ratio under section 205(f) of the
6 National Housing Act, as amended by subsection (d) of
7 this section, the FHA shall establish separate accounts in
8 the Mutual Mortgage Insurance Fund and take such other
9 actions as may be necessary to segregate the following
10 amounts:

11 (1) Capital attributable to new business.

12 (2) Capital attributable to mortgages that be-
13 come insured before the expiration of the transition
14 period under section 281.

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

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

22 (1) CAPITAL.—The term “capital” means the
23 economic net worth of the account of the Fund that
24 is established pursuant to subsection (a)(1) of this
25 section, as determined by the FHA under the annual

1 audit required under section 538 of the National
2 Housing Act (12 U.S.C. 1735f-16).

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

6 (3) ECONOMIC NET WORTH.—The term “eco-
7 nomic net worth” means the current cash available
8 to the account of the Fund that is established pursu-
9 ant to subsection (a)(1) of this section, plus the net
10 present value of all future cash inflows and outflows
11 expected to result from outstanding new business.

12 (4) FUND.—The term “Fund” means the Mu-
13 tual Mortgage Insurance Fund established under
14 section 205 of the National Housing Act (12 U.S.C.
15 1711).

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

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

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

4 (1) in subparagraph (A), by striking “Mutual
5 Mortgage Insurance Fund” and inserting “account
6 of the Mutual Mortgage Insurance Fund that is es-
7 tablished pursuant to subsection (a)(2) of the FHA
8 Reform and Modernization Act of 2013”;

9 (2) in subparagraph (C)—

10 (A) by striking “Fund” the first place such
11 term appears and inserting “account of the Mu-
12 tual Mortgage Insurance Fund that is estab-
13 lished pursuant to subsection (a)(2) of the
14 FHA Reform and Modernization Act of 2013”;
15 and

16 (B) by striking “the Fund.” and inserting
17 the following: “such account that become in-
18 sured by the Secretary of Housing and Urban
19 Development (or the FHA, pursuant to subtitle
20 D of the FHA Reform and Modernization Act
21 of 2013) before the expiration of the transition
22 period under section 281 of such Act.”; and

23 (3) in subparagraph (D), by inserting before
24 the comma the following: “and become insured be-
25 fore the expiration of the transition period under

1 section 281 of the FHA Reform and Modernization
2 Act of 2013”.

3 **SEC. 257. CAPITAL CLASSIFICATIONS AND PERFORMANCE**
4 **MEASURES FOR MUTUAL MORTGAGE INSUR-**
5 **ANCE FUND.**

6 (a) CAPITAL CLASSIFICATION; EFFECT ON INSUR-
7 ANCE AUTHORITY.—

8 (1) ADEQUATELY CAPITALIZED.—At any time
9 that the capital ratio (as such term is defined in sec-
10 tion 256(c)(2) of this title) is greater than 4.0 per-
11 cent, the account for the Mutual Mortgage Insur-
12 ance Fund established pursuant to section 256(a)(1)
13 shall be classified as adequately capitalized for pur-
14 poses of this subtitle.

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

17 (A) the account for the Mutual Mortgage
18 Insurance Fund established pursuant to section
19 256(a)(1) shall be classified as undercapitalized
20 for purposes of this subtitle; and

21 (B) if such capital ratio is—

22 (i) equal to or greater than 2.0 per-
23 cent, the FHA may not enter into any new
24 commitment to insure any mortgage on a
25 1- to 4-family residential property that in-

1 volves a principal obligation (including
2 such initial service charges, appraisal, in-
3 spection, and other fees as the FHA shall
4 approve) in an amount exceeding 90 per-
5 cent of the appraised value of the property;
6 and

7 (ii) less than 2.0 percent but equal to
8 or greater than 0.0 percent, the FHA may
9 not enter into any new commitment to in-
10 sure any mortgage on a 1- to 4-family resi-
11 dential property that involves a principal
12 obligation (including such initial service
13 charges, appraisal, inspection, and other
14 fees as the FHA shall approve) in an
15 amount exceeding 80 percent of the ap-
16 praised value of the property.

17 (3) SIGNIFICANTLY UNDERCAPITALIZED.—At
18 any time that the capital ratio is less than 0.0 per-
19 cent—

20 (A) the account for the Mutual Mortgage
21 Insurance Fund established pursuant to section
22 256(a)(1) shall be classified as significantly
23 undercapitalized for purposes of this subtitle;
24 and

1 (B) the Director may, pursuant to section
2 258(a)(1), take actions under section 258(b).

3 (4) QUARTERLY DETERMINATION OF CAPITAL
4 RATIO.—The Director shall determine the capital
5 ratio and the capital classification of the account for
6 the Mutual Mortgage Insurance Fund established
7 pursuant to section 256(a)(1) for purposes of this
8 subtitle not less frequently than each calendar quar-
9 ter.

10 (b) STRESS TEST.—

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

17 (2) CREDIT RISK.—For purposes of paragraph
18 (1), the Director shall assume that, during the pe-
19 riod of economic stress referred to in paragraph (1),
20 credit losses occur at a rate consistent with a nation-
21 wide economic recession of average severity based on
22 nationwide economic recessions since 1950.

23 (3) OTHER RISKS.—For purposes of paragraph
24 (1), the Director shall make assumptions about such

1 other aspects of the period of economic stress as the
2 Director determines are appropriate and consistent.

3 (c) CAPITAL RESTORATION PLAN REQUIREMENT.—

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

8 (1) submit to the Director a capital restoration
9 plan meeting the requirements of section 258(d) for
10 raising or restoring the capital of such account to an
11 amount not less than the amount required for such
12 account to be classified as adequately capitalized;
13 and

14 (2) upon approval by the Director, carry out
15 such plan.

16 If the Director disapproves a capital restoration plan sub-
17 mitted under this subsection, the Director shall convey in
18 writing reasons for such disapproval and shall provide for
19 the FHA to resubmit a revised plan for approval by the
20 Director.

21 **SEC. 258. ENFORCEMENT.**

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

24 (1) the account for the Mutual Mortgage Insur-
25 ance Fund established pursuant to section 256(a)(1)

1 is classified under section 257(a) as significantly
2 undercapitalized;

3 (2) the account for the Mutual Mortgage Insur-
4 ance Fund established pursuant to section 256(a)(1)
5 is classified under section 257(a) as undercapitalized
6 and—

7 (A) the FHA does not submit a capital
8 restoration plan that is substantially in compli-
9 ance with section 257(c) within the applicable
10 period, or the Director disapproves the capital
11 restoration plan submitted by the FHA; or

12 (B) the FHA has failed to make, in good
13 faith, reasonable efforts necessary to comply
14 with the capital restoration plan; or

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

18 (A) any conduct that is likely to threaten
19 the adequacy of the capital of the account for
20 the Mutual Mortgage Insurance Fund estab-
21 lished pursuant to section 256(a)(1);

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

1 (C) any failure to comply with any request
2 by the Director for a report, data, or informa-
3 tion under section 254(b).

4 (b) ACTIONS.—The Director may, under this sub-
5 section, require the FHA—

6 (1) to cease and desist from any conduct or ac-
7 tivity that—

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

14 (B) with respect to any other Fund, con-
15 tributes to a failure to meet a capital reserve
16 requirement established pursuant to section
17 259(a) or is likely to threaten the adequacy of
18 the capital of such Fund; and

19 (2) to take corrective or remedial action, includ-
20 ing—

21 (A) restricting the growth of, or con-
22 tracting, any category of assets or liabilities;

23 (B) reducing, modifying, or terminating
24 any activity that the Director determines cre-
25 ates excessive risk to the FHA;

1 (C) terminating agreements or contracts;

2 (D) engaging or employing qualified em-
3 ployees (who may be subject to approval by the
4 Director at the direction of the Director); or

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

8 (c) REPORTS.—If the Director is authorized under
9 subsection (a) of this section or section 259(b) to take ac-
10 tion under subsection (b) of this section and determines
11 not to take any such action, the Director shall prepare
12 a report detailing the basis of the Director's decision not
13 to take such action and shall, within 30 days of the deci-
14 sion, submit the report to the President, the Director of
15 the Office of Management and Budget, the Comptroller
16 General of the United States, the Committee on Financial
17 Services of the House of Representatives, and the Com-
18 mittee on Banking, Housing, and Urban Affairs of the
19 Senate.

20 (d) CAPITAL RESTORATION PLANS.—A capital res-
21 toration plan submitted pursuant to section 257(e),
22 259(b), or 260(d)(3) shall—

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

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

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

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

10 (5) establish a schedule for completing the ac-
11 tions set forth in the plan; and

12 (6) specify the types and levels of activities (in-
13 cluding existing and new business activities) in
14 which the FHA shall engage during the term of the
15 plan.

16 **SEC. 259. CAPITAL RESERVE REQUIREMENTS FOR OTHER**
17 **FUNDS.**

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

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

23 (2) the Special Risk Insurance Fund estab-
24 lished under section 238(b) of such Act (12 U.S.C.
25 1715z-3(b));

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

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

7 (b) ENFORCEMENT.—The Director may enforce com-
8 pliance with the requirements under subsection (a) of this
9 section with respect to a Fund by taking action under sec-
10 tion 258(b) or by requiring submission of a capital res-
11 toration plan for such Fund meeting the requirements of
12 section 258(d).

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

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

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

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

13 (3) available credit for the purchase of housing
14 or such other economic conditions exist sufficient to
15 evidence a significant contraction of capital through-
16 out the United States or a significant portion of the
17 United States, as measured by a metric identified by
18 the Director and the Chief Risk Officer in a written
19 notice made publicly available, and provided to the
20 Congress, in advance of such determination.

21 (b) **CONDITIONS OF TERMINATION.**—Upon making a
22 determination under subsection (a), the Director and the
23 Chief Risk Officer shall also identify measurable criteria
24 for determining that the conditions determined under sub-
25 section (a) have ceased to exist.

1 (c) NOTICE TO CONGRESS.—Upon making a deter-
2 mination under subsection (a), the Director and the Chief
3 Risk Officer shall provide written notice to the Congress
4 of such determination and the specific measurable criteria
5 identified pursuant to subsection (b).

6 (d) EFFECT OF TEMPORARY ALTERNATIVE CAPITAL
7 RATIO.—During any period that a temporary alternative
8 capital ratio is in effect pursuant to subsection (a) with
9 respect to any Fund—

10 (1) in the case of a temporary capital ratio for
11 the Mutual Mortgage Insurance Fund, subsections
12 (a) and (c) of section 257 and section 258 shall not
13 apply;

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

17 (3) the Director shall require the FHA or the
18 Secretary of Agriculture (as appropriate) to submit
19 and carry out a capital restoration plan for such
20 Fund meeting the requirements under section
21 258(d) and may take actions under section 258(b)
22 with respect to such Fund only in accordance with
23 such standards relating to such temporary and alter-
24 native capital classifications for such Fund as the
25 Director shall establish.

1 (e) TERMINATION.—Any temporary alternative cap-
2 ital ratio established pursuant to subsection (a) shall ter-
3minate upon the earlier of—

4 (1) the expiration of the 18-month period begin-
5ning upon the date that notification under sub-
6section (c) is provided to the Congress of the deter-
7mination under subsection (a); or

8 (2) the occurrence of the conditions identified
9pursuant to subsection (b).

10 (f) MULTIPLE DETERMINATIONS.—Nothing in this
11section may be construed to prevent multiple or consecu-
12tive periods during which temporary alternative capital ra-
13tios are in effect pursuant to this section.

14 **SEC. 261. 7-YEAR BORROWER SUSPENSION FOR FORE-**
15 **CLOSURE.**

16 (a) FHA.—

17 (1) IN GENERAL.—Except as provided in para-
18graph (2), with respect to any mortgage on a 1- to
194-family residential property that is foreclosed upon,
20during the 7-year period beginning upon the date of
21such foreclosure, the FHA may not newly insure,
22under any provision of this title, the National Hous-
23ing Act, or any FHA program, any other mortgage
24under which the mortgagor is the individual who was

1 the mortgagor under the mortgage that was fore-
2 closed upon.

3 (2) WAIVER.—The FHA shall provide, by regu-
4 lation, for the FHA to waive the applicability of
5 paragraph (1) with respect to a mortgagor in cases
6 in which hardship circumstances materially contrib-
7 uted to the default and foreclosure of the mortgage.
8 For purposes of this subsection, such hardship cir-
9 cumstances may include divorce, job or other income
10 loss, health problems, death in the family, and such
11 other situations as the FHA may prescribe.

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

15 “(c) 7-YEAR BORROWER SUSPENSION FOR FORE-
16 CLOSURE.—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), with respect to any mortgage on a 1- to
19 4-family residential property that is foreclosed upon,
20 during the 7-year period beginning upon the date of
21 such foreclosure, the Secretary may not newly make,
22 insure, or guarantee, under any provision of this
23 title, any other loan under which the borrower is in-
24 dividual who was the mortgagor under the mortgage
25 that was foreclosed upon.

1 ceding provisions of this title, is further amended by add-
2 ing at the end the following new subsection:

3 “(d) BORROWER INELIGIBILITY UPON SECOND
4 FORECLOSURE.—If any individual is the mortgagor under
5 any two mortgages for 1- to 4-family residential properties
6 that have been foreclosed upon, the Secretary may not
7 newly make, insure, or guarantee, under any provision of
8 this title, any other loan under which such individual is
9 the borrower.”.

10 **SEC. 263. LIMITATION ON SELLER CONCESSIONS.**

11 (a) FHA.—The FHA may not newly insure, under
12 any provision of this title, the National Housing Act, or
13 any FHA program, any mortgage on a 1- to 4-family resi-
14 dential property with respect to which the seller of the
15 property subject to such mortgage (or any third party or
16 entity that is reimbursed directly or indirectly by the sell-
17 er) contributes toward the acquisition of the property by
18 the mortgagor any amount in excess of 3 percent of the
19 lesser of the sale price of the property or the appraised
20 value of the property as of the time of such sale.

21 (b) RURAL HOUSING.—Section 501 of the Housing
22 Act of 1949 (42 U.S.C. 1471), as amended by the pre-
23 ceding provisions of this title, is further amended by add-
24 ing at the end the following new subsection:

1 “(n) LIMITATION ON SELLER CONCESSIONS.—The
2 Secretary may not newly make, insure, or guarantee,
3 under any provision of this title, any loan for a 1- to 4-
4 family residential property with respect to which the seller
5 of the property for which the loan is made (or any third
6 party or entity that is reimbursed directly or indirectly by
7 the seller) contributes toward the acquisition of the prop-
8 erty by the borrower any amount in excess of 3 percent
9 of the lesser of the sale price of the property or the ap-
10 praised value of the property as of the time of such sale.”.

11 **SEC. 264. LENDER REPURCHASE REQUIREMENT.**

12 (a) REQUIREMENT.—The FHA may not newly in-
13 sure, under any provision of this title, the National Hous-
14 ing Act, or any FHA program, any mortgage on a 1- to
15 4-family residential property unless the mortgagee under
16 such mortgage enters into such binding agreements as the
17 FHA considers necessary to ensure that, if the mortgagor
18 is in default with respect to the mortgagor’s obligation to
19 make payments under the mortgage for 60 or more con-
20 secutive days during the 24-month period beginning upon
21 origination of the mortgage, the mortgagee will, except as
22 provided pursuant to subsection (b) and upon notice by
23 the FHA, repurchase such mortgage in an amount equal
24 to the remaining principal obligation under the mortgage,

1 as determined in accordance with guidelines issued by the
2 FHA.

3 (b) EXCEPTION.—The FHA shall provide, by regula-
4 tion, for the FHA to waive the applicability of any binding
5 agreements regarding repurchase of a mortgage entered
6 into by a mortgagee pursuant to subsection (a) in cases
7 in which hardship circumstances for the mortgagor mate-
8 rially contributed to the default of the mortgage. For pur-
9 poses of this subsection, such hardship circumstances may
10 include divorce, job or other income loss, health problems,
11 death in the family, and such other situations as the FHA
12 may prescribe.

13 (c) EFFECTIVE DATE.—This section shall take effect
14 on the date of the enactment of this Act. During the tran-
15 sition period under section 281, any reference in this sec-
16 tion to the FHA shall be construed to refer to the Sec-
17 retary to the extent the Secretary has not delegated au-
18 thority under this section to the FHA pursuant to section
19 282(1).

20 **SEC. 265. INDEMNIFICATION BY MORTGAGEES.**

21 (a) IN GENERAL.—If the FHA determines that at or
22 before the time of loan closing the mortgagee knew, or
23 should have known based on the information then reason-
24 ably available to the mortgagee, of a serious and material
25 violation of the requirements established by the FHA with

1 respect to a mortgage executed after the date of the enact-
2 ment of this Act by such mortgagee approved by the FHA
3 under the direct endorsement program or insured by a
4 mortgagee pursuant to the delegation of authority under
5 section 256 of the National Housing Act (12 U.S.C.
6 1715z-21) such that the mortgage loan should not have
7 been approved and endorsed for insurance, and the FHA
8 pays an insurance claim with respect to the mortgage
9 within a reasonable period specified by the FHA, the FHA
10 may require the mortgagee approved by the FHA under
11 the direct endorsement program or the mortgagee dele-
12 gated authority under such section 256 to indemnify the
13 FHA for the loss, or any portion thereof, if the violation
14 was a materially contributing factor to the cause of the
15 mortgage default.

16 (b) FRAUD OR MATERIAL MISREPRESENTATION.—If
17 fraud or material misrepresentation was involved in con-
18 nection with the origination or underwriting of a mortgage
19 executed after enactment by the mortgagee and the FHA
20 determines that at or before the time of loan closing such
21 mortgagee knew or should have known, based on the infor-
22 mation then reasonably available to such mortgagee, of the
23 fraud or material misrepresentation such that the mort-
24 gage loan should not have been approved and endorsed
25 for insurance, the FHA shall require the mortgagee ap-

1 proved by the FHA under the direct endorsement program
2 or the mortgagee delegated authority under such section
3 256 to indemnify the FHA for the loss, or any portion
4 thereof, if the fraud or material misrepresentation was a
5 materially contributing factor to the cause of the mortgage
6 default.

7 (c) APPEALS PROCESS.—The FHA shall, by regula-
8 tion, establish an appeals process for mortgagees to appeal
9 indemnification determinations made pursuant to sub-
10 section (a) or (b).

11 (d) REQUIREMENTS AND PROCEDURES.—The FHA
12 shall issue regulations establishing appropriate require-
13 ments and procedures governing the indemnification of the
14 FHA by the mortgagee, including public reporting on—

15 (1) the number of loans that—

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

19 (B) involved fraud or material misrepre-
20 sentation in connection with the origination or
21 underwriting that was a material contributing
22 factor to the cause of the mortgage default; and

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

1 (e) QUALITY CONTROL AND ASSURANCE.—

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

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

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

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

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

1 (2) REQUIREMENTS.—The FHA shall—

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

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

19 (C) not pursue indemnification under sub-
20 sections (a) and (b) with respect to those mort-
21 gages reviewed under this subsection unless an
22 initial determination of mortgagee liability is
23 made and communicated to the mortgagee with-
24 in six months of the FHA's receipt of informa-
25 tion that is reasonably sufficient to enable the

1 (A) RESIDENTIAL MORTGAGE LOAN.—The
2 term “residential mortgage loan” means a
3 mortgage loan that is evidenced by a promis-
4 sory note and secured by a mortgage, deed of
5 trust, or other security instrument on a residen-
6 tial structure or a dwelling unit in a residential
7 structure. Such term includes a first mortgage
8 or any subordinate mortgage.

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

14 (b) RURAL HOUSING.—Section 501 of the Housing
15 Act of 1949 (42 U.S.C. 1471), as amended by the pre-
16 ceding provisions of this title, is further amended by add-
17 ing at the end the following new subsection:

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

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law, the Secretary may not newly guar-
22 antee, make, or insure under this title any mortgage
23 that is secured by a structure or dwelling unit that
24 is located within a county that contains any struc-
25 ture or dwelling unit that secures or secured a resi-

1 dential mortgage loan which mortgage loan was ob-
2 tained by the State during the preceding 120
3 months by exercise of the power of eminent domain.

4 “(2) DEFINITIONS.—For purposes of this sub-
5 section, the following definitions shall apply:

6 “(A) RESIDENTIAL MORTGAGE LOAN.—

7 The term ‘residential mortgage loan’ means a
8 mortgage loan that is evidenced by a promis-
9 sory note and secured by a mortgage, deed of
10 trust, or other security instrument on a residen-
11 tial structure or a dwelling unit in a residential
12 structure. Such term includes a first mortgage
13 or any subordinate mortgage.

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

18 (c) EFFECTIVE DATE.—This section and the amend-
19 ment made by this section shall take effect on the date
20 of the enactment of this Act. During the transition period
21 under section 281, any reference in subsection (a) to the
22 FHA shall be construed to refer to the Secretary to the
23 extent the Secretary has not delegated authority under
24 subsection (a) to the FHA pursuant to section 282(1).

1 **SEC. 267. RESIDUAL INCOME REQUIREMENT.**

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

9 (b) RESIDUAL INCOME.—For purposes of this sec-
10 tion, the term “residual income” means, with respect to
11 a mortgagor, the net monthly income of the mortgagor,
12 as provided by regulation by the FHA, after taking into
13 consideration—

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

16 (2) any monthly obligations of the mortgagor
17 with respect to mortgage payments, insurance pay-
18 ment, and taxes for the property subject to the
19 mortgage, income and other taxes, maintenance, and
20 utility expenses for the property, child care expenses,
21 auto, consumer, and any other debt obligations, ali-
22 mony and child support expenses, and such other ex-
23 penses as the FHA may provide.

24 (c) EFFECTIVE DATE.—This section shall take effect
25 on the date of the enactment of this Act. During the tran-
26 sition period under section 281, any reference in this sec-

1 tion to the FHA shall be construed to refer to the Sec-
2 retary to the extent the Secretary has not delegated au-
3 thority under this section to the FHA pursuant to section
4 282(1).

5 **SEC. 268. EFFECTIVE DATE.**

6 This subtitle and the amendments made by this sub-
7 title (except for sections 264, 265, 266, and 267, and any
8 amendments made by such sections) shall take effect upon
9 the expiration of the transition period under section 281.

10 **Subtitle D—Transition**

11 **SEC. 281. TRANSITION PERIOD.**

12 (a) IN GENERAL.—For purposes of this subtitle, the
13 term “transition period” means the period that—

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

16 (2) ends upon the earlier of—

17 (A) the date that the Director publishes
18 notice in the Federal Register that the Director
19 has determined that all of the requirements
20 under subsection (b) have been completed, ex-
21 cept that the Director may not publish such no-
22 tice before the expiration of the 2-year period
23 beginning on the date of the enactment of this
24 Act; or

1 (B) the expiration of the 5-year period be-
2 ginning on the date of the enactment of this
3 Act.

4 (b) REQUIREMENTS FOR ENDING TRANSITION PE-
5 RIOD.—The requirements under this subsection are the
6 following:

7 (1) APPROVAL OF INITIAL ANNUAL BUDGET
8 AND BUSINESS PLAN.—The FHA has submitted to
9 the Director of the Federal Housing Finance Agency
10 an initial annual budget and business plan and the
11 Director has approved the budget and plan.

12 (2) DETERMINATION OF CORPORATE CAPAC-
13 ITY.—The Director of the Office of Management
14 and Budget has determined, and notified the Direc-
15 tor, that the staff, systems, and administrative infra-
16 structure of the FHA are sufficient to permit the
17 FHA to fully conduct the operation of its business.

18 **SEC. 282. AUTHORITY DURING TRANSITION PERIOD.**

19 During the transition period the FHA may—

20 (1) carry out any power or responsibility of the
21 Secretary relating to mortgage insurance programs
22 under the National Housing Act that the Secretary
23 delegates to the FHA, using the staff, systems, and
24 administrative infrastructure that the FHA engages

1 or acquires during the transition period, or the per-
2 sonnel and other resources of the Secretary;

3 (2) incur any obligation consistent with—

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

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

11 (3) engage in any activity or undertake any re-
12 sponsibility (not including entering into, or making
13 any commitment to enter into, any contract of insur-
14 ance under this title) that the FHA determines to
15 be consistent with the establishment of the FHA.

16 **SEC. 283. ADVISORY BOARD.**

17 (a) ESTABLISHMENT.—The Secretary of Housing
18 and Urban Development shall establish an advisory board
19 to provide advice to the Board of Directors of the FHA
20 regarding establishing and organizing the FHA and cre-
21 ating the business plan, premium structure, and product
22 lines of the FHA.

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

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

3 (2) assess the housing and mortgage credit
4 needs;

5 (3) obtain information concerning single family
6 housing finance markets to assess how the FHA can
7 complement the roles of public and private partici-
8 pants in such markets; and

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

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

15 (1) the Assistant Secretary of Housing and
16 Urban Development who is the Federal Housing
17 Commissioner;

18 (2) the Administrator of the Rural Housing
19 Service of the Department of Agriculture;

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

23 (4) not less than 2 individuals who have exper-
24 tise in affordable housing serving low- and mod-
25 erate-income populations.

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

3 (d) **TERMINATION.**—The advisory board shall termi-
4 nate upon the expiration of the transition period under
5 section 281.

6 **SEC. 284. TRANSFER OF HUD AUTHORITY.**

7 (a) **TRANSFER.**—Except as provided in subsections
8 (c) and (d), effective upon the expiration of the transition
9 period, the functions of, authority provided to, and the re-
10 sponsibilities of the Secretary of Housing and Urban De-
11 velopment and the Department of Housing and Urban De-
12 velopment under the following provisions of law are trans-
13 ferred to the FHA:

14 (1) Titles II and V of the National Housing Act
15 (12 U.S.C. 1707 et seq., 1735a et seq.).

16 (2) Section 3 of Public Law 99–289 (12 U.S.C.
17 1721 note; relating to estimates of use of insuring
18 authority), except that this paragraph shall not ter-
19 minate or transfer any authority of the Secretary
20 under such section relating to section 306(g) of the
21 National Housing Act (12 U.S.C. 1721(g)).

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

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

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

7 (6) Section 106 of the Energy Policy Act of
8 1992 (12 U.S.C. 1701z-16; relating to energy effi-
9 cient mortgages pilot program).

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

13 (8) Section 103(h) of the Multifamily Housing
14 Property Disposition Reform Act of 1994 (12 U.S.C.
15 1715z-1a note; relating to alternative uses of multi-
16 family projects to prevent default).

17 (b) REPEAL OF ASSIGNMENT PROVISIONS.—Effec-
18 tive upon the date of the enactment of this Act, section
19 204(a)(1)(B) of the National Housing Act (12 U.S.C.
20 1710(a)) is amended by striking the last sentence.

21 (c) APPLICABILITY.—The repeals under subsections
22 (a) and (b) shall not affect any legally binding obligations
23 entered into pursuant to the provisions repealed before the
24 applicable effective date under such subsections. Any
25 mortgage insurance, funds, or activities subject, before re-

1 peal, to a provision of law repealed by such subsections
2 shall continue to be governed by the provision as it existed
3 immediately before repeal, except that the FHA may exer-
4 cise any authority under such provision otherwise trans-
5 ferred to the FHA by this title.

6 (d) REFERENCES.—After the expiration of the tran-
7 sition period, any reference in Federal law to the Secretary
8 of Housing and Urban Development, in connection with
9 any function of the Secretary transferred under subsection
10 (a) or any other provision of this subtitle, shall be deemed
11 to be a reference to the FHA.

12 **SEC. 285. WIND-UP OF HUD AFFAIRS.**

13 (a) ABOLISHMENT OF POSITIONS.—Effective upon
14 the expiration of the transition period, any offices of the
15 Department of Housing and Urban Development respon-
16 sible for functions transferred pursuant to section 284(a),
17 to the extent of such functions, and the position of the
18 Federal Housing Commissioner in the Department of
19 Housing and Urban Development, are abolished.

20 (b) DISPOSITION OF AFFAIRS.—During the transi-
21 tion period, the Secretary, solely for the purpose of wind-
22 ing up the affairs of the Department relating to the func-
23 tions transferred under section 284—

24 (1) shall manage the employees of the Depart-
25 ment responsible for such functions and provide for

1 the payment of the compensation and benefits of any
2 such employee which accrue before the effective date
3 of the transfer of such employee under section 287;
4 and

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

8 (c) STATUS OF EMPLOYEES BEFORE TRANSFER.—

9 The provisions of and amendments made by this title and
10 the abolishments under subsection (a) of this section may
11 not be construed to affect the status of any employee of
12 the Department as an employee of an agency of the United
13 States for purposes of any other provision of law before
14 the effective date of the transfer of any such employee
15 under section 287.

16 (d) USE OF PROPERTY AND SERVICES.—

17 (1) PROPERTY.—The FHA may use the prop-
18 erty of the Department of Housing and Urban De-
19 velopment to perform functions which have been
20 transferred to the FHA for such time as is reason-
21 able to facilitate the orderly transfer of functions
22 transferred under any other provision of this title or
23 any amendment made by this title to any other pro-
24 vision of law.

1 (2) AGENCY SERVICES.—Any agency, depart-
2 ment, or other instrumentality of the United States,
3 and any successor to any such agency, department,
4 or instrumentality, which was providing supporting
5 services to the Department of Housing and Urban
6 Development before the expiration of the transition
7 period under subsection (a) in connection with func-
8 tions that are transferred under section 284 to the
9 FHA shall—

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

13 (B) consult with the FHA to coordinate
14 and facilitate a prompt and reasonable transi-
15 tion.

16 (e) CONTINUATION OF SERVICES.—The FHA may
17 use the services of employees and other personnel of the
18 Department of Housing and Urban Development relating
19 to the functions transferred under section 284, on a reim-
20 bursable basis, to perform functions which have been
21 transferred to the FHA for such time as is reasonable to
22 facilitate the orderly transfer of functions pursuant to any
23 other provision of this title or any amendment made by
24 this title to any other provision of law.

25 (f) SAVINGS PROVISIONS.—

1 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
2 TIONS NOT AFFECTED.—Subsection (a) shall not af-
3 fect the validity of any right, duty, or obligation of
4 the United States, the Secretary of Housing and
5 Urban Development, or any other person, which—

6 (A) arises under—

7 (i) the National Housing Act; or

8 (ii) any other provision of law applica-
9 ble with respect to the functions of the De-
10 partment of Housing and Urban Develop-
11 ment transferred under section 284; and

12 (B) existed on the day before the date of
13 abolishment under subsection (a).

14 (2) CONTINUATION OF SUITS.—No action or
15 other proceeding commenced by or against the Sec-
16 retary of Housing and Urban Development in con-
17 nection with functions transferred to the FHA under
18 section 284 shall abate by reason of the enactment
19 of this title, except that the FHA shall be sub-
20 stituted for the Secretary as a party to any such ac-
21 tion or proceeding.

22 **SEC. 286. CONTINUATION AND COORDINATION OF CERTAIN**
23 **ACTIONS.**

24 (a) IN GENERAL.—All regulations, orders, and deter-
25 minations described in subsection (b) shall remain in ef-

1 fect according to the terms of such regulations, orders,
2 and determinations, and shall be enforceable by or against
3 the FHA, until modified, terminated, set aside, or super-
4 seded in accordance with applicable law by the FHA, as
5 the case may be, any court of competent jurisdiction, or
6 operation of law.

7 (b) APPLICABILITY.—A regulation, order, or deter-
8 mination is described in this subsection if it—

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

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

14 (B) a court of competent jurisdiction, and
15 relates to functions transferred under section
16 284; and

17 (2) is in effect upon the expiration of the tran-
18 sition period.

19 **SEC. 287. TRANSFER AND RIGHTS OF HUD EMPLOYEES.**

20 (a) TRANSFER.—Each employee of the Department
21 of Housing and Urban Development who performs func-
22 tions transferred under section 284 shall be transferred
23 to the FHA for employment, not later than the date of
24 the expiration of the transition period, and such transfer

1 shall be deemed a transfer of function for purposes of sec-
2 tion 3503 of title 5, United States Code.

3 (b) GUARANTEED POSITIONS.—

4 (1) IN GENERAL.—Each employee transferred
5 under subsection (a) shall be guaranteed a position
6 with the same status, tenure, grade, and pay as the
7 position held by such employee on the day imme-
8 diately preceding the transfer.

9 (2) NO INVOLUNTARY SEPARATION OR REDUC-
10 TION.—An employee transferred under subsection
11 (a) holding a permanent position on the day imme-
12 diately preceding the transfer may not be involun-
13 tarily separated or reduced in grade or compensation
14 during the 12-month period beginning on the date of
15 transfer, except for cause, or, in the case of a tem-
16 porary employee, separated in accordance with the
17 terms of the appointment of the employee.

18 (c) APPOINTMENT AUTHORITY FOR EXCEPTED AND
19 SENIOR EXECUTIVE SERVICE EMPLOYEES.—

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

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

4 (A) a position excepted from the competi-
5 tive service because of its confidential, policy-
6 making, policy-determining, or policy-advocating
7 character; or

8 (B) a noncareer position in the Senior Ex-
9 ecutive Service (within the meaning of section
10 3132(a)(7) of title 5, United States Code).

11 (d) REORGANIZATION.—If the FHA determines, after
12 the end of the 1-year period beginning on the expiration
13 of the transition period, that a reorganization of the com-
14 bined workforce is required, that reorganization shall be
15 deemed a major reorganization for purposes of affording
16 affected employee retirement under section 8336(d)(2) or
17 8414(b)(1)(B) of title 5, United States Code.

18 (e) EMPLOYEE BENEFIT PROGRAMS.—

19 (1) IN GENERAL.—Any employee of the Depart-
20 ment of Housing and Urban Development accepting
21 employment with the FHA as a result of a transfer
22 under subsection (a) may retain, for 12 months after
23 the date on which such transfer occurs, membership
24 in any employee benefit program of the FHA or the
25 Department of Housing and Urban Development, as

1 applicable, including insurance, to which such em-
2 ployee belongs on the date of the expiration of the
3 transition period, if—

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

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

8 (2) COST DIFFERENTIAL.—

9 (A) IN GENERAL.—The difference in the
10 costs between the benefits which would have
11 been provided by the Department of Housing
12 and Urban Development and those provided by
13 this section shall be paid by the FHA.

14 (B) HEALTH INSURANCE.—If any em-
15 ployee elects to give up membership in a health
16 insurance program or the health insurance pro-
17 gram is not continued by the FHA, the em-
18 ployee shall be permitted to select an alternate
19 Federal health insurance program not later
20 than 30 days after the date of such election or
21 notice, without regard to any other regularly
22 scheduled open season.

23 **SEC. 288. TRANSFER OF PROPERTY AND FACILITIES.**

24 Upon the expiration of the transition period, all prop-
25 erty of the Department of Housing and Urban Develop-

1 ment relating to the functions transferred under section
2 284 shall transfer to the FHA.

3 **SEC. 289. EFFECTIVE DATE.**

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

6 **Subtitle E—Related Amendments**
7 **and Provisions**

8 **SEC. 291. GNMA AUTHORITY.**

9 Title III of the National Housing Act is amended—

10 (1) in section 301(5) (12 U.S.C. 1716(5)), by
11 inserting after “federally owned mortgage portfolios”
12 the following: “(including any owned by the Federal
13 Housing Administration)”;

14 (2) in section 302 (12 U.S.C. 1717)—

15 (A) in subsection (b)(1), by inserting “,
16 the FHA Reform and Modernization Act of
17 2013,” after “National Housing Act” each
18 place such term appears; and

19 (B) in subsection (c)(2), by inserting after
20 subparagraph (F) the following new subpara-
21 graph:

22 “(G) The Federal Housing Administration.”;

23 and

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

1 (A) in the clause (ii) of the first sentence
2 of paragraph (1), by inserting “or the FHA Re-
3 form and Modernization Act of 2013” before “,
4 or which are insured”; and

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

9 **SEC. 292. MORTGAGE INSURANCE FOR HOSPITALS.**

10 (a) LIMITATIONS.—Section 242 of the National
11 Housing Act (12 U.S.C. 1715z–7) is amended by adding
12 at the end the following new subsections:

13 “(j) SERVING LOW AND MODERATE INCOME POPU-
14 LATIONS.—The Secretary shall establish such standards
15 and limitations regarding insurance of mortgages under
16 this section as the Secretary determines are appropriate
17 to ensure that a reasonable percentage of such mortgages
18 are insured for mortgagors having a need for financing
19 under this section because of a lack of access to other fi-
20 nancing under terms that allow the hospital covered by
21 such mortgage to serve a low and moderate income popu-
22 lation.

23 “(k) LIMITATION ON CONCENTRATION.—The Sec-
24 retary shall establish such standards and limitations to en-
25 sure that not more than a reasonable percentage of the

1 available commitment authority for mortgages insured
2 under this section is used for mortgages for hospitals
3 owned by any single entity or person.”.

4 (b) **STUDY ON GEOGRAPHIC CONCENTRATION.**—The
5 FHA shall—

6 (1) conduct a study on the extent hospitals for
7 which mortgages are insured under section 242 of
8 the National Housing Act (12 U.S.C. 1715z–17) are
9 geographically concentrated and how to prevent such
10 concentration; and

11 (2) not later than the expiration of the 2-year
12 period beginning on the date of the enactment of
13 this Act, submit a report to the Congress setting
14 forth the conclusions of such study.

15 (c) **EFFECTIVE DATE.**—This section and the amend-
16 ment made by this section shall take effect and apply on
17 the date of the enactment of this Act. During the transi-
18 tion period under section 281, any reference in this section
19 to the FHA shall be construed to refer to the Secretary
20 to the extent the Secretary has not delegated authority
21 under this section to the FHA pursuant to section 282(1).

22 **SEC. 293. REPEAL OF HOME EQUITY CONVERSION MORT-**
23 **GAGE PROGRAM.**

24 (a) **REPEALS.**—Effective upon the expiration of the
25 2-year period that begins upon the date of the enactment

1 of this Act, section 255 of the National Housing Act (12
2 U.S.C. 1715z-20) is repealed.

3 (b) SAVINGS PROVISIONS.—

4 (1) EFFECT OF REPEALS.—The repeal under
5 subsection (a) shall not affect any legally binding ob-
6 ligations entered before the effective date of such re-
7 peal.

8 (2) INSURANCE AUTHORITY.—Notwithstanding
9 the repeal under subsection (a), the Secretary (or
10 the FHA, pursuant to subtitle D of this title) may
11 insure any mortgage for which a commitment to in-
12 sure under section 255 of the National Housing Act
13 was made before the expiration of the period re-
14 ferred to in subsection (a). Any such mortgage in-
15 sured under such section 255 shall be subject to the
16 terms of such section as in effect immediately before
17 the expiration of such period.

18 (3) SAVINGS PROVISION.—Any funds or activi-
19 ties subject, before the effective date of the repeal
20 under subsection (a) of this section, to section 255
21 of the National Housing Act shall continue to be
22 governed by such sections as in effect immediately
23 before such effective date.

1 **SEC. 294. CONFORMING AMENDMENTS.**

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

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

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

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

16 (c) UNAUTHORIZED USE OF MULTIFAMILY HOUSING
17 ASSETS AND INCOME.—Section 421 of the Housing and
18 Community Development Act of 1987 (12 U.S.C. 1715z–
19 4a) is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (1)—

22 (i) by inserting “or the FHA, as ap-
23 plicable,” after “Secretary”);

24 (ii) by inserting “or by the FHA pur-
25 suant to the FHA Reform and Moderniza-

1 tion Act of 2013” after “National Housing
2 Act”; and

3 (iii) in the last sentence, by inserting
4 “or the FHA” after “Secretary” each
5 place such term appears;

6 (B) in paragraph (2), by inserting “or the
7 FHA Reform and Modernization Act of 2013”
8 before the first comma; and
9 (2) in subsections (b) through (e)—

10 (A) by inserting “or the FHA, as applica-
11 ble,” after “Secretary,” each place such term
12 appears; and

13 (B) by inserting “or the FHA, as applica-
14 ble,” after “Secretary” each place such term
15 appears (except the penultimate occurrence in
16 subsection (c)).

17 (d) SINGLE FAMILY MORTGAGE FORECLOSURE.—
18 The Single Family Mortgage Foreclosure Act of 1994 (12
19 U.S.C. 3751 et seq.) is amended—

20 (1) in section 802(b)(1) (12 U.S.C.
21 3751(b)(1)), by inserting “or by the FHA pursuant
22 to the FHA Reform and Modernization Act of
23 2013” before the semicolon;

24 (2) in section 803(10)(A) (12 U.S.C.
25 3752(10)(A))—

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

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

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

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

10 (3) by adding at the end the following new sec-
11 tion:

12 **“SEC. 820. AUTHORITY OF FHA.**

13 “After the expiration of the transition period under
14 section 281 of the FHA Reform and Modernization Act
15 of 2013, any reference in sections 804 through 819 of this
16 Act to the Secretary shall be considered to also refer to
17 the FHA (as established pursuant to subtitle A of such
18 Act), but only with respect to single family mortgages de-
19 scribed in section 803(10)(B).”.

20 (e) MULTIFAMILY MORTGAGE FORECLOSURE.—The
21 Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C.
22 3701 et seq.) is amended—

23 (1) in section 363(2) (12 U.S.C. 3702(2)), by
24 adding after and below subparagraph (E) the fol-
25 lowing:

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

4 (2) by adding at the end the following new sec-
5 tion:”.

6 “AUTHORITY OF FHA

7 “SEC. 369J. After the expiration of the transition pe-
8 riod under section 281 of the FHA Reform and Mod-
9 ernization Act of 2013, any reference in sections 364
10 through 369I of this Act to the Secretary shall be consid-
11 ered to also refer to the FHA (as established pursuant
12 to subtitle A of such Act), but only with respect to multi-
13 family mortgages described in the last sentence of section
14 363(2).”.

15 **SEC. 295. RULE OF CONSTRUCTION.**

16 Notwithstanding any other evidence of the intent of
17 the Congress, it is hereby declared to be the intent of Con-
18 gress that the provisions of this title shall be construed
19 broadly to achieve the purposes of the title, and the provi-
20 sions of any other Act that must be construed with any
21 provision of this title shall similarly be construed to
22 achieve the purposes of this title to the extent reasonably
23 possible. This section shall take effect on the date of the
24 enactment of this Act.

1 **SEC. 296. EFFECTIVE DATE.**

2 The amendments made by this subtitle (except for
3 sections 292, 293, and 295) shall be made, and shall apply
4 beginning on, the expiration of the transition period under
5 section 281.

6 **TITLE III—BUILDING A NEW**
7 **MARKET STRUCTURE**
8 **Subtitle A—National Mortgage**
9 **Market Utility**

10 **SEC. 301. SHORT TITLE.**

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

13 **SEC. 302. FINDINGS AND PURPOSES.**

14 (a) FINDINGS.—The Congress finds that—

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

20 (2) the financial crisis that began in 2007 re-
21 vealed weaknesses in the market infrastructure re-
22 lated to residential mortgage-backed securities, in-
23 cluding—

24 (A) weaknesses in standards—

1 (i) for underwriting and servicing resi-
2 dential mortgage loans that may be collat-
3 eral for mortgage-backed securities; and

4 (ii) for issuers and trustees of such
5 securities;

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

10 (C) weaknesses in the availability of infor-
11 mation to assess performance of pools;

12 (3) weaknesses revealed in the financial crisis
13 created uncertainty and impeded timely and success-
14 ful resolution of troubled residential mortgage loans,
15 and have impeded the return of private capital to
16 the market for securities backed by residential mort-
17 gage loans in the absence of a Federal guarantee of
18 timely payment of principal and interest to investors;
19 and

20 (4) improved standards and information avail-
21 ability and a national system for registering mort-
22 gage-related documents, including notes, mortgages
23 and deeds of trust, and ownership and security in-
24 terests established therein, with standard procedures
25 for demonstrating the right to act with regard to

1 such notes or other registered data, would assist in
2 addressing these weaknesses.

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

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

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

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

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

18 (5) to foster the use and uniformity of elec-
19 tronic methods for the creation, authentication,
20 transmission, storage, and availability of materials
21 relating to mortgages;

22 (6) to provide a central repository for notes,
23 mortgages, and other mortgage-related information,
24 and address problems that can arise when paper

1 notes cannot be produced, due to loss or destruction
2 as a result of natural disaster or other causes; and
3 (7) to provide a uniform procedure for dem-
4 onstrating the right to act with regard to such notes
5 or other registered data for all actions in any State
6 or Federal proceeding, judicial or nonjudicial, involv-
7 ing such notes or other data.

8 **SEC. 303. DEFINITIONS.**

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

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

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

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

19 (A) any person authorized to submit docu-
20 ments or data for registration with the Reposi-
21 tory; and

22 (B) any person qualified pursuant to sec-
23 tion 331 (relating to organization and operation
24 of the Repository) to inform the Repository
25 of—

1 (i) newly-identified interest holders,
2 whether through creation, assignment, or
3 transfer; or

4 (ii) changes to interests of existing
5 holders, including through modification,
6 amendment, or restatement of, or dis-
7 charge related to, any registered mortgage-
8 related document.

9 (4) DIRECTOR.—The term “Director” means
10 the Director of the Federal Housing Finance Agen-
11 cy.

12 (5) ELIGIBLE COLLATERAL.—The term “eligi-
13 ble collateral” means a residential mortgage loan
14 that meets any standard for mortgage classification
15 established pursuant to section 322 (relating to
16 standards for qualified securities).

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

19 (A) the Federal National Mortgage Asso-
20 ciation and any affiliate thereof, and

21 (B) the Federal Home Loan Mortgage
22 Corporation and any affiliate thereof.

23 (7) MORTGAGE-RELATED DOCUMENT.—The
24 term “mortgage-related document” means any docu-
25 ment or other information or data related to the use

1 of residential real estate as security for a loan, in-
2 cluding documents establishing an obligation to
3 repay a loan secured by residential real estate, es-
4 tablishing a security interest in real estate, estab-
5 lishing the value of the real estate at the time the
6 security interest is created, and insuring clear title
7 to residential real estate pledged as security, or as
8 the Director by regulation may define. Such docu-
9 ments may include electronic documents.

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

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

16 (10) PLATFORM.— The term “Platform”
17 means the securitization infrastructure announced
18 by the Federal Housing Finance Agency on October
19 4, 2012, and as developed by an enterprise or the
20 enterprises in conservatorship, under authority of
21 the Federal Housing Finance Agency pursuant to
22 the Federal Housing Enterprises Financial Safety
23 and Soundness Act of 1992.

1 (11) REPOSITORY.—The term “Repository”
2 means the national mortgage data repository orga-
3 nized under section 331.

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

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

9 (A) any director, officer, employee or con-
10 trolling shareholder of, or agent for, the Utility;

11 (B) any shareholder, affiliate, consultant,
12 or joint venture partner of the Utility, and any
13 other person, as determined by the Director (by
14 regulation or on a case-by-case basis) that par-
15 ticipates in the conduct of the affairs of the
16 Utility;

17 (C) any independent contractor of the Util-
18 ity (including any attorney, appraiser or ac-
19 countant) if—

20 (i) the independent contractor know-
21 ingly or recklessly participates in any viola-
22 tion of law or regulation, any breach of fi-
23 duciary duty or any unsafe or unsound
24 practice; and

1 (ii) such violation, breach or practice
2 caused, or is likely to cause, more than a
3 minimal financial loss to, or a significant
4 adverse effect on, the Utility.

5 **PART 1—ESTABLISHMENT AND AUTHORITY OF**
6 **THE UTILITY**

7 **SEC. 311. ESTABLISHMENT.**

8 (a) **AUTHORITY OF DIRECTOR.**—Under such regula-
9 tions as the Director may prescribe, the Director shall pro-
10 vide for the organization, incorporation, examination, op-
11 eration, and regulation of a national mortgage market
12 utility (“Utility”), and issuance of a charter for such Util-
13 ity. The Utility shall be organized, operated, and managed
14 as a not-for-profit entity.

15 (b) **FORMATION OF UTILITY; APPLICATION.**—

16 (1) **FORMATION.**—Subject to the terms of this
17 subtitle and any regulations issued by the Director,
18 a person or entity may file an application with the
19 Director to establish the Utility. The Utility may be
20 chartered as a corporation, mutual association, part-
21 nership, limited liability corporation, cooperative, or
22 any other organizational form that the applicant
23 may deem appropriate.

24 (2) **CONTENTS OF APPLICATION.**—An applica-
25 tion for establishment of the Utility shall include—

- 1 (A) the proposed articles of association;
- 2 (B) a statement of the general object and
3 purpose of the Utility, consistent with the provi-
4 sions of this subtitle;
- 5 (C) the proposed capitalization and busi-
6 ness plan for the Utility;
- 7 (D) the proposed State whose law would
8 govern, by election of the applicant, the oper-
9 ation of the Utility to the extent not otherwise
10 covered by this subtitle;
- 11 (E) information on the financial resources
12 of the applicant;
- 13 (F) a statement of the relevant housing fi-
14 nance experience of the applicant;
- 15 (G) identification of the proposed senior
16 managers of the Utility, and the relevant expe-
17 rience of such individuals; and
- 18 (H) any other information the Director de-
19 termines to be necessary to evaluate the back-
20 ground, experience, and integrity of the appli-
21 cant and the proposed senior managers, or in-
22 formation otherwise relevant to determine the
23 likely success of the proposed Utility.

24 (c) ISSUANCE OF CHARTER AND CHARTERING CRI-
25 TERIA.—

1 (1) CHARTER.—Not later than the end of the
2 2-year period following the date of the enactment of
3 this Act, the Director shall issue a charter for the
4 Utility to the applicant that the Director determines,
5 in the Director’s sole discretion, has the managerial,
6 financial, and operational resources to succeed, con-
7 sistent with the purposes of this subtitle. At the dis-
8 cretion of the Director, the charter may require the
9 Utility to obtain specific approval from the Director
10 before commencing any business operation, including
11 operations related to the Platform or the Repository,
12 which approval shall be provided when the Director
13 determines, in the Director’s sole discretion, that the
14 Utility demonstrates appropriate operational, mana-
15 gerial, and governance capability with regard to such
16 operation, including successful completion of testing
17 and transition periods.

18 (2) CHARTERING CRITERIA.—In making a de-
19 termination under paragraph (1), the Director shall
20 consider the competence, experience, and integrity of
21 the applicant and proposed senior managers of the
22 Utility, and the financial and operational resources
23 and future prospects of the Utility. The Director
24 may not issue a charter if the applicant fails to—

1 (A) comply with all applicable formation
2 requirements;

3 (B) provide all information requested by
4 the Director;

5 (C) demonstrate the competence, experi-
6 ence, and integrity necessary to operate the
7 Utility in a safe and sound manner;

8 (D) demonstrate sufficient financial re-
9 sources necessary to operate the Utility in a
10 safe and sound manner;

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

16 (F) provide the Director with assurances
17 that the Utility will make available to the Di-
18 rector, on an on-going basis, such information
19 on the operation and activities of the Utility, or
20 any affiliate of the Utility, that the Director
21 deems necessary to ensure the safe and sound
22 operation of the Utility and to enforce compli-
23 ance with this subtitle.

24 (3) EXPLANATION FOR DENIAL.—Within 30
25 days of denying any application for the issuance of

1 a charter under this section, the Director shall pro-
2 vide the applicant with a written explanation of the
3 basis for the denial.

4 (d) AUTHORITY TO SUSPEND.—

5 (1) IN GENERAL.—The authority of the Direc-
6 tor shall include the authority to suspend the charter
7 of the Utility, if the Director determines, in the Di-
8 rector's discretion, that—

9 (A) the organizers have failed to make ade-
10 quate progress in establishing the Utility or any
11 business operation;

12 (B) the organizers engaged in waste of ap-
13 propriated funds made available for establish-
14 ment of the Repository; or

15 (C) such suspension is necessary for any
16 other reason related to safe and sound oper-
17 ation of the Utility.

18 (2) RULEMAKING.—The Director shall issue
19 regulations to address suspension of the charter, in-
20 cluding a process for remediation.

21 (e) STATUS.—

22 (1) NOT A FEDERAL GOVERNMENT INSTRUMEN-
23 TIALITY.—The Utility is not, and shall not be
24 deemed to be, a department, agency, or instrumen-

1 tality of the United States Government and shall not
2 be subject to title 5 or 31 of the United States Code.

3 (2) SUPERVISION.—Notwithstanding any other
4 provision of law, the Utility shall be subject to the
5 exclusive supervision and regulation by the Agency,
6 and shall not be subject to supervision or regulation
7 by any other Federal department or agency or by
8 any State. The Utility is authorized to conduct its
9 business without regard to any qualification or simi-
10 lar statute in any State.

11 (3) EXEMPTION FROM TAXATION.—The Utility
12 shall be exempt from all taxation imposed by the
13 United States, any territory, dependency, or posses-
14 sion of the United States or any State, county, mu-
15 nicipality, or local taxing authority, except that any
16 real property of the Repository shall be subject to
17 State, territorial, county, municipal, or local taxation
18 to the same extent according to its value as other
19 real property.

20 (f) DIRECTORS.—The Utility shall be governed by a
21 board of directors, which shall consist of a number of di-
22 rectors determined by the Director, a majority of which
23 have experience in housing and housing finance busi-
24 nesses, to meet the needs of the Utility, of which—

1 (1) not less than two members shall be from
2 larger financial institutions;

3 (2) not less than two members shall be from
4 smaller financial institutions;

5 (3) not less than two members shall have exper-
6 tise in residential mortgage securitizations,

7 (4) not less than two members shall have exper-
8 tise in legal and electronic documentation and sys-
9 tems;

10 (5) not less than two members shall have expe-
11 rience in residential mortgage securitization invest-
12 ing; and

13 (6) such other members as the Director may
14 provide, who shall have such qualifications as the
15 Director may establish in the charter or by regula-
16 tion to meet the requirements for independence and
17 any provisions of applicable State law.

18 (g) REPORTS TO CONGRESS.—Commencing with the
19 first annual report of the Director following the date of
20 the enactment of this Act, the annual report of the Direc-
21 tor under section 1319B of the Federal Housing Enter-
22 prises Financial Safety and Soundness Act of 1992 (12
23 U.S.C. 4521) shall include a description of the Agency's
24 activities with regard to organization, incorporation, ex-
25 amination, operation, and regulation of the Utility.

1 **SEC. 312. GENERAL POWERS; AUTHORIZED AND PROHIB-**
2 **ITED ACTIVITIES.**

3 (a) GENERAL POWERS.—The Utility may—

4 (1) adopt and use a corporate seal;

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

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

8 (4) sue or be sued, subject to section 334 (re-
9 lating to judicial review);

10 (5) make contracts, incur liabilities, and borrow
11 money;

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

15 (7) elect or appoint directors, officers, employ-
16 ees and agents, subject to section 311(f); and

17 (8) upon receipt of the Director's prior written
18 approval, establish subsidiaries or affiliates that
19 shall be subject to the same rights, duties and re-
20 sponsibilities as the Utility.

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

23 (1) develop standards related to originating,
24 servicing, pooling, and securitizing residential mort-
25 gage loans in accordance with part 2;

1 (2) operate and maintain the Platform and es-
2 tablish fees for use of the Platform;

3 (3) establish the Repository and establish fees
4 for registration of mortgage-related documents and
5 maintenance and use of data of the Repository, in
6 accordance with part 3;

7 (4) perform any other service or engage in any
8 other activity that the Director determines, by regu-
9 lation or order, to be incidental to the activities enu-
10 merated in this subsection; and

11 (5) establish fees for the provision of other re-
12 lated or incidental services not inconsistent with the
13 purposes of this subtitle.

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

16 (1) own, originate, service, insure, or guarantee
17 any residential mortgage or other financial instru-
18 ment that is associated with a residential mortgage;

19 (2) guarantee timely payment of principal or in-
20 terest on any mortgage-related security;

21 (3) adopt access rules or fees for the Platform
22 the effect of which is to discriminate against eligible
23 loan originators, aggregators, or qualified issuers
24 based on size, composition, business line, or loan vol-
25 ume; or

1 (4) perform any service or engage in any activ-
2 ity other than those authorized under this subtitle,
3 unless such activity has been determined by the Di-
4 rector to be incidental to an authorized activity.

5 **SEC. 313. TRANSFER OF OWNERSHIP OF PLATFORM.**

6 (a) VALUATION.—Not later than the end of the 6-
7 month period beginning on the date of the enactment of
8 this Act, the Director shall determine a method for recov-
9 ering the cost to each enterprise of developing the Plat-
10 form, in consultation with Treasury, and agree on a valu-
11 ation of the Platform upon transfer to the Utility.

12 (b) TRANSFER.—Not later than the end of the 1-year
13 period beginning on the date of the issuance of the charter
14 of the Utility by the Director, the Director shall oversee
15 the transfer to the Utility of ownership of the Platform.
16 At the time of such transfer, the value of the Platform
17 as established in accordance with subsection (a) shall be
18 deemed transferred to the Utility, and shall be repaid to
19 the Treasury of the United States by the Utility within
20 10 years after such transfer.

21 (c) AVAILABILITY TO DIRECTOR.—After transfer of
22 the Platform to the Utility, to the extent feasible the Plat-
23 form shall be made available to the Agency on terms and
24 conditions applicable to other users, to assist with man-
25 aging the wind-down of any enterprise for which the Agen-

1 cy has been appointed conservator or receiver pursuant to
2 section 1367 of the Federal Housing Enterprises Finan-
3 cial Safety and Soundness Act of 1992 (12 U.S.C. 4617).

4 **SEC. 314. FUNDING.**

5 (a) INITIAL FUNDING.—There is authorized to be ap-
6 propriated \$150,000,000 for the establishment and initial
7 oversight, regulation, and supervision of the Utility and
8 its operation.

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

14 (c) ONGOING FUNDING.—

15 (1) COLLECTION OF FEES.—After establish-
16 ment, all expenses of the Utility shall be paid for by
17 fees collected based on services provided by and op-
18 erations of the Utility.

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

21 (A) establish, subject to the approval of
22 the Director, a fee schedule and may differen-
23 tiate fees based on classes or types of services,
24 operations, and users of services or operations,

1 and such differentiation shall not be deemed
2 discriminatory; and

3 (B) review and publish the fee schedule not
4 less frequently than annually, but may review,
5 revise, and publish the schedule more frequently
6 than annually.

7 **SEC. 315. REGULATION, SUPERVISION, AND ENFORCEMENT.**

8 (a) GENERAL OVERSIGHT.—The Director shall exer-
9 cise, by rule, order, or guidance, oversight of the Utility,
10 which shall include the authority to regulate, supervise,
11 and examine the Utility and take enforcement actions
12 against the Utility or any Utility-affiliated party, con-
13 sistent with the provisions of the Federal Housing Enter-
14 prise Financial Safety and Soundness Act of 1992.

15 (b) SCOPE OF AUTHORITY.—The authority of the Di-
16 rector under this section shall include the authority to ex-
17 ercise such incidental powers as may be necessary or ap-
18 propriate to fulfill the duties and responsibilities of the
19 Director in the oversight, supervision, and regulation of
20 the Utility.

21 (c) DIVISION OF UTILITY REGULATION.—The Direc-
22 tor shall establish within the Agency a Division of Utility
23 Regulation, which shall—

24 (1) be headed by a Deputy Director designated
25 by the Director from among individuals who are citi-

1 zens of the United States who have a demonstrated
2 understanding of financial management or oversight
3 and of mortgage securities markets and housing fi-
4 nance; and

5 (2) as requested by the Director, conduct exam-
6 ination and supervision activities, gather any infor-
7 mation attendant to such activities, and provide rec-
8 ommendations to the Director regarding the safe
9 and sound operation of the Utility and regarding
10 any requests to revise, alter, or amend existing or
11 proposed activities.

12 (d) CONSULTATION WITH OTHER AGENCIES.—In ex-
13 ercising authority to regulate and supervise the Utility, the
14 Director shall consult with other Federal departments and
15 agencies that regulate or supervise entities, institutions,
16 or companies that are or may become subject to stand-
17 ards, rules, processes, or procedures developed by the Util-
18 ity (including issuers through the Platform and depositors
19 or participants in the Repository), including the Bureau
20 of Consumer Financial Protection and any appropriate
21 Federal banking agency (as defined under section 3 of the
22 Federal Deposit Insurance Act).

23 (e) ANNUAL ASSESSMENT.—The Director shall es-
24 tablish and collect from the Utility an annual assessment
25 in an amount not exceeding the amount sufficient to pro-

1 vide for reasonable costs (including administrative costs)
2 and expenses of the Agency related to its oversight of the
3 Utility. The amounts received by the Director from assess-
4 ments under this section shall not be construed to be Gov-
5 ernment or public funds or appropriated money. Notwith-
6 standing any other provision of law, the amounts received
7 by the Director from assessments under this section shall
8 not be subject to apportionment for the purpose of chapter
9 15 of title 31, United States Code, or under any other
10 authority.

11 **SEC. 316. CIVIL AND CRIMINAL LIABILITY.**

12 (a) USE OF NAMES.—

13 (1) IN GENERAL.—Except as expressly author-
14 ized by statute of the United States, no person or
15 organization (except the Repository, Utility, and
16 Platform) shall use the term “National Mortgage
17 Market Utility”, “Common Securitization Platform”,
18 or “National Mortgage Data Repository”, or such
19 other name as the Director may establish in the
20 charter of the Utility or any combination of words
21 that appears to indicate that such use of the term
22 conflicts with the operation of the Utility or any
23 function created herein. No individual or organiza-
24 tion shall use or display—

1 (A) any sign, device, or insignia prescribed
2 or approved by the Utility for use of display by
3 the Utility;

4 (B) any copy, reproduction or colorable
5 imitation of any such sign, device, or insignia;
6 or

7 (C) any sign, device or insignia reasonably
8 calculated to convey the impression that it is a
9 sign, device or insignia used by the Utility or
10 prescribed by the Utility contrary to policies or
11 procedures of the Utility prohibiting, limiting or
12 restricting such use by any individual or organi-
13 zation.

14 (2) RELIEF.—The Agency or Utility may seek
15 to enjoin or recover damages for any breach of this
16 section and refer to the Attorney General any mat-
17 ters that may constitute criminal activity for a
18 breach of this section.

19 (b) EXCLUSIVE OPERATION OF THE REPOSITORY.—
20 Except as expressly authorized by statute of the United
21 States, no person or organization (except the Utility) shall
22 operate a national registry or repository of mortgage-re-
23 lated documents. Any State of the United States may op-
24 erate a State registry or repository system, subject to the
25 laws of that State, provided that any such State registry

1 or repository system does not conflict with the Repository
2 or the purposes of this subtitle.

3 (c) ACTIONS FOR BREACH.—In any action for breach
4 of contract, including breach of representation or war-
5 ranty, or breach of privacy related to data collected and
6 maintained by the Repository, no prevailing party may re-
7 cover more than an amount established by the Director,
8 by regulation. When issuing any such regulation, the Di-
9 rector shall take into consideration intentional, willful,
10 reckless, or negligent actions or omissions. Such regula-
11 tions shall be reviewed not less frequently than annually,
12 and may be revised in the Director’s discretion.

13 **PART 2—STANDARDS FOR QUALIFIED**

14 **SECURITIES**

15 **SEC. 321. QUALIFIED SECURITIES.**

16 For purposes of this subtitle, the term “qualified se-
17 curity” means a security that—

18 (1) is collateralized by a class, or multiple class-
19 es, of residential mortgages established under sec-
20 tion 322(a);

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

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

25 (4) is issued through the Platform; and

1 (5) is not guaranteed, in whole or in part, by
2 the United States Government.

3 **SEC. 322. STANDARDS FOR QUALIFIED SECURITIES.**

4 (a) STANDARD MORTGAGE CLASSIFICATIONS.—

5 (1) ESTABLISHMENT OF MORTGAGE CLASSI-
6 FICATIONS.—The Utility shall prescribe classifica-
7 tions for residential mortgages having various de-
8 grees of credit risk, ranging from a classification of
9 mortgages having little to no credit risk to a classi-
10 fication of mortgages having higher credit risk. In
11 prescribing such classifications the Utility shall seek
12 to allow for the pricing of credit risk, allow for the
13 trading of securities collateralized by each classifica-
14 tion of mortgages established pursuant to this sub-
15 section in the forward market, and maintain well-
16 functioning liquid markets in securities collateralized
17 by each of the classifications of mortgages estab-
18 lished pursuant to this subsection.

19 (2) UNDERWRITING CRITERIA.—For each clas-
20 sification of mortgages established under paragraph
21 (1), the Utility shall establish standards for each of
22 the following underwriting criteria:

23 (A) DEBT-TO-INCOME RATIO.—The ratio
24 of the amount of the total monthly debt of the

1 mortgagor to the amount of the monthly income
2 of the mortgagor.

3 (B) LOAN-TO-VALUE RATIO.—The ratio of
4 the principal obligation under the mortgage to
5 the value of the residence subject to the mort-
6 gage, at the time of mortgage origination.

7 (C) CREDIT HISTORY.—Information on the
8 credit history of the mortgagor, including credit
9 scores of the mortgagor.

10 (D) LOAN DOCUMENTATION.—The extent
11 of loan documentation and verification of the fi-
12 nancial resources of the mortgagor used to
13 qualify the mortgagor for the mortgage, includ-
14 ing any appraisal.

15 (E) OCCUPANCY.—Whether the residence
16 subject to the mortgage is occupied by the
17 mortgagor.

18 (F) CREDIT ENHANCEMENT.—Whether
19 any mortgage insurance or other type of insur-
20 ance or credit enhancement was obtained at the
21 time of origination.

22 (G) COLLATERAL ENHANCEMENT.—
23 Whether any title insurance or other type of re-
24 liable evidence of title was obtained at the time
25 of origin.

1 (H) LOAN PAYMENT TERMS.—

2 (i) IN GENERAL.—The terms of the
3 mortgage that determine the magnitude
4 and timing of payments due from the
5 mortgagor, including the term to maturity
6 of the mortgage, the frequency of payment,
7 the type of amortization, any prepayment
8 penalties, and whether the interest rate is
9 fixed or may vary.

10 (ii) INCLUSION OF 30-YEAR FIXED IN-
11 TEREST RATE.—Terms established under
12 clause (i) shall include a 30-year fixed in-
13 terest rate mortgage.

14 (I) OTHER.—Such other underwriting cri-
15 teria as the Utility may establish, consistent
16 with the goals of this subtitle.

17 (3) DEFINITIONS.—The Utility shall, for pur-
18 poses of this subsection, prescribe definitions for
19 each of the following terms:

20 (A) MORTGAGE.— The term “mortgage”,
21 which definition shall include only mortgages on
22 residential properties.

23 (B) DEFAULT.—The term “default”, with
24 respect to a mortgage.

1 (C) DELINQUENCY.—The term “delin-
2 quency”, with respect to a mortgage.

3 (D) LOAN DOCUMENTATION.—The term
4 “loan documentation”, with respect to a mort-
5 gage.

6 (E) ADDITIONAL TERMS.—Such other
7 terms as the Utility may establish.

8 (b) STANDARD FORM SECURITIZATION AGREE-
9 MENTS.—

10 (1) IN GENERAL.—The Utility shall develop,
11 adopt, and publish standard form securitization
12 agreements for eligible collateral.

13 (2) REQUIRED CONTENT.—The standard form
14 securitization agreements to be developed under
15 paragraph (1) shall include terms relating to—

16 (A) pooling and servicing;

17 (B) purchase and sale;

18 (C) representations and warranties, includ-
19 ing representations and warranties as to com-
20 pliance or conformity with standards estab-
21 lished by the Utility, as appropriate;

22 (D) indemnification and remedies, includ-
23 ing principles of a repurchase program that will
24 ensure an appropriate amount of risk retention

1 under the representations and warranties set
2 forth under subparagraph (C); and

3 (E) the qualification, responsibilities, and
4 duties of trustees.

5 (c) REGISTRATION WITH THE REPOSITORY.—The
6 Utility shall require that any mortgage-related document
7 associated with eligible collateral for qualified securities be
8 registered with the Repository.

9 (d) STANDARDS FOR SERVICING.—The Utility shall
10 develop, adopt, and publish—

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

14 (2) a servicer succession plan, which may in-
15 clude provisions for—

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

20 (B) a plan to achieve consistency in serv-
21 icing systems related to systematic note-taking,
22 consistent mailing addresses, and other points
23 of contact for borrowers to use, among other
24 items.

1 (e) STANDARDS FOR SERVICER REPORTING.—The
2 Utility shall develop, adopt, and publish standards for the
3 reporting obligations of servicers of any mortgage that
4 serves as collateral for a qualified security.

5 (f) STANDARDS FOR AGGREGATORS.—The Utility
6 may develop, adopt, and publish standards for aggregation
7 of eligible collateral by entities, institutions, or companies
8 other than an issuer. Notwithstanding any such standards
9 developed by the Utility, any Federal Home Loan Bank
10 may act as an aggregator and offer the service of aggrega-
11 tion to any member of any such Bank, subject to regula-
12 tions prescribed by the Director.

13 (g) STANDARDS FOR QUALIFIED ISSUERS.—

14 (1) IN GENERAL.—The Utility shall develop,
15 adopt, and publish standards for an issuer to qualify
16 as a qualified issuer. Such standards shall only in-
17 clude—

18 (A) the experience, financial resources, and
19 integrity of the issuer and its principals, includ-
20 ing compliance history with Federal and State
21 laws;

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

1 (C) a requirement that the issuer submit
2 audited financial statements to the Utility, who
3 shall make such statements publicly available
4 through the Utility's website.

5 (2) APPLICATION PROCESS.—

6 (A) IN GENERAL.—The Utility shall estab-
7 lish an application process for the qualification
8 of issuers, in such form and manner and requir-
9 ing such information as the Utility may pre-
10 scribe, in accordance with standards adopted
11 under paragraph (1).

12 (B) APPROVAL.—The Utility shall approve
13 any application made pursuant to subparagraph
14 (A) unless the issuer does not meet the stand-
15 ards adopted under paragraph (1).

16 (C) PUBLICATION.—The Agency shall pub-
17 lish a list of newly qualified issuers in the Fed-
18 eral Register and the Utility shall maintain an
19 updated list of qualified issuers on the Utility's
20 website.

21 (3) REVIEW AND REVOCATION OF QUALIFIED
22 STATUS.—

23 (A) IN GENERAL.—The Utility may review
24 the status of a qualified issuer if the Utility is
25 notified that a claim has been made against the

1 issuer by a trustee with respect to a violation
2 of a contractual term in a securitization docu-
3 ment of the issuer.

4 (B) REVOCATION.—

5 (i) IN GENERAL.—Subject to subpara-
6 graph (C), if the Utility determines, sub-
7 ject to the approval of the Director, in a
8 review pursuant to subparagraph (A), that
9 an issuer no longer meets the standards
10 for qualification, the Utility shall revoke
11 the issuer's qualified status.

12 (ii) CONSTRUCTION.— The revocation
13 of an issuer's qualified status under this
14 subparagraph shall—

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

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

24 (C) GRACE PERIOD.—The Utility shall es-
25 tablish standards by which a qualified issuer

1 who no longer meets the standards for quali-
2 fication may remediate and return to meeting
3 the standards, without losing the issuer's quali-
4 fied status.

5 (D) PUBLICATION.—The Agency shall pub-
6 lish a list of issuers who are no longer qualified
7 in the Federal Register and the Utility shall
8 maintain an updated list of such issuers on the
9 Utility's website.

10 (h) STANDARDS FOR TRUSTEES.—

11 (1) IN GENERAL.—There shall at all times be
12 one or more trustee for each pool of mortgages that
13 acts as collateral for a qualified security.

14 (2) RULEMAKING.—The Director shall issue
15 regulations regarding the qualifications of trustees
16 under paragraph (1) that shall, to the extent prac-
17 ticable, be consistent with the qualification provi-
18 sions applicable to trustees under section 310(a) of
19 the Trust Indenture Act of 1934 (15 U.S.C.
20 77jjj(a)).

21 (3) CONFLICTS OF INTEREST.—The Director
22 shall issue conflict of interest regulations that apply
23 to a qualified trustee. Such regulations shall, to the
24 extent practicable, be consistent with those conflict
25 of interest provisions applicable to an indenture

1 trustee under section 310(b) of the Trust Indenture
2 Act of 1934 (15 U.S.C. 77jjj(b)).

3 (4) REPORTING OF CLAIMS.—Any time a trust-
4 ee brings a claim against a qualified issuer on behalf
5 of investors with respect to a standard form
6 securitization agreement, the trustee shall notify the
7 Director of such claim.

8 (5) PROTECTION OF INVESTOR RIGHTS.—For
9 the purpose of protecting investor rights, each trust-
10 ee shall—

11 (A) maintain a list of all investors (bene-
12 ficial owners) in a qualified security;

13 (B) update such list from time to time;

14 (C) not make such list available to inves-
15 tors (beneficial owners); and

16 (D) act as a means to communicate infor-
17 mation about the qualified security to investors
18 (beneficial owners) and act as a means for in-
19 vestors (beneficial owners) to communicate with
20 each other.

21 (6) NO LIABILITY FOR CERTAIN COMMUNICA-
22 TIONS.—A trustee shall not be liable for the content
23 of any information provided to the trustee by an in-
24 vestor (beneficial owner) that the trustee commu-
25 nicates to another investor (beneficial owner).

1 (7) INVESTOR (BENEFICIAL OWNER) NOTIFICA-
2 TION OF TRUSTEE.—A person who becomes an in-
3 vestor (beneficial owner) in a qualified security shall
4 promptly notify the trustee of such security of the
5 change in ownership.

6 (i) INDEPENDENT THIRD PARTY.—If the majority of
7 investors (beneficial owners) in a pool of qualified securi-
8 ties chooses to hire an independent third party to act on
9 behalf of the best interests of the investors (beneficial own-
10 ers), such party shall—

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

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

20 (3) have the right, on behalf of the investors
21 (beneficial owners), to inform the trustee of such se-
22 curities of any breach of the securitization agree-
23 ment identified by the third party.

24 (j) MANDATORY ARBITRATION.—

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

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

14 (3) REPORTING DUTY OF ARBITRATOR.—

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

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

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

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

4 (k) DATA STANDARDS; DISCLOSURE STANDARDS.—

5 (1) DATA STANDARDS.—The Utility shall de-
6 velop, adopt, and publish standard data definitions
7 for all aspects of loan origination, appraisals, and
8 servicing. In developing such definitions, the Utility
9 shall consider the data standard-setting work under-
10 taken by the Mortgage Industry Standards Mainte-
11 nance Organization through the enterprises' Uni-
12 form Mortgage Data Program announced by the
13 Agency on May 24, 2010.

14 (2) DISCLOSURE STANDARDS.—The Utility
15 shall develop, adopt, and publish standards for dis-
16 closure of loan origination, appraisal, and servicing
17 data, including data required in subsection (a)(2)
18 (relating to underwriting criteria) for residential
19 mortgage loans that comprise qualified securities,
20 and that allow for trading of qualified securities
21 under this subtitle in a forward market.

22 (3) COORDINATION.—In developing the data
23 and disclosure standards required by this subsection,
24 the Utility shall ensure that such standards are co-
25 ordinated.

1 (4) PRIVACY PROTECTIONS.—In prescribing the
2 definitions and standards required under this sub-
3 section, the Utility shall take into consideration
4 issues of consumer privacy and all statutes, rules,
5 and regulations related to privacy of consumer credit
6 information and personally identifiable information.
7 Such standards shall expressly prohibit the identi-
8 fication of specific borrowers.

9 (5) CONSULTATION.—When reviewing any dis-
10 closure standards established under this subsection,
11 the Director shall consult with the Securities and
12 Exchange Commission.

13 (1) TIMING OF ISSUANCE; AGENCY REVIEW; AUTHOR-
14 ITY TO REVISE STANDARDS.—

15 (1) TIMING.—The Director shall issue any reg-
16 ulations required by this section not later than the
17 end of the 12-month period beginning on the date of
18 the enactment of this Act. The Utility shall issue
19 any definitions, standards, rules, processes, or proce-
20 dures required by this section not later than the end
21 of the 12-month period beginning on the date of
22 issuance of the charter by the Director.

23 (2) AGENCY REVIEW.—Any definition, stand-
24 ard, rule, process or procedure established by the
25 Utility shall be submitted to the Director for review

1 and approval prior to its implementation if, in the
2 Director's discretion, the Director requires such sub-
3 mission. Any definition, standard, rule, process or
4 procedure that the Director requires be submitted to
5 the Agency for review and approval shall be reviewed
6 within three months of submission.

7 (3) AUTHORITY TO REVISE.—

8 (A) IN GENERAL.—The Utility may review,
9 revise, and, if revised, re-publish any standard
10 form securitization agreement or other defini-
11 tion, standard, rule, process, or procedure re-
12 quired to be developed by this subtitle if the
13 Utility determines review or revision to be nec-
14 essary or appropriate to satisfy the goals of this
15 subtitle.

16 (B) APPLICATION OF REVISIONS.—Any re-
17 visions made pursuant to subparagraph (A)
18 shall apply only to securitizations made after
19 the date of such revision.

20 (m) EFFECT OF CONFLICT.— In the event a defini-
21 tion, standard, rule, process, or procedure established by
22 the Utility is in conflict with any definition, standard, rule,
23 process, or procedure established by another Federal de-
24 partment or agency, the Director shall consult with the
25 other Federal department or agency, and provide prompt

1 written notification to the Committee on Banking, Hous-
2 ing, and Urban Affairs of the Senate and the Committee
3 on Financial Services of the House of Representatives, of
4 the conflict.

5 (n) PUBLIC INVOLVEMENT.—In developing defini-
6 tions, standards, rules, processes, and procedures required
7 by this subtitle, the Utility shall work with market partici-
8 pants, including servicers, originators, and mortgage in-
9 vestors, and develop methods for gathering information
10 and comment from such groups.

11 **SEC. 323. LIABILITY FOR MISLEADING STATEMENTS.**

12 (a) IN GENERAL.—Any person who shall make or
13 cause to be made any statement in any application, report,
14 or document filed with the Agency or Utility pursuant to
15 any provisions of this subtitle, or any rule, regulation, or
16 order thereunder, which statement was at the time and
17 in light of the circumstances under which it was made
18 false or misleading with respect to any material fact, or
19 who shall omit to state any material fact required to be
20 stated therein or necessary to make the statements therein
21 not misleading, shall be liable to any person (not knowing
22 that such statement was false or misleading or of such
23 omission) who, in reliance upon such statement or omis-
24 sion, shall have purchased or sold a qualified security
25 issued under the indenture to which such application, re-

1 port, or document relates, for damages caused by such re-
2 liance, unless the person sued shall prove that such person
3 acted in good faith and had no knowledge that such state-
4 ment was false or misleading or of such omission. A per-
5 son seeking to enforce such liability may sue at law or
6 in equity in any court of competent jurisdiction. In any
7 such suit the court may, in its discretion, require an un-
8dertaking for the payment of the costs of such suit and
9 assess reasonable costs, including reasonable attorneys'
10 fees, against either party litigant, having due regard for
11 the merits and good faith of the suit or defense. No action
12 shall be maintained to enforce any liability created under
13 this section unless brought within one year after the dis-
14 covery of the facts constituting the cause of action and
15 within three years after such cause of action accrued.

16 (b) RIGHTS AND REMEDIES UNDER OTHER LAWS.—
17 The rights and remedies provided by this part shall be
18 in addition to any and all other rights and remedies that
19 may exist under the Securities Act of 1933 or the Securi-
20 ties Exchange Act of 1934 or otherwise at law or in equity;
21 but no person permitted to maintain a suit for damages
22 under the provisions of this subtitle shall recover, through
23 satisfaction of judgment in one or more actions, a total
24 amount in excess of the person's actual damages on ac-
25 count of the act complained of.

1 **SEC. 324. UNLAWFUL REPRESENTATIONS.**

2 It shall be unlawful for any person in offering, selling,
3 or issuing any qualified security pursuant to this subtitle
4 to represent or imply in any manner whatsoever that any
5 action or failure to act by the Agency or Utility in the
6 administration of this subtitle means that the Agency or
7 Utility has in any way passed upon the merits of, or given
8 approval to, any trustee, indenture, or security, or any
9 transaction or transactions therein, or that any such ac-
10 tion or failure to act with regard to any statement or re-
11 port files or examined by the Agency or Utility pursuant
12 to this subtitle or any rule, regulation, or order there-
13 under, has the effect of a finding by the Agency or Utility
14 that such statement or report is true and accurate on its
15 face or that it is not false or misleading.

16 **SEC. 325. CONTRARY STIPULATIONS VOID.**

17 Any condition, stipulation, or provision binding any
18 person to waive compliance with any provision of this sub-
19 title or with any rule, regulation, or order thereunder shall
20 be void.

21 **PART 3—NATIONAL MORTGAGE DATA**
22 **REPOSITORY**

23 **SEC. 331. ORGANIZATION AND OPERATION.**

24 (a) ORGANIZATION AND OPERATION.—Under such
25 regulations as the Director may prescribe, the Utility shall

1 organize and operate a national mortgage data repository
2 (“Repository”).

3 (b) AUTHORIZED ACTIVITIES.—In addition to orga-
4 nizing and operating the Repository, the Utility shall—

5 (1) establish and operate a repository for mort-
6 gage-related documents;

7 (2) establish standards for qualification of any
8 depositor of mortgage-related documents to the Re-
9 pository;

10 (3) establish standards and procedures for sub-
11 mission of mortgage-related documents to the Re-
12 pository, including required information and the type
13 and format of information and data;

14 (4) establish procedures for validation of mort-
15 gage-related documents and the data contained in
16 the Repository;

17 (5) establish standards and procedures for ac-
18 ceptance of mortgage-related documents (including
19 electronic copies), and notice of acceptance, by the
20 Repository;

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

1 (7) establish standards and procedures for re-
2 cording the creation, assignment, or transfer of an
3 interest in any registered mortgage-related docu-
4 ment;

5 (8) establish standards and procedures for qual-
6 ification of depositors and participants in the Repos-
7 itory;

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

15 (10) establish and maintain a catalog of the
16 mortgage-related documents registered with the Re-
17 pository;

18 (11) establish standards and procedures for dis-
19 position of mortgage-related documents, including
20 safekeeping, long-term storage, or destruction of
21 paper documents;

22 (12) establish standards and procedures for
23 making data publicly available;

24 (13) ensure that data collected and maintained
25 by the Repository are kept secure and protected

1 against unauthorized disclosure, taking into consid-
2 eration issues of consumer privacy and all statutes,
3 rules, and regulations related to privacy of consumer
4 credit information and personally identifiable infor-
5 mation, and prohibit the identification of specific
6 borrowers;

7 (14) establish a process, including notification
8 from the public, for identification and correction of
9 incorrect information submitted to or maintained by
10 the Repository;

11 (15) establish fees for registration of mortgage-
12 related documents and maintenance and use of data,
13 and for the provision of other related services not in-
14 consistent with the purposes of this subtitle; and

15 (16) perform any other service or engage in any
16 other activity that the Director determines, by regu-
17 lation or order, to be incidental to the activities enu-
18 merated in this subsection.

19 (c) PROHIBITED ACTIVITIES.—The Utility may not—

20 (1) transfer or sell data maintained by the Re-
21 pository to the parent or affiliated companies of the
22 operator of the Utility; and

23 (2) use data maintained by the Repository for
24 marketing or any other purpose not directly associ-
25 ated with the operation of the Utility.

1 (d) REQUIREMENTS ON PARTICIPANTS.—Each par-
2 ticipant shall—

3 (1) comply with such requirements as may be
4 set by the Repository for using data maintained or
5 created by the Repository; and

6 (2) use such designation as the Repository may
7 provide, such as a unique identifier.

8 **SEC. 332. LEGAL EFFECT OF REGISTRATION WITH REPOSI-**
9 **TORY.**

10 Notwithstanding any provision of State or Federal
11 law to the contrary, by proper demonstration of registra-
12 tion with the Repository, any holder of an interest in any
13 mortgage-related note shall satisfy any requirement for
14 demonstration of a right to act regarding such note or
15 other registered data that exists in State or Federal law,
16 including any obligation to produce or possess an original
17 note. The Director shall provide for the establishment of
18 procedures for proper demonstration of registration of any
19 mortgage-related document and of an interest by the hold-
20 er of an interest in any such document with the Reposi-
21 tory. Once registered with the Repository, such registra-
22 tion shall be a legal right enforceable in any judicial or
23 nonjudicial process.

1 **SEC. 333. GRANTS TO STATES; REPAYMENT.**

2 (a) GRANTS TO STATES.—There is hereby authorized
3 to be appropriated \$50,000,000 to the Director for the
4 establishment of a fund to be administered by the Agency
5 for providing grants to States, on application to the Agen-
6 cy, to facilitate participation in the Repository by any de-
7 positor or participant or class of depositors or partici-
8 pants, or any other person upon appropriate demonstra-
9 tion to the Agency that such a grant would assist in the
10 accomplishment of the purposes of this subtitle. Any such
11 amounts appropriated and not granted by the Agency
12 within five years of the date of the enactment of this Act
13 shall be returned to the Treasury of the United States.

14 (b) REPAYMENT.—The Director shall cause to be col-
15 lected from the Utility and deposit in the Treasury of the
16 United States an amount equal to the aggregate amount
17 provided as grants to States pursuant to subsection (a)
18 within the 10-year period beginning on the date that the
19 first grant is made pursuant to subsection (a).

20 **SEC. 334. JUDICIAL REVIEW.**

21 Except as otherwise expressly provided under this
22 part, no person other than the Director or the Attorney
23 General of the United States, or any duly authorized rep-
24 resentative of the Director or the Attorney General, may
25 proceed against the Repository in any State or Federal
26 court. The prohibition in the preceding sentence shall not

1 apply to a civil action against the Repository or any duly
2 authorized agent thereof for breach of a contract, includ-
3 ing breach of a representation or warranty, or breach of
4 privacy related to data collected and maintained by the
5 Repository or any duly authorized agent thereof.

6 **SEC. 335. TRANSITION PROVISIONS.**

7 (a) IN GENERAL.—The Agency shall provide for a
8 transition period to permit the efficient implementation of
9 the provisions of this part. Such transition may include
10 periods for testing, early adoption, and final mandatory
11 adoption for all recorded mortgages.

12 (b) ELECTRONIC SUBMISSIONS.—The Repository
13 shall accept electronic submissions and paper-based docu-
14 ments submitted electronically subject to rules of the Re-
15 pository. After the expiration of the 10-year period that
16 begins upon the date of the enactment of this Act, subject
17 to an extension of such period for up to 5 additional years
18 if the Director determines appropriate, the Repository
19 shall require only electronic submission.

20 **PART 4—CONFORMING AMENDMENTS**

21 **SEC. 341. CONFORMING AMENDMENT TO FEDERAL HOME**
22 **LOAN BANK ACT.**

23 Section 11 of the Federal Home Loan Bank Act (12
24 U.S.C. 1431) is amended by adding at the end the fol-
25 lowing new subsection:

1 “(m) AGGREGATION OF LOANS ORIGINATED BY
2 MEMBERS.—Any Federal Home Loan Bank may aggre-
3 gate for securitization through the common securitization
4 platform (as such term is defined in section 303 of the
5 National Mortgage Market Utility Act of 2013) residential
6 mortgage loans originated by any member of any such
7 Bank, pursuant to regulations issued by the Director.”.

8 **SEC. 342. CONFORMING AMENDMENTS TO THE DODD-**
9 **FRANK WALL STREET REFORM AND CON-**
10 **SUMER PROTECTION ACT.**

11 Section 804(a) of the Dodd-Frank Wall Street Re-
12 form and Consumer Protection Act (12 U.S.C. 5463(a))
13 is amended by adding at the end the following:

14 “(3) EXCLUSION.—The utility established by
15 section 311 of the Protecting American Taxpayers
16 and Homeowners Act of 2013 shall not be eligible
17 for a designation under this section.”.

18 **SEC. 343. CONFORMING AMENDMENTS TO SECURITIES ACT**
19 **OF 1933.**

20 (a) EXEMPTED SECURITIES.—Section 3(a) of the Se-
21 curities Act of 1933 (15 U.S.C. 77c(a)) is amended by
22 adding at the end the following new paragraph:

23 “(15) Any qualified security, as such term is
24 defined in section 321 of the National Mortgage
25 Market Utility Act of 2013.”.

1 (b) REMOVAL OF CREDIT RISK RETENTION REF-
2 ERENCE.—Section 27B of the Securities Act of 1933 (15
3 U.S.C. 77z–2a) is amended by striking subsection (d).

4 **SEC. 344. CONFORMING AMENDMENTS TO TITLE 18, UNITED**
5 **STATES CODE.**

6 (a) FALSE ADVERTISING.—Section 709 of title 18,
7 United States Code, is amended by inserting after “a Fed-
8 eral Home Loan Bank; or” the following: “Whoever uses
9 the words ‘National Mortgage Data Repository’ or such
10 other name as the Director of the Federal Housing Fi-
11 nance Agency may establish in the charter of the reposi-
12 tory or any combination of words that appears to indicate
13 that such use of the term conflicts with the exclusive oper-
14 ation of the repository created by part 3 of the National
15 Mortgage Market Utility Act of 2013 as a business name
16 or any part of a business name, or falsely publishes, adver-
17 tises, or represents by any device or symbol or other means
18 reasonably calculated to convey the impression that he or
19 it is the repository created by such part; or”.

20 (b) FRAUD AND FALSE STATEMENTS.— Chapter 47
21 of title 18, United States Code, is amended—

22 (1) by adding at the end the following new sec-
23 tion:

1 **“§ Sec. 1041. Information security; false statements**
2 **and concealment of facts related to the**
3 **National Mortgage Market Utility Act of**
4 **2013**

5 “Whoever, with regard to any mortgage-related docu-
6 ment (as such term is defined in section 303 of the Na-
7 tional Mortgage Market Utility Act of 2013) or the reg-
8 istration of any document or any interest in any such doc-
9 ument pursuant to that Act, makes any false statement
10 or representation of fact, knowing it to be false, or know-
11 ingly conceals, covers up or fails to disclose any material
12 fact the disclosure of which is required by such Act or
13 regulation, shall be fined under this title, or imprisoned
14 not more than five years, or both.”; and

15 (2) in the table of contents for such chapter, by
16 inserting after the item relating to section 1040 the
17 following:

“1041. Information security; false statements and concealment of facts related
to the National Mortgage Market Utility Act of 2013.”.

18 **Subtitle B—Covered Bonds**

19 **SEC. 351. SHORT TITLE.**

20 This subtitle may be cited as the “United States Cov-
21 ered Bond Act of 2013”.

22 **SEC. 352. DEFINITIONS.**

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

1 (1) ANCILLARY ASSET.—The term “ancillary
2 asset” means—

3 (A) any interest rate or currency swap as-
4 sociated with 1 or more eligible assets, sub-
5 stitute assets, or other assets in a cover pool;

6 (B) any credit enhancement or liquidity ar-
7 rangement associated with 1 or more eligible
8 assets, substitute assets, or other assets in a
9 cover pool;

10 (C) any guarantee, letter-of-credit right, or
11 other secondary obligation that supports any
12 payment or performance of 1 or more eligible
13 assets, substitute assets, or other assets in a
14 cover pool; and

15 (D) any proceeds of, or other property in-
16 cident to, 1 or more eligible assets, substitute
17 assets, or other assets in a cover pool.

18 (2) CORPORATION.—The term “Corporation”
19 means the Federal Deposit Insurance Corporation.

20 (3) COVER POOL.—The term “cover pool”
21 means a dynamic pool of assets that is comprised
22 of—

23 (A) in the case of any eligible issuer de-
24 scribed in subparagraph (A), (B), or (C) of
25 paragraph (9)—

1 (i) 1 or more eligible assets from a
2 single eligible asset class; and

3 (ii) 1 or more substitute assets or an-
4 cillary assets; and

5 (B) in the case of any eligible issuer de-
6 scribed in paragraph (9)(D)—

7 (i) the covered bonds issued by each
8 sponsoring eligible issuer; and

9 (ii) 1 or more substitute assets or an-
10 cillary assets.

11 (4) COVERED BOND.—The term “covered
12 bond” means any recourse debt obligation of an eli-
13 gible issuer that—

14 (A) has an original term to maturity of not
15 less than 1 year;

16 (B) is secured by a perfected security in-
17 terest in or other perfected lien on a cover pool
18 that is owned directly or indirectly by the issuer
19 of the obligation;

20 (C) is issued under a covered bond pro-
21 gram that has been approved by the applicable
22 covered bond regulator;

23 (D) is identified in a register of covered
24 bonds that is maintained by the Secretary; and

1 (E) is not a deposit (as defined in section
2 3(l) of the Federal Deposit Insurance Act (12
3 U.S.C. 1813(l))).

4 (5) COVERED BOND PROGRAM.—The term
5 “covered bond program” means any program of an
6 eligible issuer under which, on the security of a sin-
7 gle cover pool, 1 or more series of covered bonds
8 may be issued.

9 (6) COVERED BOND REGULATOR.—The term
10 “covered bond regulator” means—

11 (A) for any eligible issuer that is subject to
12 the jurisdiction of an appropriate Federal bank-
13 ing agency (as defined in section 3(q) of the
14 Federal Deposit Insurance Act (12 U.S.C.
15 1813(q))), the appropriate Federal banking
16 agency;

17 (B) for any eligible issuer that is described
18 in paragraph (9)(D), that is not subject to the
19 jurisdiction of an appropriate Federal banking
20 agency, and that is sponsored by only 1 eligible
21 issuer, the covered bond regulator for the spon-
22 sor;

23 (C) for any eligible issuer that is described
24 in paragraph (9)(D), that is not subject to the
25 jurisdiction of an appropriate Federal banking

1 agency, and that is sponsored by more than 1
2 eligible issuer, the covered bond regulator for
3 the sponsor whose covered bonds constitute the
4 largest share of the cover pool of the issuer;
5 and

6 (D) for any other eligible issuer that is not
7 subject to the jurisdiction of an appropriate
8 Federal banking agency, the Secretary.

9 (7) ELIGIBLE ASSET.—The term “eligible
10 asset” means—

11 (A) in the case of the residential mortgage
12 asset class, any first-lien mortgage loan that—

13 (i) is secured by 1-to-4 family residen-
14 tial property; and

15 (ii) is not made, insured, or guaran-
16 teed by the Government;

17 (B) in the case of the commercial mort-
18 gage asset class, any commercial mortgage loan
19 (including any multifamily mortgage loan);

20 (C) in the case of the public sector asset
21 class—

22 (i) any security issued by a State, mu-
23 nicipality, or other governmental authority;

1 (ii) any loan made to a State, municipi-
2 pality, or other governmental authority;
3 and

4 (iii) any loan, security, or other obli-
5 gation that is insured or guaranteed, in
6 full or substantially in full, by the full faith
7 and credit of the United States Govern-
8 ment (whether or not such loan, security,
9 or other obligation is also part of another
10 eligible asset class);

11 (D) in the case of the auto asset class, any
12 auto loan or lease;

13 (E) in the case of the student loan asset
14 class, any student loan (whether guaranteed or
15 nonguaranteed);

16 (F) in the case of the credit or charge card
17 asset class, any extension of credit to a person
18 under an open-end credit plan;

19 (G) in the case of the small business asset
20 class, any loan that is made or guaranteed
21 under a program of the Small Business Admin-
22 istration; and

23 (H) in the case of any other eligible asset
24 class, any asset designated by the Secretary, by
25 rule and in consultation with the covered bond

1 regulators, as an eligible asset for purposes of
2 such class.

3 (8) ELIGIBLE ASSET CLASS.—The term “eligi-
4 ble asset class” means—

5 (A) a residential mortgage asset class;

6 (B) a commercial mortgage asset class;

7 (C) a public sector asset class;

8 (D) an auto asset class;

9 (E) a student loan asset class;

10 (F) a credit or charge card asset class;

11 (G) a small business asset class; and

12 (H) any other eligible asset class des-
13 igned by the Secretary, by rule and in con-
14 sultation with the covered bond regulators.

15 (9) ELIGIBLE ISSUER.—The term “eligible
16 issuer” means—

17 (A) any insured depository institution and
18 any subsidiary of such institution;

19 (B) any bank holding company, any sav-
20 ings and loan holding company, and any sub-
21 sidiary of any of such companies;

22 (C) any nonbank financial company (as de-
23 fined in section 102(a)(4) of the Dodd-Frank
24 Wall Street Reform and Consumer Protection
25 Act (12 U.S.C. 5311(a)(4))) that is supervised

1 by the Board of Governors of the Federal Re-
2 serve System under section 113 of the Dodd-
3 Frank Wall Street Reform and Consumer Pro-
4 tection Act (12 U.S.C. 5323), including any in-
5 termediate holding company supervised as a
6 nonbank financial company, and any subsidiary
7 of such a nonbank financial company; and

8 (D) any issuer that is sponsored by 1 or
9 more eligible issuers for the sole purpose of
10 issuing covered bonds on a pooled basis.

11 (10) OVERSIGHT PROGRAM.—The term “over-
12 sight program” means the covered bond regulatory
13 oversight program established under section 353(a).

14 (11) SECRETARY.—The term “Secretary”
15 means the Secretary of the Department of the
16 Treasury.

17 (12) SUBSTITUTE ASSET.—The term “sub-
18 stitute asset” means—

19 (A) cash;

20 (B) any direct obligation of the United
21 States Government, and any security or other
22 obligation whose full principal and interest are
23 insured or guaranteed by the full faith and
24 credit of the United States Government;

1 (C) any direct obligation of a United
2 States Government corporation or Government-
3 sponsored enterprise of the highest credit qual-
4 ity, and any other security or other obligation
5 of the highest credit quality whose full principal
6 and interest are insured or guaranteed by such
7 corporation or enterprise, except that the out-
8 standing principal amount of these obligations
9 in any cover pool may not exceed an amount
10 equal to 20 percent of the outstanding principal
11 amount of all assets in the cover pool without
12 the approval of the applicable covered bond reg-
13 ulator;

14 (D) any overnight investment in Federal
15 funds;

16 (E) any other substitute asset designated
17 by the Secretary, by rule and in consultation
18 with the covered bond regulators; and

19 (F) any deposit account or securities ac-
20 count into which only an asset described in sub-
21 paragraph (A), (B), (C), (D), or (E) may be de-
22 posited or credited.

23 **SEC. 353. REGULATORY OVERSIGHT OF COVERED BOND**
24 **PROGRAMS ESTABLISHED.**

25 (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, the Sec-
3 retary shall, by rule and in consultation with the
4 covered bond regulators, establish a covered bond
5 regulatory oversight program that provides for—

6 (A) covered bond programs to be evaluated
7 according to reasonable and objective standards
8 in order to be approved under paragraph (2),
9 including any additional eligibility standards for
10 eligible assets and any other criteria determined
11 appropriate by the Secretary to further the pur-
12 poses of this subtitle;

13 (B) covered bond programs to be main-
14 tained in a manner that is consistent with this
15 subtitle and safe and sound asset-liability man-
16 agement and other financial practices; and

17 (C) any estate created under section 354
18 to be administered in a manner that is con-
19 sistent with maximizing the value and the pro-
20 ceeds of the related cover pool in a resolution
21 under this subtitle.

22 (2) APPROVAL OF EACH COVERED BOND PRO-
23 GRAM.—

24 (A) IN GENERAL.—A covered bond shall be
25 subject to this subtitle only if the covered bond

1 is issued by an eligible issuer under a covered
2 bond program that is approved by the applica-
3 ble covered bond regulator.

4 (B) APPROVAL PROCESS.—Each covered
5 bond regulator shall apply the standards estab-
6 lished by the Secretary under the oversight pro-
7 gram to evaluate a covered bond program that
8 has been submitted by an eligible issuer for ap-
9 proval. Each covered bond regulator also shall
10 take into account relevant supervisory factors,
11 including safety and soundness considerations,
12 in evaluating a covered bond program that has
13 been submitted for approval. Each covered bond
14 regulator, promptly after approving a covered
15 bond program, shall provide the Secretary with
16 the name of the covered bond program, the
17 name of the eligible issuer, and all other infor-
18 mation reasonably requested by the Secretary in
19 order to update the registry under paragraph
20 (3)(A). Each eligible issuer, promptly after
21 issuing a covered bond under an approved cov-
22 ered bond program, shall provide the Secretary
23 with all information reasonably requested by
24 the Secretary in order to update the registry
25 under paragraph (3)(B).

1 (C) EXISTING COVERED BOND PRO-
2 GRAMS.—A covered bond regulator may approve
3 a covered bond program that is in existence on
4 the date of the enactment of this Act. Upon
5 such approval, each covered bond under the
6 covered bond program shall be subject to this
7 subtitle, regardless of when the covered bond
8 was issued.

9 (D) MULTIPLE COVERED BOND PROGRAMS
10 PERMITTED.—An eligible issuer may have more
11 than 1 covered bond program.

12 (E) CEASE AND DESIST AUTHORITY.—The
13 applicable covered bond regulator may direct an
14 eligible issuer to cease issuing covered bonds
15 under an approved covered bond program if the
16 covered bond program is not maintained in a
17 manner that is consistent with this subtitle and
18 the oversight program and if, after notice that
19 is reasonable under the circumstances, the
20 issuer does not remedy all deficiencies identified
21 by the applicable covered bond regulator.

22 (F) CAP ON THE AMOUNT OF OUT-
23 STANDING COVERED BONDS.—

24 (i) IN GENERAL.—With respect to
25 each eligible issuer that submits a covered

1 bond program for approval, the applicable
2 covered bond regulator shall set, consistent
3 with safety and soundness considerations
4 and the financial condition of the eligible
5 issuer, the maximum amount, as a percent-
6 age of the eligible issuer's total assets, of
7 outstanding covered bonds that the eligible
8 issuer may issue.

9 (ii) REVIEW OF CAP.—The applicable
10 covered bond regulator may, not more fre-
11 quently than quarterly, review the percent-
12 age set under clause (i) and, if safety and
13 soundness considerations or the financial
14 condition of the eligible issuer has
15 changed, increase or decrease such per-
16 centage. Any decrease made pursuant to
17 this clause shall have no effect on existing
18 covered bonds issued by the eligible issuer.

19 (3) REGISTRY.—Under the oversight program,
20 the Secretary shall maintain a registry that is pub-
21 lished on a Web site available to the public and that,
22 for each covered bond program approved by a cov-
23 ered bond regulator, contains—

24 (A) the name of the covered bond program,
25 the name of the eligible issuer, and all other in-

1 formation that the Secretary considers nec-
2 essary to adequately identify the covered bond
3 program and the eligible issuer; and

4 (B) all information that the Secretary con-
5 siders necessary to adequately identify all out-
6 standing covered bonds issued under the cov-
7 ered bond program (including the reports de-
8 scribed in paragraphs (3) and (4) of subsection
9 (b)).

10 (4) FEES.—Each covered bond regulator may
11 levy, on the issuers of covered bonds under the pri-
12 mary supervision of such covered bond regulator,
13 reasonably apportioned fees that such covered bond
14 regulator considers necessary, in the aggregate, to
15 defray the costs of such covered bond regulator car-
16 rying out the provisions of this subtitle. Such funds
17 shall not be construed to be Government funds or
18 appropriated monies and shall not be subject to ap-
19 portionment for purposes of chapter 15 of title 31,
20 United States Code, or any other provision of law.

21 (b) MINIMUM OVER-COLLATERALIZATION REQUIRE-
22 MENTS.—

23 (1) REQUIREMENTS ESTABLISHED.—The Sec-
24 retary, by rule and in consultation with the covered
25 bond regulators, shall establish minimum over-

1 collateralization requirements for covered bonds
2 backed by each of the eligible asset classes. The min-
3 imum over-collateralization requirements shall be de-
4 signed to ensure that sufficient eligible assets and
5 substitute assets are maintained in the cover pool to
6 satisfy all principal and interest payments on the
7 covered bonds when due through maturity and shall
8 be based on the credit, collection, and interest rate
9 risks (excluding the liquidity risks) associated with
10 the eligible asset class.

11 (2) ASSET COVERAGE TEST.—The eligible as-
12 sets and the substitute assets in any cover pool shall
13 be required, in the aggregate, to meet at all times
14 the applicable minimum over-collateralization re-
15 quirements.

16 (3) MONTHLY REPORTING.—On a monthly
17 basis, each issuer of covered bonds shall submit a re-
18 port on whether the cover pool that secures the cov-
19 ered bonds meets the applicable minimum over-
20 collateralization requirements to—

- 21 (A) the Secretary;
22 (B) the applicable covered bond regulator;
23 (C) the applicable indenture trustee;
24 (D) the applicable covered bondholders;
25 and

1 (E) the applicable independent asset mon-
2 itor.

3 (4) INDEPENDENT ASSET MONITOR.—

4 (A) APPOINTMENT.—Each issuer of cov-
5 ered bonds shall appoint the indenture trustee
6 for the covered bonds, or another unaffiliated
7 entity, as an independent asset monitor for the
8 applicable cover pool.

9 (B) DUTIES.—An independent asset mon-
10 itor appointed under subparagraph (A) shall, on
11 an annual or other more frequent periodic basis
12 determined by the Secretary under the over-
13 sight program—

14 (i) verify whether the cover pool meets
15 the applicable minimum over-
16 collateralization requirements; and

17 (ii) report to the Secretary, the appli-
18 cable covered bond regulator, the applica-
19 ble indenture trustee, and the applicable
20 covered bondholders on whether the cover
21 pool meets the applicable minimum over-
22 collateralization requirements.

23 (5) NO LOSS OF STATUS.—Covered bonds shall
24 remain subject to this subtitle regardless of whether

1 the applicable cover pool ceases to meet the applica-
2 ble minimum over-collateralization requirements.

3 (6) FAILURE TO MEET REQUIREMENTS.—

4 (A) IN GENERAL.—If a cover pool fails to
5 meet the applicable minimum over-
6 collateralization requirements, and if the failure
7 is not cured within the time specified in the re-
8 lated transaction documents, the failure shall be
9 an uncured default for purposes of section
10 354(a).

11 (B) NOTICE REQUIRED.—An issuer of cov-
12 ered bonds shall promptly give the Secretary
13 and the applicable covered bond regulator writ-
14 ten notice if the cover pool securing the covered
15 bonds fails to meet the applicable minimum
16 over-collateralization requirements, if the failure
17 is cured within the time specified in the related
18 transaction documents, or if the failure is not
19 so cured.

20 (c) REQUIREMENTS FOR ELIGIBLE ASSETS.—

21 (1) REQUIREMENTS.—

22 (A) LOANS.—A loan shall not qualify as an
23 eligible asset for so long as the loan is delin-
24 quent for more than 60 consecutive days.

1 (B) SECURITIES.—A security shall not
2 qualify as an eligible asset for so long as the se-
3 curity does not meet any credit-quality require-
4 ment under this subtitle.

5 (C) ORIGINATION.—An asset shall not
6 qualify as an eligible asset if the asset was not
7 originated in compliance with any rule or super-
8 visory guidance of a Federal agency applicable
9 to the asset at the time of origination.

10 (D) NO DOUBLE PLEDGE.—An asset shall
11 not qualify as an eligible asset for so long as
12 the asset is subject to a prior perfected security
13 interest or other prior perfected lien that has
14 been granted in an unrelated transaction. Noth-
15 ing in this subtitle shall affect such a prior per-
16 fected security interest or other prior perfected
17 lien, and the rights of such lien holders.

18 (2) FAILURE TO MEET REQUIREMENTS.—Sub-
19 ject to paragraph (1)(D), if an asset in a cover pool
20 does not satisfy any applicable requirement de-
21 scribed in paragraph (1) or any other applicable
22 standard or criterion described in this subtitle, the
23 oversight program, or the related transaction docu-
24 ments, the asset shall not qualify as an eligible asset
25 for purposes of the asset coverage test described in

1 subsection (b)(2). A disqualified asset shall remain
2 in the cover pool unless and until removed by the
3 issuer in compliance with the provisions of this sub-
4 title, the oversight program, and the related trans-
5 action documents. No disqualified asset may be re-
6 moved from the cover pool after an estate has been
7 created for the related covered bond program under
8 section 354(b)(1) or 354(c)(2), except in connection
9 with the management of the cover pool under section
10 354(d)(1)(E).

11 (d) OTHER REQUIREMENTS.—

12 (1) BOOKS AND RECORDS OF ISSUER.—Each
13 issuer of covered bonds shall clearly mark its books
14 and records to identify the assets that comprise the
15 cover pool securing the covered bonds.

16 (2) SCHEDULE OF ELIGIBLE ASSETS AND SUB-
17 STITUTE ASSETS.—Each issuer of covered bonds
18 shall deliver to the applicable indenture trustee and
19 the applicable independent asset monitor, on at least
20 a monthly basis, a schedule that identifies all eligible
21 assets and substitute assets in the cover pool secur-
22 ing the covered bonds.

23 (3) SINGLE ELIGIBLE ASSET CLASS.—No cover
24 pool described in section 352(3)(A) may include eli-
25 gible assets from more than 1 eligible asset class. No

1 cover pool described in section 352(3)(B) may in-
2 clude covered bonds backed by more than 1 eligible
3 asset class.

4 **SEC. 354. RESOLUTION UPON DEFAULT OR INSOLVENCY.**

5 (a) **UNCURED DEFAULT DEFINED.**—For purposes of
6 this section, the term “uncured default” means a default
7 on a covered bond that has not been cured within the time,
8 if any, specified in the related transaction documents.

9 (b) **DEFAULT ON COVERED BONDS PRIOR TO CON-**
10 **SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-**
11 **RUPTCY.**—

12 (1) **CREATION OF SEPARATE ESTATE.**—If an
13 uncured default occurs on a covered bond before the
14 issuer of the covered bond enters conservatorship,
15 receivership, liquidation, or bankruptcy, an estate
16 shall be immediately and automatically created by
17 operation of law and shall exist and be administered
18 separate and apart from the issuer or any subse-
19 quent conservatorship, receivership, liquidating agen-
20 cy, or estate in bankruptcy for the issuer or any
21 other assets of the issuer. A separate estate shall be
22 created for each affected covered bond program.

23 (2) **ASSETS AND LIABILITIES OF ESTATE.**—Any
24 estate created under paragraph (1) shall be com-
25 prised of the cover pool (including over-

1 collateralization in the cover pool) that secures the
2 covered bond. The cover pool shall be immediately
3 and automatically released to and held by the estate
4 free and clear of any right, title, interest, or claim
5 of the issuer or any conservator, receiver, liquidating
6 agent, or trustee in bankruptcy for the issuer or any
7 other assets of the issuer. Assets disqualified under
8 section 353(c)(1)(D) shall not be released to the es-
9 tate. The estate shall be fully liable on the covered
10 bond and all other covered bonds and related obliga-
11 tions of the issuer (including obligations under re-
12 lated derivative transactions) that are secured by a
13 perfected security interest in or other perfected lien
14 on the cover pool when the estate is created. The es-
15 tate shall not be liable on any obligation of the
16 issuer that is not secured by a perfected security in-
17 terest in or other perfected lien on the cover pool
18 when the estate is created. No conservator, receiver,
19 liquidating agent, or trustee in bankruptcy for the
20 issuer may charge or assess the estate for any claim
21 of the conservator, receiver, liquidating agent, or
22 trustee in bankruptcy or the conservatorship, receiv-
23 ership, liquidating agency, or estate in bankruptcy
24 and may not obtain or perfect a security interest in

1 or other lien on the cover pool to secure such a
2 claim.

3 (3) RETENTION OF CLAIMS.—Any holder of a
4 covered bond or related obligation for which an es-
5 tate has become liable under paragraph (2) shall re-
6 tain a claim against the issuer for any deficiency
7 with respect to the covered bond or related obliga-
8 tion. If the issuer enters conservatorship, receiver-
9 ship, liquidation, or bankruptcy, any contingent
10 claim for such a deficiency shall be allowed as a
11 provable claim in the conservatorship, receivership,
12 liquidating agency, or bankruptcy case. The contin-
13 gent claim shall be estimated by the conservator, re-
14 ceiver, liquidating agent, or bankruptcy court for
15 purposes of allowing the claim as a provable claim
16 if awaiting the fixing of the contingent claim would
17 unduly delay the resolution of the conservatorship,
18 receivership, liquidating agency, or bankruptcy case.

19 (4) RESIDUAL INTEREST.—

20 (A) ISSUANCE OF RESIDUAL INTEREST.—

21 Upon the creation of an estate under paragraph
22 (1), a residual interest in the estate shall be im-
23 mediately and automatically issued by operation
24 of law to the issuer.

1 (B) NATURE OF RESIDUAL INTEREST.—

2 The residual interest under subparagraph (A)
3 shall—

4 (i) be an exempted security as de-
5 scribed in section 355;

6 (ii) represent the right to any surplus
7 from the cover pool after the covered bonds
8 and all other liabilities of the estate have
9 been fully and irrevocably paid; and

10 (iii) be evidenced by a certificate exe-
11 cuted by the trustee of the estate.

12 (5) OBLIGATIONS OF ISSUER.—

13 (A) IN GENERAL.—After the creation of an
14 estate under paragraph (1), the issuer shall—

15 (i) transfer to or at the direction of
16 the trustee for the estate all property of
17 the estate that is in the possession or
18 under the control of the issuer, including
19 all tangible or electronic books, records,
20 files, and other documents or materials re-
21 lating to the assets and liabilities of the es-
22 tate; and

23 (ii) at the election of the trustee or a
24 servicer or administrator for the estate,
25 continue servicing the applicable cover pool

1 for 120 days after the creation of the es-
2 tate in return for a fair-market-value fee,
3 as determined by the trustee in consulta-
4 tion with the applicable covered bond regu-
5 lator, that shall be payable from the estate
6 as an administrative expense.

7 (B) OBLIGATIONS ABSOLUTE.—Neither
8 the issuer, whether acting as debtor in posses-
9 sion or in any other capacity, nor any conser-
10 vator, receiver, liquidating agent, or trustee in
11 bankruptcy for the issuer or any other assets of
12 the issuer may disaffirm, repudiate, or reject
13 the obligation to turn over property or to con-
14 tinue servicing the cover pool as provided in
15 subparagraph (A).

16 (c) DEFAULT ON COVERED BONDS UPON CON-
17 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-
18 RUPTCY.—

19 (1) CORPORATION CONSERVATORSHIP OR RE-
20 CEIVERSHIP.—

21 (A) IN GENERAL.—If the Corporation is
22 appointed as conservator or receiver for an
23 issuer of covered bonds before an uncured de-
24 fault results in the creation of an estate under
25 subsection (b), the Corporation as conservator

1 or receiver shall have an exclusive right, during
2 the 1-year period beginning on the date of the
3 appointment, to transfer any cover pool owned
4 by the issuer in its entirety, together with all
5 covered bonds and related obligations that are
6 secured by a perfected security interest in or
7 other perfected lien on the cover pool, to an-
8 other eligible issuer that meets all conditions
9 and requirements specified in the related trans-
10 action documents. The Corporation as conser-
11 vator or receiver may not remove any asset
12 from the cover pool, except to the extent other-
13 wise agreed by a transferee that has assumed
14 the covered bond program pursuant to subpara-
15 graph (C).

16 (B) OBLIGATIONS DURING 1-YEAR PE-
17 RIOD.—During the 1-year period described in
18 subparagraph (A), the Corporation as conser-
19 vator or receiver shall fully and timely satisfy
20 all monetary and nonmonetary obligations of
21 the issuer under all covered bonds and the re-
22 lated transaction documents and shall fully and
23 timely cure all defaults by the issuer (other
24 than its conservatorship or receivership) under

1 the applicable covered bond program, in each
2 case, until the earlier of—

3 (i) the transfer of the applicable cov-
4 ered bond program to another eligible
5 issuer as provided in subparagraph (A); or

6 (ii) the delivery to the Secretary, the
7 applicable covered bond regulator, the ap-
8 plicable indenture trustee, and the applica-
9 ble covered bondholders of a written notice
10 from the Corporation as conservator or re-
11 ceiver electing to cease further perform-
12 ance under the applicable covered bond
13 program.

14 (C) ASSUMPTION BY TRANSFEREE.—If the
15 Corporation as conservator or receiver transfers
16 a covered bond program to another eligible
17 issuer within the 1-year period as provided in
18 subparagraph (A), the transferee shall take
19 ownership of the applicable cover pool and shall
20 become fully liable on all covered bonds and re-
21 lated obligations of the issuer that are secured
22 by a perfected security interest in or other per-
23 fected lien on the cover pool.

24 (2) OTHER CIRCUMSTANCES.—An estate shall
25 be immediately and automatically created by oper-

1 ation of law and shall exist and be administered sep-
2 arate and apart from an issuer of covered bonds and
3 any conservatorship, receivership, liquidating agency,
4 or estate in bankruptcy for the issuer or any other
5 assets of the issuer, if—

6 (A) a conservator, receiver, liquidating
7 agent, or trustee in bankruptcy, other than the
8 Corporation, is appointed for the issuer before
9 an uncured default results in the creation of an
10 estate under subsection (b); or

11 (B) in the case of the appointment of the
12 Corporation as conservator or receiver as de-
13 scribed in paragraph (1)(A), the Corporation as
14 conservator or receiver—

15 (i) does not complete the transfer of
16 the applicable covered bond program to an-
17 other eligible issuer within the 1-year pe-
18 riod as provided in paragraph (1)(A);

19 (ii) delivers to the Secretary, the ap-
20 plicable covered bond regulator, the appli-
21 cable indenture trustee, and the applicable
22 covered bondholders a written notice elect-
23 ing to cease further performance under the
24 applicable covered bond program; or

1 (iii) fails to fully and timely satisfy all
2 monetary and nonmonetary obligations of
3 the issuer under the covered bonds and the
4 related transaction documents or to fully
5 and timely cure all defaults by the issuer
6 (other than its conservatorship or receiver-
7 ship) under the applicable covered bond
8 program.

9 A separate estate shall be created for each affected
10 covered bond program.

11 (3) ASSETS AND LIABILITIES OF ESTATE.—Any
12 estate created under paragraph (2) shall be com-
13 prised of the cover pool (including over-
14 collateralization in the cover pool) that secures the
15 covered bonds. The cover pool shall be immediately
16 and automatically released to and held by the estate
17 free and clear of any right, title, interest, or claim
18 of the issuer or any conservator, receiver, liquidating
19 agent, or trustee in bankruptcy for the issuer or any
20 other assets of the issuer. The estate shall be fully
21 liable on the covered bonds and all other covered
22 bonds and related obligations of the issuer (including
23 obligations under related derivative transactions)
24 that are secured by a perfected security interest in
25 or other perfected lien on the cover pool when the

1 estate is created. The estate shall not be liable on
2 any obligation of the issuer that is not secured by
3 a perfected security interest in or other perfected
4 lien on the cover pool when the estate is created. No
5 conservator, receiver, liquidating agent, or trustee in
6 bankruptcy for the issuer may charge or assess the
7 estate for any claim of the conservator, receiver, liq-
8 uidating agent, or trustee in bankruptcy or the con-
9 servatorship, receivership, liquidating agency, or es-
10 tate in bankruptcy and may not obtain or perfect a
11 security interest in or other lien on the cover pool
12 to secure such a claim.

13 (4) CONTINGENT CLAIM.—Any contingent claim
14 against an issuer for a deficiency with respect to a
15 covered bond or related obligation for which an es-
16 tate has become liable under paragraph (3) shall be
17 allowed as a provable claim in the conservatorship,
18 receivership, liquidating agency, or bankruptcy case
19 for the issuer. The contingent claim shall be esti-
20 mated by the conservator, receiver, liquidating
21 agent, or bankruptcy court for purposes of allowing
22 the claim as a provable claim if awaiting the fixing
23 of the contingent claim would unduly delay the reso-
24 lution of the conservatorship, receivership, liqui-
25 dating agency, or bankruptcy case.

1 (5) RESIDUAL INTEREST.—

2 (A) ISSUANCE OF RESIDUAL INTEREST.—

3 Upon the creation of an estate under paragraph
4 (2), and regardless of whether any contingent
5 claim described in paragraph (4) becomes fixed
6 or is estimated, a residual interest in the estate
7 shall be immediately and automatically issued
8 by operation of law to the conservator, receiver,
9 liquidating agent, or trustee in bankruptcy for
10 the issuer.

11 (B) NATURE OF RESIDUAL INTEREST.—

12 The residual interest under subparagraph (A)
13 shall—

14 (i) be an exempted security as de-
15 scribed in section 355;

16 (ii) represent the right to any surplus
17 from the cover pool after the covered bonds
18 and all other liabilities of the estate have
19 been fully and irrevocably paid; and

20 (iii) be evidenced by a certificate exe-
21 cuted by the trustee of the estate.

22 (6) OBLIGATIONS OF ISSUER.—

23 (A) IN GENERAL.—After the creation of an
24 estate under paragraph (2), the issuer and its

1 conservator, receiver, liquidating agent, or
2 trustee in bankruptcy shall—

3 (i) transfer to or at the direction of
4 the trustee for the estate all property of
5 the estate that is in the possession or
6 under the control of the issuer or its con-
7 servator, receiver, liquidating agent, or
8 trustee in bankruptcy, including all tan-
9 gible or electronic books, records, files, and
10 other documents or materials relating to
11 the assets and liabilities of the estate; and

12 (ii) at the election of the trustee or a
13 servicer or administrator for the estate,
14 continue servicing the applicable cover pool
15 for 120 days after the creation of the es-
16 tate in return for a fair-market-value fee,
17 as determined by the trustee in consulta-
18 tion with the applicable covered bond regu-
19 lator, that shall be payable from the estate
20 as an administrative expense.

21 (B) OBLIGATIONS ABSOLUTE.—Neither
22 the issuer, whether acting as debtor in posses-
23 sion or in any other capacity, nor any conser-
24 vator, receiver, liquidating agent, or trustee in
25 bankruptcy for the issuer or any other assets of

1 the issuer may disaffirm, repudiate, or reject
2 the obligation to turn over property or to con-
3 tinue servicing the cover pool as provided in
4 subparagraph (A).

5 (d) ADMINISTRATION AND RESOLUTION OF ES-
6 TATES.—

7 (1) TRUSTEE, SERVICER, AND ADMINIS-
8 TRATOR.—

9 (A) IN GENERAL.—Upon the creation of
10 any estate under subsection (b)(1) or (c)(2), the
11 applicable covered bond regulator shall—

12 (i) appoint the trustee for the estate;

13 (ii) appoint 1 or more servicers or ad-
14 ministrators for the cover pool held by the
15 estate; and

16 (iii) give the Secretary, the applicable
17 indenture trustee, the applicable covered
18 bondholders, and the owner of the residual
19 interest written notice of the creation of
20 the estate.

21 (B) TERMS AND CONDITIONS OF APPOINT-
22 MENT.—All terms and conditions of any ap-
23 pointment under paragraph (1), including the
24 terms and conditions relating to compensation,
25 shall conform to the requirements of this sub-

1 title and the oversight program and otherwise
2 shall be determined by the applicable covered
3 bond regulator.

4 (C) QUALIFICATION.—The applicable cov-
5 ered bond regulator may require the trustee or
6 any servicer or administrator for an estate to
7 post in favor of the United States, for the ben-
8 efit of the estate, a bond that is conditioned on
9 the faithful performance of the duties of the
10 trustee or the servicer or administrator. The
11 covered bond regulator shall determine the
12 amount of any bond required under this sub-
13 paragraph and the sufficiency of the surety on
14 the bond. A proceeding on a bond required
15 under this subparagraph may not be com-
16 menced after two years after the date on which
17 the trustee or the servicer or administrator was
18 discharged.

19 (D) POWERS AND DUTIES OF TRUSTEE.—
20 The trustee for an estate is the representative
21 of the estate and, subject to the provisions of
22 this subtitle, has capacity to sue and be sued.
23 The trustee shall—

1 (i) administer the estate in compliance
2 with this subtitle, the oversight program,
3 and the related transaction documents;

4 (ii) be accountable for all property of
5 the estate that is received by the trustee;

6 (iii) make a final report and file a
7 final account of the administration of the
8 estate with the applicable covered bond
9 regulator; and

10 (iv) after the estate has been fully ad-
11 ministered, close the estate.

12 (E) POWERS AND DUTIES OF SERVICER OR
13 ADMINISTRATOR.—Any servicer or adminis-
14 trator for an estate—

15 (i) shall—

16 (I) collect, realize on (by liquida-
17 tion or other means), and otherwise
18 manage the cover pool held by the es-
19 tate for the purpose of winding down
20 the related cover bond program in
21 compliance with this subtitle, the
22 oversight program, and the related
23 transaction documents and in a man-
24 ner consistent with maximizing the

1 value and the proceeds of the cover
2 pool;

3 (II) deposit or invest all proceeds
4 and funds received in compliance with
5 this subtitle, the oversight program,
6 and the related transaction documents
7 and in a manner consistent with maxi-
8 mizing the net return to the estate,
9 taking into account the safety of the
10 deposit or investment; and

11 (III) apply, or direct the trustee
12 for the estate to apply, all proceeds
13 and funds received and the net return
14 on any deposit or investment to make
15 distributions in compliance with para-
16 graphs (3) and (4);

17 (ii) may borrow funds or otherwise ob-
18 tain credit, for the benefit of the estate, in
19 compliance with paragraph (2) on a se-
20 cured or unsecured basis and on a priority,
21 pari passu, or subordinated basis;

22 (iii) shall, at the times and in the
23 manner required by the applicable covered
24 bond regulator, submit to the covered bond
25 regulator, the Secretary, the applicable in-

1 denture trustee, the applicable covered
2 bondholders, the owner of the residual in-
3 terest, and any other person designated by
4 the covered bond regulator, reports that
5 describe the activities of the servicer or ad-
6 ministrator on behalf of the estate, the
7 performance of the cover pool held by the
8 estate, and distributions made by the es-
9 tate; and

10 (iv) shall assist the trustee in pre-
11 paring the final report and the final ac-
12 count of the administration of the estate.

13 (F) SUPERVISION OF TRUSTEE, SERVICER,
14 AND ADMINISTRATOR.—The applicable covered
15 bond regulator shall supervise the trustee and
16 any servicer or administrator for an estate. The
17 covered bond regulator shall require that all re-
18 ports submitted under subparagraph (E)(iii) do
19 not contain any untrue statement of a material
20 fact and do not omit to state a material fact
21 necessary in order to make the statements
22 made, in light of the circumstances under which
23 they are made, not misleading.

24 (G) REMOVAL AND REPLACEMENT OF
25 TRUSTEE, SERVICER, AND ADMINISTRATOR.—If

1 the covered bond regulator determines that it is
2 in the best interests of an estate, the covered
3 bond regulator may remove or replace the trust-
4 ee or any servicer or administrator for the es-
5 tate. The removal of the trustee or any servicer
6 or administrator does not abate any pending ac-
7 tion or proceeding involving the estate, and any
8 successor or other trustee, servicer, or adminis-
9 trator shall be substituted as a party in the ac-
10 tion or proceeding.

11 (H) PROFESSIONALS.—The trustee or any
12 servicer or administrator for an estate may em-
13 ploy 1 or more attorneys, accountants, apprais-
14 ers, auctioneers, or other professional persons
15 to represent or assist the trustee or the servicer
16 or administrator in carrying out its duties. The
17 employment of any professional person and all
18 terms and conditions of employment, including
19 the terms and conditions relating to compensa-
20 tion, shall conform to the requirements of this
21 subtitle and the oversight program and other-
22 wise shall be subject to the approval of the ap-
23 plicable covered bond regulator.

24 (I) APPROVED FEES AND EXPENSES.—Un-
25 less otherwise provided in the applicable terms

1 and conditions of appointment or employment,
2 all approved fees and expenses of the trustee,
3 any servicer or administrator, or any profes-
4 sional person employed by the trustee or any
5 servicer or administrator shall be payable from
6 the estate as administrative expenses.

7 (J) ACTIONS BY OR ON BEHALF OF ES-
8 TATE.—The trustee or any servicer or adminis-
9 trator for an estate may commence or continue
10 judicial, administrative, or other actions, in the
11 name of the estate or in its own name on behalf
12 of the estate, for the purpose of collecting, real-
13 izing on, or otherwise managing the cover pool
14 held by the estate or exercising its other powers
15 or duties on behalf of the estate.

16 (K) ACTIONS AGAINST ESTATE.—No court
17 may issue an attachment or execution on any
18 property of an estate. Except at the request of
19 the applicable covered bond regulator or as oth-
20 erwise provided in this subparagraph or sub-
21 paragraph (J), no court may take any action to
22 restrain or affect the resolution of an estate
23 under this subtitle. No person (including the
24 applicable indenture trustee and any applicable
25 covered bondholder) may commence or continue

1 any judicial, administrative, or other action
2 against the estate, the trustee, or any servicer
3 or administrator or take any other act to affect
4 the estate, the trustee, or any servicer or ad-
5 ministrator that is not expressly permitted by
6 this subtitle, the oversight program, and the re-
7 lated transaction documents, except for a judi-
8 cial or administrative action to compel the re-
9 lease of funds that—

10 (i) are available to the estate;

11 (ii) are permitted to be distributed
12 under this subtitle and the oversight pro-
13 gram; and

14 (iii) are permitted and required to be
15 distributed under the related transaction
16 documents and any contracts executed by
17 or on behalf of the estate.

18 (L) SOVEREIGN IMMUNITY.—Except in
19 connection with a guarantee provided under
20 paragraph (4) or any other contract executed
21 by the applicable covered bond regulator under
22 this section 354, the Secretary and the covered
23 bond regulator shall be entitled to sovereign im-
24 munity in carrying out the provisions of this
25 subtitle.

1 (2) BORROWINGS AND CREDIT.—

2 (A) IN GENERAL.—Any servicer or admin-
3 istrator for an estate created under subsection
4 (b)(1) or (c)(2) may borrow funds or otherwise
5 obtain credit, on behalf of and for the benefit
6 of the estate, from any person in compliance
7 with this paragraph (2) solely for the purpose
8 of providing liquidity in the case of timing
9 mismatches among the assets and the liabilities
10 of the estate. Except with respect to an under-
11 writer, section 5 of the Securities Act of 1933,
12 the Trust Indenture Act of 1939, and any State
13 or local law requiring registration for an offer
14 or sale of a security or registration or licensing
15 of an issuer of, underwriter of, or broker or
16 dealer in a security does not apply to the offer
17 or sale under this paragraph (2) of a security
18 that is not an equity security.

19 (B) CONDITIONS.—A servicer or adminis-
20 trator may borrow funds or otherwise obtain
21 credit under subparagraph (A)—

22 (i) on terms affording the lender only
23 claims or liens that are fully subordinated
24 to the claims and interests of the applica-
25 ble indenture trustee and the applicable

1 covered bondholders and all other claims
2 against and interests in the estate, except
3 for the residual interest, if the servicer or
4 administrator certifies to the applicable
5 covered bond regulator that, in the busi-
6 ness judgment of the servicer or adminis-
7 trator, the borrowing or credit is in the
8 best interests of the estate and is expected
9 to maximize the value and the proceeds of
10 the cover pool held by the estate; or

11 (ii) on terms affording the lender
12 claims or liens that have priority over or
13 are pari passu with the claims or interests
14 of the applicable indenture trustee or the
15 applicable covered bondholders or other
16 claims against or interests in the estate,
17 if—

18 (I) the servicer or administrator
19 certifies to the applicable covered
20 bond regulator that, in the business
21 judgment of the servicer or adminis-
22 trator, the borrowing or credit is in
23 the best interests of the estate and is
24 expected to maximize the value and

1 the proceeds of the cover pool held by
2 the estate; and

3 (II) the applicable covered bond
4 regulator authorizes the borrowing or
5 credit.

6 (C) LIMITED LIABILITY.—A servicer or ad-
7 ministrator shall not be liable for any error in
8 business judgment when borrowing funds or
9 otherwise obtaining credit under this paragraph
10 (2) unless the servicer or administrator acted in
11 bad faith or in willful disregard of its duties.

12 (D) LIMITS ON BORROWINGS AND CRED-
13 IT.—Funds may not be borrowed or credit oth-
14 erwise obtained under subparagraph (A)—

15 (i) for the purpose of investing in ad-
16 ditional portfolios of eligible assets through
17 the issuance of new covered bonds; or

18 (ii) otherwise for a purpose other than
19 winding down the related covered bond
20 program in compliance with this Act, the
21 oversight program, and the related trans-
22 action documents.

23 (E) STUDY ON BORROWINGS AND CRED-
24 IT.—The Comptroller General of the United
25 States shall conduct a study on whether the

1 Federal reserve banks should be authorized to
2 lend funds or otherwise extend credit to an es-
3 tate under this paragraph (2) and, if so, what
4 conditions and limits should be established to
5 mitigate any risk that the United States Gov-
6 ernment could absorb credit losses on the cover
7 pool held by the estate. The Comptroller Gen-
8 eral shall submit a report to the Committee on
9 Banking, Housing, and Urban Affairs of the
10 Senate and the Committee on Financial Serv-
11 ices of the House of Representatives on the re-
12 sults of the study not later than 6 months after
13 the date of enactment of this Act.

14 (3) DISTRIBUTIONS BY ESTATE.—All payments
15 or other distributions by an estate shall be made at
16 the times, in the amounts, and in the manner set
17 forth in the covered bonds, the related transaction
18 documents, and any contracts executed by or on be-
19 half of the estate in compliance with this subtitle
20 and the oversight program. To the extent that the
21 relative priority of the liabilities of the estate are not
22 specified in or otherwise ascertainable from their
23 terms, distributions shall be made on each distribu-
24 tion date under the covered bonds, the related trans-

1 action documents, or any contracts executed by or
2 on behalf of the estate—

3 (A) first, to pay accrued and unpaid super-
4 priority claims under paragraph (2)(B)(ii);

5 (B) second, to pay accrued and unpaid ad-
6 ministrative expense claims under paragraph
7 (1)(I), paragraph (2)(B)(ii), section
8 354(b)(5)(A), or section 354(c)(6)(A);

9 (C) third, to pay—

10 (i) accrued and unpaid claims under
11 the covered bonds and the related trans-
12 action documents according to their terms;
13 and

14 (ii) accrued and unpaid pari passu
15 claims under paragraph (2)(B)(ii); and

16 (D) fourth, to pay accrued and unpaid
17 subordinated claims under paragraph (2)(B)(i).

18 (4) DISTRIBUTIONS ON RESIDUAL INTEREST.—

19 After all other claims against and interests in an es-
20 tate have been fully and irrevocably paid or
21 defeased, the trustee shall or shall cause a servicer
22 or administrator to distribute the remainder of the
23 estate to or at the direction of the owner of the re-
24 sidual interest. No interim distribution on the resid-

1 ual interest may be made before that time, unless
2 the applicable covered bond regulator—

3 (A) approves the distribution after deter-
4 mining that all other claims against and inter-
5 ests in the estate will be fully, timely, and irrev-
6 ocably paid according to their terms; and

7 (B) provides an indemnity, for the benefit
8 of the estate, assuring that all other claims
9 against and interests in the estate will be fully,
10 timely, and irrevocably paid according to their
11 terms.

12 (5) CLOSING OF ESTATE.—After an estate has
13 been fully administered, the trustee shall close the
14 estate and, except as otherwise directed by the appli-
15 cable covered bond regulator, shall destroy all
16 records of the estate.

17 (6) NO LOSS TO TAXPAYERS.—Taxpayers shall
18 bear no losses from the resolution of an estate under
19 this subtitle. To the extent that the Secretary and
20 the Corporation jointly determine that the Deposit
21 Insurance Fund incurred actual losses that are high-
22 er because the covered bond program of an insured
23 depository institution was subject to resolution
24 under this subtitle rather than as part of the receiv-
25 ership of the institution under the Federal Deposit

1 Insurance Act (12 U.S.C. 1811 et seq.), the Cor-
2 poration may exercise the powers available under
3 section 7(b) of the Federal Deposit Insurance Act
4 (12 U.S.C. 1817(b)) to recover an amount equal to
5 those losses after consulting with the Secretary.

6 **SEC. 355. SECURITIES LAW PROVISIONS.**

7 (a) EXISTING EXEMPTIONS APPLICABLE TO COV-
8 ERED BONDS.—

9 (1) TREATMENT OF CERTAIN BANKS AND
10 OTHER ENTITIES.—Any covered bond issued or
11 guaranteed by a bank or by an eligible issuer de-
12 scribed in section 352(9)(D) and sponsored solely by
13 1 or more banks for the sole purpose of issuing cov-
14 ered bonds is and shall be treated as a security
15 issued or guaranteed by a bank under section
16 3(a)(2) of the Securities Act of 1933 (15 U.S.C.
17 77c(a)(2)), section 3(c)(3) of the Investment Com-
18 pany Act of 1940 (15 U.S.C. 80a-3(c)(3)), and sec-
19 tion 304(a)(4)(A) of the Trust Indenture Act of
20 1939 (15 U.S.C. 77ddd(a)(4)(A)). No covered bond
21 issued or guaranteed by a bank or by an eligible
22 issuer described in section 352(9)(D) and sponsored
23 solely by 1 or more banks for the sole purpose of
24 issuing covered bonds shall be treated as an asset-
25 backed security (as defined in section 3 of the Secu-

1 rities and Exchange Act of 1934 (15 U.S.C. 78c)).
2 Each covered bond regulator for 1 or more banks
3 shall adopt disclosure and reporting regulations for
4 offers or sales of covered bonds by a bank or an eli-
5 gible issuer described in this paragraph. Such regu-
6 lations shall provide for uniform and consistent
7 standards for such covered bond issuers, to the ex-
8 tent possible, and shall be consistent with existing
9 regulations governing offers or sales of nonconvert-
10 ible debt.

11 (2) TREATMENT OF CERTAIN ASSOCIATIONS
12 AND COOPERATIVE BANKS.—Any covered bond
13 issued by an entity described in section 3(a)(5)(A)
14 of the Securities Act of 1933 (15 U.S.C.
15 77c(a)(5)(A)) or by an eligible issuer described in
16 section 352(9)(D) and sponsored solely by 1 or more
17 such entities for the sole purpose of issuing covered
18 bonds is and shall be treated as a security issued by
19 such an entity under section 3(a)(5)(A) of the Secu-
20 rities Act of 1933 (15 U.S.C. 77c(a)(5)(A)), section
21 3(c)(3) of the Investment Company Act of 1940 (15
22 U.S.C. 80a-3(c)(3)), and section 304(a)(4)(A) of the
23 Trust Indenture Act of 1939 (15 U.S.C.
24 77ddd(a)(4)(A)). No covered bond issued by an enti-
25 ty described in section 3(a)(5)(A) of the Securities

1 Act of 1933 (15 U.S.C. 77c(a)(5)(A)) or by an eligi-
2 ble issuer described in section 352(9)(D) and spon-
3 sored solely by 1 or more such entities for the sole
4 purpose of issuing covered bonds shall be treated as
5 an asset-backed security (as defined in section 3 of
6 the Securities and Exchange Act of 1934 (15 U.S.C.
7 78c)). Each covered bond regulator for 1 or more
8 entities described in section 3(a)(5)(A) of the Securi-
9 ties Act of 1933 (15 U.S.C. 77c(a)(5)(A)) shall
10 adopt, as part of the securities regulations of the
11 covered bond regulator, a separate scheme of reg-
12 istration, disclosure, and reporting obligations and
13 exemptions for offers or sales of covered bonds that
14 are described in this paragraph. Such regulations
15 shall provide for uniform and consistent standards
16 for such covered bond issuers, to the extent possible,
17 and shall be consistent with regulations governing
18 offers or sales of similar securities.

19 (3) CONSTRUCTION.—No provision of this sub-
20 title, including paragraph (1) or (2), may be con-
21 strued or applied in a manner that impairs or limits
22 any other exemption that is available under applica-
23 ble securities laws.

1 (b) EXEMPTIONS FOR ESTATES.—Any estate that is
2 or may be created under section 354(b)(1) or 354(c)(2)
3 shall be exempt from all securities laws but—

4 (1) shall be subject to the reporting require-
5 ments established by the applicable covered bond
6 regulator under section 354(d)(1)(E)(iii); and

7 (2) shall succeed to any requirement of the
8 issuer to file such periodic information, documents,
9 and reports in respect of the covered bonds as speci-
10 fied in section 13(a) of the Securities and Exchange
11 Act of 1934 (15 U.S.C. 78m(a)) or rules established
12 by an appropriate Federal banking agency.

13 (c) EXEMPTIONS FOR RESIDUAL INTERESTS.—Any
14 residual interest in an estate that is or may be created
15 under section 354(b)(1) or 354(c)(2) shall be exempt from
16 all securities laws.

17 **SEC. 356. MISCELLANEOUS PROVISIONS.**

18 (a) DOMESTIC SECURITIES.—Section 106(a)(1) of
19 the Secondary Mortgage Market Enhancement Act of
20 1984 (15 U.S.C. 77r-1(a)(1)) is amended—

21 (1) in subparagraph (C), by striking “or” at
22 the end;

23 (2) in subparagraph (D), by adding “or” at the
24 end; and

1 (3) by inserting after subparagraph (D) the fol-
2 lowing:

3 “(E) covered bonds (as defined in section 352
4 of the United States Covered Bond Act of 2013),”.

5 (b) TAX TREATMENT OF COVERED BOND PRO-
6 GRAMS.—

7 (1) TREATMENT OF ESTATES CREATED UNDER
8 COVERED BOND PROGRAMS.—Section 7701 of the
9 Internal Revenue Code of 1986 is amended by redес-
10 ignating subsection (p) as subsection (q) and by in-
11 serting after subsection (o) the following new sub-
12 section:

13 “(p) TREATMENT OF ESTATES CREATED UNDER
14 COVERED BOND PROGRAMS.—For purposes of this title—

15 “(1) TREATMENT AS DISREGARDED ENTITY.—
16 Any estate created with respect to a covered bond
17 program—

18 “(A) shall not be treated as an entity sub-
19 ject to taxation separate from the owner of the
20 residual interest with respect to such estate,
21 and

22 “(B) shall be treated as a disregarded enti-
23 ty that is owned by the owner of such residual
24 interest.

1 “(2) LIMITATIONS ON TREATMENT AS DIS-
2 REGARDED ENTITY.—

3 “(A) MAXIMUM DURATION.—Paragraph
4 (1) shall not apply with respect to an estate
5 after the earlier of—

6 “(i) the end of the 30-year period be-
7 ginning on the date of the creation of such
8 estate, or

9 “(ii) the end of the 180-day period be-
10 ginning on the date of the final payment
11 on the last outstanding covered bond that
12 is secured by the cover pool held by such
13 estate.

14 “(B) RESTRICTIONS ON OWNER OF RESID-
15 UAL INTEREST.—Paragraph (1) shall apply
16 with respect to an estate for any period only
17 if—

18 “(i) at no time during such period
19 does more than one person hold a residual
20 interest with respect to such estate,

21 “(ii) such person is—

22 “(I) subject to tax under subtitle
23 A on the net income of such estate for
24 the taxable year of such person which
25 includes such period, or

1 “(II) a conservator, receiver, liq-
2 uidating agent, or trustee in bank-
3 ruptcy with respect to the issuer for
4 such period, and

5 “(iii) such person is not a regulated
6 investment company (as defined in section
7 851) or real estate investment trust (as de-
8 fined in section 856) for the taxable year
9 which includes such period.

10 “(3) TREATMENT AS CORPORATION.—With re-
11 spect to any period for which paragraph (1) does not
12 apply to an estate created with respect to a covered
13 bond program, such estate shall be treated as a cor-
14 poration.

15 “(4) COORDINATION WITH RULES FOR TAX-
16 ABLE MORTGAGE POOLS.—No portion of any estate
17 created with respect to a covered bond program shall
18 be treated as a taxable mortgage pool for purposes
19 of subsection (i) during any period for which para-
20 graph (1) applies to such estate.

21 “(5) DEFINITIONS.—For purposes of this sub-
22 section, the terms ‘covered bond program’, ‘cover
23 pool’, ‘estate’, and ‘residual interest’ shall each have
24 the same respective meanings as when used for pur-

1 poses of the United States Covered Bond Act of
2 2013.

3 “(6) CROSS REFERENCES.—

4 “(A) For nonrecognition with respect to
5 certain transfers under covered bond programs,
6 see section 1001(f).

7 “(B) For excise tax on estates created
8 under covered bond programs by reason of de-
9 fault, see section 4475.”.

10 (2) TREATMENT OF CERTAIN TRANSFERS
11 UNDER COVERED BOND PROGRAMS.—Section 1001
12 of such Code is amended by adding at the end the
13 following new subsection:

14 “(f) CERTAIN TRANSFERS UNDER COVERED BOND
15 PROGRAMS.—

16 “(1) IN GENERAL.—With respect to any cov-
17 ered bond program, none of the following shall be
18 treated as a taxable exchange of a covered bond to
19 a covered bond holder or to a notional principal con-
20 tract counterparty:

21 “(A) The transfer of all of the assets and
22 liabilities of such program.

23 “(B) The creation of an estate with respect
24 to such program.

1 “(C) The transfer of the residual interest
2 in such estate.

3 “(2) DEFINITIONS.—For purposes of this sub-
4 section, the terms ‘covered bond program’, ‘estate’,
5 and ‘residual interest’ shall each have the same re-
6 spective meanings as when used for purposes of the
7 United States Covered Bond Act of 2013.”.

8 (3) EXCISE TAX ON ESTATES CREATED UNDER
9 COVERED BOND PROGRAMS BY REASON OF DE-
10 FAULT.—

11 (A) IN GENERAL.—Chapter 36 of such
12 Code is amended by inserting after subchapter
13 B the following new subchapter:

14 **“Subchapter C—Tax on Certain Estates**
15 **Created Under Covered Bond Programs**

 “Sec. 4475. Tax on estates created under covered bond programs by reason of
 default.

16 **“SEC. 4475. TAX ON ESTATES CREATED UNDER COVERED**
17 **BOND PROGRAMS BY REASON OF DEFAULT.**

18 “(a) IMPOSITION OF TAX.—A tax is hereby imposed
19 on the creation of an estate by operation of section
20 354(b)(1) of the United States Covered Bond Act of 2013.

21 “(b) AMOUNT OF TAX.—The tax imposed under sub-
22 section (a) with respect to the creation of any estate shall
23 be equal to 1 percent of the principal amount of the cov-
24 ered bonds secured by the cover pool with respect to such

1 estate determined as of the close of the day before the
2 creation of such estate.

3 “(c) BY WHOM PAID.—The tax imposed under sub-
4 section (a) shall be paid by the issuer of the covered bonds
5 with respect to the covered bond program with respect to
6 which the estate referred to in subsection (a) is created.

7 “(d) NO EFFECT ON COVER POOL.—The tax im-
8 posed under subsection (a) shall not reduce the assets of
9 the cover pool and no liability for such tax shall attach
10 to the estate or to the assets of the cover pool.

11 “(e) REFUND IN CASE OF BANKRUPTCY, ETC.—If an
12 issuer liable for the tax imposed under subsection (a) en-
13 ters conservatorship, receivership, liquidation, or bank-
14 ruptcy during the 5-year period beginning on the date of
15 the creation of the estate referred to in subsection (a),
16 such liability shall be extinguished and any such tax paid
17 shall refunded to the issuer immediately upon such event.

18 “(f) DEFINITIONS.—For purposes of this section, the
19 terms ‘covered bond program’, ‘cover pool’, and ‘estate’
20 shall each have the same respective meanings as when
21 used for purposes of the United States Covered Bond Act
22 of 2013.”.

23 (B) CLERICAL AMENDMENT.—The table of
24 subchapters for chapter 36 of such Code is

1 amended by inserting after the item relating to
2 subchapter B the following new item:

 “SUBCHAPTER C—TAX ON CERTAIN ESTATES CREATED UNDER COVERED
 BOND PROGRAMS”.

3 (4) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to estates created, and
5 transfers made, after the date of the enactment of
6 this Act.

7 (c) STATE AND LOCAL TAXES.—The Secretary may
8 promulgate regulations under this subtitle that are similar
9 to the provisions of section 346 of title 11, United States
10 Code, including regulations to provide that—

11 (1) if an estate created under section 354(b)(1)
12 or 354(c)(2) is not treated as an entity subject to
13 taxation separate from the owner of the residual in-
14 terest for purposes of the Internal Revenue Code of
15 1986 (26 U.S.C. 1 et seq.), no separate taxable enti-
16 ty shall be created with respect to the estate for pur-
17 poses of any State or local law imposing a tax on
18 or measured by income; and

19 (2) if a transfer or assumption of an asset or
20 liability to or by an estate or an eligible issuer under
21 section 354(b) or 354(c) does not cause or constitute
22 an event in which gain or loss is recognized under
23 section 1001 of the Internal Revenue Code of 1986
24 (26 U.S.C. 1001), the transfer or assumption shall

1 not cause or constitute a disposition for purposes of
2 any provision assigning tax consequences to a dis-
3 position in connection with any State or local law
4 imposing a tax on or measured by income.

5 (d) NO CONFLICT.—The provisions of this subtitle
6 shall apply, notwithstanding any provision of the Federal
7 Deposit Insurance Act (12 U.S.C. 1811 et seq.), title 11,
8 United States Code, title II of the Dodd-Frank Wall
9 Street Reform and Consumer Protection Act (12 U.S.C.
10 5381 et seq.), or any other provision of Federal law with
11 respect to conservatorship, receivership, liquidation, or
12 bankruptcy. No provision of the Federal Deposit Insur-
13 ance Act (12 U.S.C. 1811 et seq.), title 11, United States
14 Code, title II of the Dodd-Frank Wall Street Reform and
15 Consumer Protection Act (12 U.S.C. 5381 et seq.), or any
16 other provision of Federal law with respect to conservator-
17 ship, receivership, liquidation, or bankruptcy may be con-
18 strued or applied in a manner that defeats or interferes
19 with the purpose or operation of this subtitle.

20 (e) ANNUAL REPORT TO CONGRESS.—The covered
21 bond regulators shall, annually—

22 (1) submit a joint report to the Congress de-
23 scribing the current state of the covered bond mar-
24 ket in the United States; and

1 (2) testify on the current state of the covered
2 bond market in the United States before the Com-
3 mittee on Financial Services of the House of Rep-
4 resentatives and the Committee on Banking, Hous-
5 ing, and Urban Affairs of the Senate.

6 **TITLE IV—REMOVING BARRIERS**
7 **TO NEW INVESTMENT**

8 **SEC. 401. BASEL III IMPACT STUDY.**

9 (a) IN GENERAL.—The Board of Governors of the
10 Federal Reserve System, the Federal Deposit Insurance
11 Corporation, and the Office of the Comptroller of the Cur-
12 rency (in this section collectively referred to as the “Fed-
13 eral banking agencies”) shall conduct an empirical study
14 on the Regulatory Capital Rules finalized by the Board
15 of Governors of the Federal Reserve on July 2, 2013
16 (“Final Rule”) in accordance with subsection (b) and re-
17 lease a final report in accordance with subsection (d).

18 (b) ISSUES TO BE STUDIED.—The study required
19 under subsection (a) shall include—

20 (1) the potential impact of the Final Rule on
21 the financial services sector of the United States,
22 and specifically covered financial institutions, includ-
23 ing changes to required capital levels in the aggre-
24 gate, per asset class and institution size;

1 (2) the long-term potential impact of the Final
2 Rule, including changes to the current risk weight
3 framework;

4 (3) the potential cost and complexity of the
5 Final Rule for covered financial institutions;

6 (4) the potential indicators of covered financial
7 institutions having to maintain higher leverage cap-
8 ital ratios and higher total risk-based capital ratios
9 than non-covered financial institutions, and if such
10 capital levels are commensurate with higher histor-
11 ical losses or greater risk;

12 (5) whether the Final Rule will cause capital
13 levels at covered financial institutions to fluctuate
14 with more frequency or by greater amounts than the
15 current capital rules and what, if any, safety and
16 soundness issues such fluctuations raise for covered
17 financial institutions or the financial system includ-
18 ing whether such fluctuations will make the United
19 States financial system more or less safe than the
20 current rules;

21 (6) whether the Final Rule will result in the
22 discontinuation of the use of certain risk manage-
23 ment tools by covered financial institutions and
24 thereby undermine the safety and soundness of cov-
25 ered financial institutions and the financial system;

1 (7) the cumulative impact that the Final Rule
2 will have on—

3 (A) United States economic growth, in
4 general, and specifically, on the Gross Domestic
5 Product;

6 (B) the availability and cost of credit, both
7 generally and in low- and moderate-income
8 areas;

9 (C) the availability and cost of residential
10 mortgages and home equity lines of credit, auto
11 loans, student loans, and commercial loans, in-
12 cluding small business loans; and

13 (D) regulatory capital levels, capital qual-
14 ity, asset quality, and risk management at cov-
15 ered financial institutions.

16 (c) VOLUNTARY PARTICIPATION.—Any financial in-
17 stitution may voluntarily provide information for the study
18 upon the request of the Federal banking agencies, but may
19 not be required to provide such information.

20 (d) FINAL REPORT.—

21 (1) AVAILABILITY TO THE PUBLIC.—A final re-
22 port on the completed study required under sub-
23 section (a) shall be made available to the public for
24 notice and comment for a period of not less than 90
25 days.

1 (2) REPORT TO CONGRESS.—The Federal bank-
2 ing agencies shall issue a report to the Committee
3 on Banking, Housing, and Urban Affairs of the Sen-
4 ate and the Committee on Financial Services of the
5 House of Representatives, and testify before such
6 committees, on the results of the study required
7 under subsection (a) and a summary of the com-
8 ments received under paragraph (1).

9 (3) REVIEW.—The Federal banking agencies
10 shall review any comments submitted under para-
11 graphs (1) and (2) and considerations provided pur-
12 suant to paragraphs (1) and (2), and following such
13 review, shall prescribe new rules, if appropriate,
14 based on the results of the study and such com-
15 ments and considerations. Notwithstanding any
16 other provision of law, a new rulemaking following
17 such comment period shall include an additional
18 comment period of not less than 90 days.

19 (e) DELAY OF RULEMAKING.—The Final Rule may
20 not take effect for a covered financial institution until the
21 later of—

22 (1) 2 years after the date of the enactment of
23 this Act; and

24 (2) 1 year after the promulgation of revised
25 rules in accordance with subsection (d)(3) or a de-

1 termination by the Federal banking agencies that no
2 revised rules are needed in accordance with that sub-
3 section, which shall be published in the Federal Reg-
4 ister.

5 (f) DEFINITION OF COVERED FINANCIAL INSTITU-
6 TION.—For purposes of this section, the term “covered fi-
7 nancial institution” means any bank, thrift, bank holding
8 company, and savings and loan holding company (as such
9 terms are defined under section 3 of the Federal Deposit
10 Insurance Act) other than a bank, thrift, bank holding
11 company, or savings and loan holding company identified
12 by the Financial Stability Board as a “global systemically
13 important bank”, as of the date of the enactment of this
14 Act.

15 **SEC. 402. BASEL III LIQUIDITY COVERAGE RATIO AMEND-**
16 **MENTS.**

17 (a) IN GENERAL.—In implementing the Basel III Li-
18 quidity Coverage Ratio amendments, the Board of Gov-
19 ernors of the Federal Reserve System, the Federal Deposit
20 Insurance Corporation, and the Office of the Comptroller
21 of the Currency may not require, as a condition for status
22 as a high quality liquid asset, that residential mortgage-
23 backed securities be collateralized only by (or be
24 collateralized by a certain percentage of) full recourse
25 mortgage loans.

1 (b) DEFINITION.—The term “Basel III Liquidity
2 Coverage Ratio amendments” means the amendments to
3 the Liquidity Coverage Ratio endorsed by the Basel Com-
4 mittee on Banking Supervision on January 6, 2013.

5 **SEC. 403. DEFINITION OF POINTS AND FEES.**

6 (a) AMENDMENT TO SECTION 103 OF TILA.—Sec-
7 tion 103(bb)(4) of the Truth in Lending Act (15 U.S.C.
8 1602(bb)(4)) is amended—

9 (1) by striking “paragraph (1)(B)” and insert-
10 ing “paragraph (1)(A) and section 129C”;

11 (2) in subparagraph (A), by striking “except in-
12 terest or the time-price differential” and inserting
13 the following:

14 “except—

15 “(i) interest and the time-price dif-
16 ferential; and

17 “(ii) the amount of any loan level
18 price adjustment payment set by the Fed-
19 eral National Mortgage Association, the
20 Federal Home Loan Mortgage Corpora-
21 tion, the Federal Housing Administration,
22 or similar governmental entity or govern-
23 ment-sponsored enterprise”;

24 (3) by striking subparagraph (B) and inserting
25 the following new subparagraph:

1 “(B) all compensation paid directly by a
2 consumer to a mortgage originator, including a
3 mortgage originator that is also the creditor in
4 a table-funded transaction, but not including
5 compensation paid by a mortgage originator or
6 a creditor to an individual employed by the
7 mortgage originator or creditor”;

8 (4) in subparagraph (C)—

9 (A) by inserting “and insurance” after
10 “taxes”;

11 (B) in clause (ii), by inserting “, except as
12 retained by a creditor or its affiliate as a result
13 of their participation in an affiliated business
14 arrangement (as defined in section 2(7) of the
15 Real Estate Settlement Procedures Act of 1974
16 (12 U.S.C. 2602(7))” after “compensation”;
17 and

18 (C) by striking clause (iii) and inserting
19 the following:

20 “(iii) the charge is—

21 “(I) a bona fide third-party
22 charge not retained by the mortgage
23 originator, creditor, or an affiliate of
24 the creditor or mortgage originator; or

1 “(II) a charge set forth in section
2 106(e)(1);” and
3 (5) in subparagraph (D)—
4 (A) by striking “accident;” and
5 (B) by striking “or any payments” and in-
6 serting “and any payments”.

7 (b) AMENDMENT TO SECTION 129C OF TILA.—Sec-
8 tion 129C of the Truth in Lending Act (15 U.S.C. 1639c)
9 is amended—

10 (1) in subsection (a)(5)(C), by striking “103”
11 and all that follows through “or mortgage origi-
12 nator” and inserting “103(bb)(4)”; and

13 (2) in subsection (b)(2)(C)(i), by striking “103”
14 and all that follows through “or mortgage origi-
15 nator)” and inserting “103(bb)(4)”.

16 **SEC. 404. EXCLUSION OF ISSUERS OF ASSET-BACKED SECU-**
17 **RITIES FROM COVERED FUNDS.**

18 Section 13(h)(2) of the Bank Holding Company Act
19 of 1956 (12 U.S.C. 1851(h)(2)) is amended—

20 (1) by striking “‘private equity fund’ mean an
21 issuer” and inserting the following: “‘private equity
22 fund’—

23 “(A) mean an issuer”;

24 (2) by striking the period and inserting “;
25 and”;

1 (3) by adding at the end the following:

2 “(B) does not include an issuer, if such
3 issuer is described under subparagraph (A)
4 solely because such issuer issues asset-backed
5 securities (as such term is defined under section
6 3(a) of the Securities Exchange Act of 1934
7 (15 U.S.C. 78c(a)).”.

8 **SEC. 405. SUSPENSION OF REGULATION AB RULEMAKING**
9 **REGARDING NON-PUBLIC OFFERINGS.**

10 Section 4 of the Securities Act of 1933 (15 U.S.C.
11 77d) is amended—

12 (1) by redesignating the two subsections fol-
13 lowing subsection (a) (each designated as subsection
14 (b)) as subsections (c) and (d), respectively; and

15 (2) by inserting after subsection (a) the fol-
16 lowing new subsection:

17 “(b) With respect to paragraphs (1) and (2) of sub-
18 section (a), or any rule or regulation promulgated there-
19 under or in furtherance thereof (including Rule 144, Rule
20 144A and Rule 506), the Commission shall not condition
21 the availability of the exemptions afforded by any such
22 paragraph, rule, or regulation upon an issuer’s under-
23 taking to provide to investors, in connection with initial
24 offers or sales or on an ongoing basis thereafter, the same

1 or substantially similar information as would be required
2 in a transaction to which section 5 applies.”.

3 **SEC. 406. EFFECTIVE DATE OF CERTAIN MORTGAGE RE-**
4 **FORM REGULATIONS.**

5 (a) IN GENERAL.—Section 1400(c) of the Dodd-
6 Frank Wall Street Reform and Consumer Protection Act
7 (15 U.S.C. 1601 note) is amended—

8 (1) in paragraph (1), by amending subpara-
9 graph (B) to read as follows:

10 “(B) take effect 24 months after the
11 issuance of the regulations in final form, or
12 such later time as specified by regulation.”; and
13 (2) by striking paragraph (3).

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall take effect on the date of the enact-
16 ment of the Dodd-Frank Wall Street Reform and Con-
17 sumer Protection Act, as if included in such Act.

18 **SEC. 407. REPEAL OF CREDIT RISK RETENTION REGULA-**
19 **TIONS.**

20 (a) IN GENERAL.—

21 (1) DODD-FRANK.—The Dodd-Frank Wall
22 Street Reform and Consumer Protection Act (12
23 U.S.C. 5301 et seq.) is amended—

24 (A) by striking section 941; and

1 (B) in the table of contents for such Act,
2 by striking the item relating to section 941.

3 (2) SECURITIES EXCHANGE ACT OF 1934.—The
4 Securities Exchange Act of 1934 (15 U.S.C. 78a et
5 seq.) is amended—

6 (A) in section 3(a), by striking paragraph
7 (77) (relating to asset-backed security), as
8 added by section 941(a) of the Dodd-Frank
9 Wall Street Reform and Consumer Protection
10 Act; and

11 (B) by striking section 15G.

12 (b) PROHIBITION ON RISK RETENTION AND PRE-
13 MIUM CAPTURE CASH RESERVE ACCOUNTS.—The Comp-
14 troller of the Currency, the Board of Governors of the
15 Federal Reserve System, the Federal Deposit Insurance
16 Corporation, the Bureau of Consumer Financial Protec-
17 tion, and the Securities and Exchange Commission may
18 not issue any rule or regulation to require risk retention,
19 the creation or maintenance of a premium capture cash
20 reserve account, or any similar mechanism, unless directly
21 authorized by an Act of Congress.

22 (c) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of the Dodd-Frank Wall Street Reform and Con-
25 sumer Protection Act, as if included in such Act.

1 **SEC. 408. REGULATORY RELIEF FOR MORTGAGES**
2 **SECURITIZED THROUGH THE PLATFORM.**

3 Section 129C of the Truth in Lending Act (15 U.S.C.
4 1639c), as amended by section 411(1), is further amended
5 by inserting after subsection (e) the following:

6 “(f) **MORTGAGES SECURITIZED THROUGH THE**
7 **PLATFORM.**—This section and any regulations promul-
8 gated under this section do not apply to a mortgage
9 securitized through the Platform, as such term is defined
10 under section 303 of the Protecting American Taxpayers
11 and Homeowners Act of 2013.”.

12 **SEC. 409. REGULATORY RELIEF FOR MORTGAGE LOANS**
13 **HELD IN PORTFOLIO.**

14 (a) **HOME MORTGAGE DISCLOSURE ACT OF 1975.**—
15 Section 304(g) of the Home Mortgage Disclosure Act of
16 1975 (12 U.S.C. 2803(g)) is amended—

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

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

21 (3) by adding at the end the following:

22 “(3) made by the creditor, so long as such loan
23 appears on the balance sheet of such creditor.”.

24 (b) **TRUTH IN LENDING ACT.**— The Truth in Lend-
25 ing Act (15 U.S.C. 1601 et seq.) is amended—

1 (1) in section 129C (15 U.S.C. 1639c), as
2 amended by section 408, by inserting after sub-
3 section (f) the following:

4 “(g) MORTGAGE LOANS HELD IN PORTFOLIO.—This
5 section and any regulations promulgated under this sec-
6 tion do not apply to a residential mortgage loan made by
7 the creditor so long as such loan appears on the balance
8 sheet of such creditor.”;

9 (2) in section 129D (15 U.S.C. 1639d), by add-
10 ing at the end the following:

11 “(k) MORTGAGE LOANS HELD IN PORTFOLIO.—This
12 section and any regulations promulgated under this sec-
13 tion do not apply to a residential mortgage loan made by
14 the creditor so long as such loan appears on the balance
15 sheet of such creditor.”; and

16 (3) in section 129H(b)(4)(B) (15 U.S.C.
17 1639h(b)(4)(B)), by adding at the end the following:

18 “The requirements of this subsection and subsection
19 (a) and any regulations promulgated under this sec-
20 tion do not apply to a residential mortgage loan
21 made by a creditor so long as such loan appears on
22 the balance sheet of such creditor.”.

1 **SEC. 410. REPEAL OF CERTAIN MORTGAGE-RELATED PRO-**
2 **VISIONS.**

3 (a) REPEAL.—Sections 1413, 1431, and 1432 of the
4 Dodd-Frank Wall Street Reform and Consumer Protec-
5 tion Act are hereby repealed, and the provisions of law
6 amended or repealed by such sections are restored or re-
7 vived as if such sections had not been enacted.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 for the Dodd-Frank Wall Street Reform and Consumer
10 Protection Act is amended by striking the items relating
11 to sections 1413, 1431, and 1432.

12 **SEC. 411. AMENDMENTS TO THE TRUTH IN LENDING ACT.**

13 The Truth in Lending Act (15 U.S.C. 1601 et seq.)
14 is amended—

15 (1) in section 129 (15 U.S.C. 1639)—

16 (A) by amending subsection (b)(3) to read
17 as follows:

18 “(3) MODIFICATIONS.—The Bureau shall pre-
19 scribe regulations and forms authorizing the con-
20 sumer to modify or waive the rights created under
21 this subsection.”; and

22 (B) in subsection (u), by adding at the end
23 the following:

24 “(4) ENSURING ACCESS TO COUNSELING SERV-
25 ICES FOR RURAL COMMUNITIES.—Certification de-
26 scribed under paragraph (1) may be provided by a

1 person who operates an online or telephone-operated
2 counseling service approved by the Secretary of
3 Housing and Urban Development or by an online or
4 telephone-operated counseling service operated by
5 the Department of Housing and Urban Develop-
6 ment.

7 “(5) EFFECTIVE DATE.—Notwithstanding sec-
8 tion 1400(c) of the Mortgage Reform and Anti-Pred-
9 atory Lending Act, this subsection shall take effect
10 after the end of the 1-year period beginning on the
11 earlier of—

12 “(A) the date on which the first online or
13 telephone-operated counseling service is ap-
14 proved under paragraph (4); and

15 “(B) the date on which the Department of
16 Housing and Urban Development begins pro-
17 viding online or telephone-operated counseling
18 services described under paragraph (4).”;

19 (2) in section 129C (15 U.S.C. 1639c)—

20 (A) in subsection (b)(2)(A)(viii), by strik-
21 ing “30” and inserting “40”;

22 (B) by striking subsections (c), (d), and
23 (e); and

1 (C) by redesignating subsections (f), (g),
2 (h), and (i) as subsections (c), (d), (e), and (f),
3 respectively; and

4 (3) in section 129E(k)(1) (15 U.S.C.
5 1639e(k)(1)) by inserting after “this section” the
6 following: “, other than subsection (e),”.

7 **SEC. 412. FINANCIAL INSTITUTIONS EXAMINATION FAIR-**
8 **NESS AND REFORM.**

9 (a) **TIMELINESS OF EXAMINATION REPORTS.**—The
10 Federal Financial Institutions Examination Council Act of
11 1978 (12 U.S.C. 3301 et seq.) is amended by adding at
12 the end the following:

13 **“SEC. 1012. TIMELINESS OF EXAMINATION REPORTS.**

14 **“(a) IN GENERAL.—**

15 **“(1) FINAL EXAMINATION REPORT.—**A Federal
16 financial institutions regulatory agency shall provide
17 a final examination report to a financial institution
18 not later than 60 days after the later of—

19 **“(A)** the exit interview for an examination
20 of the institution; or

21 **“(B)** the provision of additional informa-
22 tion by the institution relating to the examina-
23 tion.

24 **“(2) EXIT INTERVIEW.—**If a financial institu-
25 tion is not subject to a resident examiner program,

1 the exit interview shall occur not later than the end
2 of the 9-month period beginning on the commence-
3 ment of the examination, except that such period
4 may be extended by the Federal financial institu-
5 tions regulatory agency by providing written notice
6 to the institution and the Office of Examination
7 Ombudsman describing with particularity the rea-
8 sons that a longer period is needed to complete the
9 examination.

10 “(b) EXAMINATION MATERIALS.—Upon the request
11 of a financial institution, the Federal financial institutions
12 regulatory agency shall include with the final report an
13 appendix listing all examination or other factual informa-
14 tion relied upon by the agency in support of a material
15 supervisory determination.”

16 (b) EXAMINATION STANDARDS.—

17 (1) IN GENERAL.—The Federal Financial Insti-
18 tutions Examination Council Act of 1978 is further
19 amended by adding after section 1012 the following:

20 **“SEC. 1013. EXAMINATION STANDARDS.**

21 “(a) IN GENERAL.—In the examination of financial
22 institutions—

23 “(1) a commercial loan shall not be placed in
24 non-accrual status solely because the collateral for
25 such loan has deteriorated in value;

1 “(2) a modified or restructured commercial loan
2 shall be removed from non-accrual status if the bor-
3 rower demonstrates the ability to perform on such
4 loan over a maximum period of 6 months, except
5 that with respect to loans on a quarterly, semi-
6 annual, or longer repayment schedule such period
7 shall be a maximum of 3 consecutive repayment pe-
8 riods;

9 “(3) a new appraisal on a performing commer-
10 cial loan shall not be required unless an advance of
11 new funds is involved;

12 “(4) in classifying a commercial loan in which
13 there has been deterioration in collateral value, the
14 amount to be classified shall be the portion of the
15 deficiency relating to the decline in collateral value
16 and repayment capacity of the borrower.

17 “(b) WELL CAPITALIZED INSTITUTIONS.—The Fed-
18 eral financial institutions regulatory agencies may not re-
19 quire a financial institution that is well capitalized to raise
20 additional capital in lieu of an action prohibited under
21 subsection (a).

22 “(c) CONSISTENT LOAN CLASSIFICATIONS.—The
23 Federal financial institutions regulatory agencies shall de-
24 velop and apply identical definitions and reporting require-
25 ments for non-accrual loans.”.

1 (2) DEFINITION OF MATERIAL SUPERVISORY
2 DETERMINATION.—Section 309(f)(1)(A) of the Rie-
3 gle Community Development and Regulatory Im-
4 provement Act of 1994 (12 U.S.C. 4806(f)(1)(A)) is
5 amended—

6 (A) in clause (ii), by striking “and” at the
7 end; and

8 (B) by inserting after clause (iii) the fol-
9 lowing:

10 “(iv) any issue specifically listed in an
11 exam report as a matter requiring atten-
12 tion by the institution’s management or
13 board of directors; and”.

14 (c) EXAMINATION OMBUDSMAN.—

15 (1) IN GENERAL.—The Federal Financial Insti-
16 tutions Examination Council Act of 1978 is further
17 amended by adding after section 1013 the following:

18 **“SEC. 1014. OFFICE OF EXAMINATION OMBUDSMAN.**

19 “(a) ESTABLISHMENT.—There is established in the
20 Council an Office of Examination Ombudsman.

21 “(b) HEAD OF OFFICE.—There is established the po-
22 sition of the Ombudsman, who shall serve as the head of
23 the Office of Examination Ombudsman, and who shall be
24 hired separately by the Council and shall be independent
25 from any member agency of the Council.

1 “(c) STAFFING.—The Ombudsman is authorized to
2 hire staff to support the activities of the Office of Exam-
3 ination Ombudsman.

4 “(d) DUTIES.—The Ombudsman shall—

5 “(1) receive and, at the Ombudsman’s discre-
6 tion, investigate complaints from financial institu-
7 tions, their representatives, or another entity acting
8 on behalf of such institutions, concerning examina-
9 tions, examination practices, or examination reports;

10 “(2) hold meetings, at least once every three
11 months and in locations designed to encourage par-
12 ticipation from all sections of the United States,
13 with financial institutions, their representatives, or
14 another entity acting on behalf of such institutions,
15 to discuss examination procedures, examination
16 practices, or examination policies;

17 “(3) review examination procedures of the Fed-
18 eral financial institutions regulatory agencies to en-
19 sure that the written examination policies of those
20 agencies are being followed in practice and adhere to
21 the standards for consistency established by the
22 Council;

23 “(4) conduct a continuing and regular program
24 of examination quality assurance for all examination

1 types conducted by the Federal financial institutions
2 regulatory agencies;

3 “(5) process any supervisory appeal initiated
4 under section 1015 or section 309(e) of the Riegle
5 Community Development and Regulatory Improve-
6 ment Act of 1994; and

7 “(6) report annually to the Committee on Fi-
8 nancial Services of the House of Representatives, the
9 Committee on Banking, Housing, and Urban Affairs
10 of the Senate, and the Council, on the reviews car-
11 ried out pursuant to paragraphs (3) and (4), includ-
12 ing compliance with the requirements set forth in
13 section 1012 regarding timeliness of examination re-
14 ports, and the Council’s recommendations for im-
15 provements in examination procedures, practices,
16 and policies.

17 “(e) CONFIDENTIALITY.—The Ombudsman shall
18 keep confidential all meetings, discussions, and informa-
19 tion provided by financial institutions.”.

20 (2) DEFINITION.—Section 1003 of the Federal
21 Financial Institutions Examination Council Act of
22 1978 is amended—

23 (A) in paragraph (2), by striking “and” at
24 the end;

1 (B) in paragraph (3), by adding “and” at
2 the end; and

3 (C) by adding at the end the following:

4 “(4) the term ‘Ombudsman’ means the Om-
5 budsman established under section 1014(a).”.

6 (d) RIGHT TO APPEAL BEFORE AN INDEPENDENT
7 ADMINISTRATIVE LAW JUDGE.—The Federal Financial
8 Institutions Examination Council Act of 1978 is further
9 amended by adding after section 1014 the following:

10 **“SEC. 1015. RIGHT TO APPEAL BEFORE AN INDEPENDENT**
11 **ADMINISTRATIVE LAW JUDGE.**

12 “(a) IN GENERAL.—A financial institution shall have
13 the right to appeal a material supervisory determination
14 contained in a final report of examination.

15 “(b) NOTICE.—

16 “(1) TIMING.—A financial institution seeking
17 an appeal under this section shall file a written no-
18 tice with the Ombudsman within 60 days after re-
19 ceiving the final report or examination that is the
20 subject of such appeal.

21 “(2) IDENTIFICATION OF DETERMINATION.—
22 The written notice shall identify the material super-
23 visory determination that is the subject of the ap-
24 peal, and a statement of the reasons why the institu-

1 tion believes that the determination is incorrect or
2 should otherwise be modified.

3 “(3) INFORMATION TO BE PROVIDED TO INSTI-
4 TUTION.—Any information relied upon by the agen-
5 cy in the final report that is not in the possession
6 of the financial institution may be requested by the
7 financial institution and shall be delivered promptly
8 by the agency to the financial institution.

9 “(c) HEARING BEFORE INDEPENDENT ADMINISTRA-
10 TIVE LAW JUDGE.—

11 “(1) IN GENERAL.—The Ombudsman shall de-
12 termine the merits of the appeal on the record, after
13 an opportunity for a hearing before an independent
14 administrative law judge.

15 “(2) HEARING PROCEDURES.—If a hearing is
16 requested by the financial institution, the hearing
17 shall—

18 “(A) take place not later than 60 days
19 after the notice of the appeal was received by
20 the Ombudsman; and

21 “(B) be conducted pursuant to the proce-
22 dures set forth under sections 556 and 557 of
23 title 5, United States Code.

24 “(3) JUDGE RECOMMENDATION; STANDARD OF
25 REVIEW.—In any hearing under this subsection—

1 “(A) the administrative law judge shall
2 recommend to the Ombudsman what determina-
3 tion should be made; and

4 “(B) in making such recommendation, the
5 administrative law judge shall not defer to the
6 opinions of the examiner or agency, but shall
7 independently determine the appropriateness of
8 the agency’s decision based upon the relevant
9 statutes, regulations, and other appropriate
10 guidance.

11 “(d) FINAL DECISION.—A decision by the Ombuds-
12 man on an appeal under this section shall—

13 “(1) be made not later than 60 days after the
14 record has been closed; and

15 “(2) be final agency action and shall bind the
16 agency whose supervisory determination was the
17 subject of the appeal and the financial institution
18 making the appeal.

19 “(e) REPORT.—The Ombudsman shall report annu-
20 ally to the Committee on Financial Services of the House
21 of Representatives, the Committee on Banking, Housing,
22 and Urban Affairs of the Senate on actions taken on ap-
23 peals under this section, including the types of issues that
24 financial institutions have appealed and the results of
25 those appeals. In no case shall such a report contain infor-

1 mation about individual financial institutions or any con-
2 fidential or privileged information shared by financial in-
3 stitutions.

4 “(f) RETALIATION PROHIBITED.—A Federal finan-
5 cial institutions regulatory agency may not—

6 “(1) retaliate against a financial institution, in-
7 cluding service providers, or any institution-affiliated
8 party, for exercising appellate rights under this sec-
9 tion; or

10 “(2) delay or deny any agency action that
11 would benefit a financial institution or any institu-
12 tion-affiliated party on the basis that an appeal
13 under this section is pending under this section.”.

14 (e) ADDITIONAL AMENDMENTS.—

15 (1) RIEGLE COMMUNITY DEVELOPMENT AND
16 REGULATORY IMPROVEMENT ACT OF 1994.—Section
17 309 of the Riegle Community Development and Reg-
18 ulatory Improvement Act of 1994 (12 U.S.C. 4806),
19 is amended—

20 (A) in subsection (a), by inserting after
21 “appropriate Federal banking agency” the fol-
22 lowing: “, the Bureau of Consumer Financial
23 Protection,”;

24 (B) in subsection (b)—

1 (i) in paragraph (2), by striking “the
2 appellant from retaliation by agency exam-
3 iners” and inserting “the insured deposi-
4 tory institution or insured credit union
5 from retaliation by the agencies referred to
6 in subsection (a)”;

7 (ii) by adding at the end the following
8 flush-left text:

9 “For purposes of this subsection and subsection (e), retal-
10 iation includes delaying consideration of, or withholding
11 approval of, any request, notice, or application that other-
12 wise would have been approved, but for the exercise of the
13 institution’s or credit union’s rights under this section.”;
14 and

15 (C) in subsection (e)(2)—

16 (i) in subparagraph (B), by striking
17 “and” at the end;

18 (ii) in subparagraph (C), by striking
19 the period and inserting “; and”; and

20 (iii) by adding at the end the fol-
21 lowing:

22 “(D) ensure that appropriate safeguards
23 exist for protecting the insured depository insti-
24 tution or insured credit union from retaliation

1 by any agency referred to in subsection (a) for
2 exercising its rights under this subsection.”.

3 (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
4 tion 18(x) of the Federal Deposit Insurance Act (12
5 U.S.C. 1828(x)) is amended by inserting “the Bu-
6 reau of Consumer Financial Protection,” before
7 “any Federal banking agency” each place such term
8 appears.

9 (3) FEDERAL CREDIT UNION ACT.—Section
10 205(j) of the Federal Credit Union Act (12 U.S.C.
11 1785(j)) is amended by inserting “the Bureau of
12 Consumer Financial Protection,” before “the Ad-
13 ministration” each place such term appears.

14 (4) TECHNICAL CORRECTIONS.—The Federal
15 Financial Institutions Examination Council Act of
16 1978 (12 U.S.C. 3301 et seq.) is amended—

17 (A) in section 1003(1), by striking “the
18 Office of Thrift Supervision,”; and

19 (B) in section 1005, by striking “One-
20 fifth” and inserting “One-fourth”.

21 **SEC. 413. NOTICE OF JUNIOR MORTGAGE OR LIEN.**

22 With respect to the dwelling of a borrower that serves
23 as security for a securitized senior mortgage loan, if the
24 borrower enters into any credit transaction that would re-
25 sult in the creation of a new mortgage or other lien on

1 such dwelling, the creditor of such new mortgage or other
2 lien shall notify the servicer of the senior mortgage loan
3 of the existence of the new mortgage or other lien.

4 **SEC. 414. LIMITATION ON MORTGAGES HELD BY LOAN**
5 **SERVICERS.**

6 (a) **LIMITATION.**—Neither the servicer of a residen-
7 tial mortgage loan, nor any affiliate of such servicer, may
8 own, or hold any interest in, any other residential mort-
9 gage loan that is secured by a mortgage, deed of trust,
10 or other equivalent consensual security interest on the
11 same dwelling or residential real property that is subject
12 to the mortgage, deed of trust, or other security interest
13 that secures the residential mortgage loan serviced by the
14 servicer.

15 (b) **DEFINITIONS.**—For purposes of this section, the
16 following definitions shall apply:

17 (1) **AFFILIATE.**—The term “affiliate” has the
18 meaning given such term under section 104(g) of
19 the Gramm-Leach-Bliley Act (15 U.S.C. 6701(g)).

20 (2) **RESIDENTIAL MORTGAGE LOAN.**—The term
21 “residential mortgage loan” means any consumer
22 credit transaction that is secured by a mortgage,
23 deed of trust, or other equivalent consensual security
24 interest on a dwelling or on residential real property
25 that includes a dwelling, other than a consumer

1 credit transaction under an open end credit plan or
2 an extension of credit relating to a plan described in
3 section 101(53D) of title 11, United States Code.

4 (3) SERVICER.—The term “servicer” has the
5 meaning provided such term in section 129A of the
6 Truth in Lending Act, except that such term in-
7 cludes a person who makes or holds a residential
8 mortgage loan (including a pool of residential mort-
9 gage loans) if such person also services the loan.

10 (c) INTERESTS.—For purposes of subsection (a),
11 ownership of, or holding an interest in, a residential mort-
12 gage loan includes ownership of, or holding an interest
13 in—

14 (1) a pool of residential mortgage loans that
15 contains such residential mortgage loan; or

16 (2) any security based on or backed by a pool
17 of residential mortgage loans that contains such res-
18 idential mortgage loan.

19 (d) EFFECTIVE DATE.—This section shall apply—

20 (1) with respect to the servicer (or affiliate of
21 the servicer) of a residential mortgage loan that is
22 originated after the date of the enactment of this
23 Act, on such date of enactment; and

24 (2) with respect to the servicer (or affiliate of
25 the servicer) of a residential mortgage loan that is

1 originated on or before the date of the enactment of
2 this Act, upon the expiration of the 12-month period
3 beginning upon such date of enactment.

4 **SEC. 415. SMALL SERVICER EXEMPTION.**

5 Section 6 of the Real Estate Settlement Procedures
6 Act of 1974 (12 U.S.C. 2605) is amended by adding at
7 the end the following:

8 “(n) **SMALL SERVICER EXEMPTION.**—The Bureau
9 shall, by regulation, provide exemptions to, or adjustments
10 for, the provisions of this section for servicers that service
11 20,000 or fewer mortgage loans, in order to reduce regu-
12 latory burdens while appropriately balancing consumer
13 protections.”.

14 **TITLE V—MISCELLANEOUS**
15 **PROVISIONS**

16 **SEC. 501. PRESERVING ACCESS TO MANUFACTURED HOUS-**
17 **ING.**

18 (a) **AMENDMENT TO MORTGAGE ORIGINATOR DEFINI-**
19 **NITION.**—Section 1401 of the Dodd-Frank Wall Street
20 Reform and Consumer Protection Act is amended, in
21 paragraph (2)(C)(ii) of the matter proposed to be added
22 to section 103 of the Truth in Lending Act, by striking
23 “an employee of a retailer of manufactured homes who
24 is not described in clause (i) or (iii) of subparagraph (A)
25 and who does not advise a consumer on loan terms (in-

1 cluding rates, fees, and other costs)” and inserting “a re-
2 tailer of manufactured or modular homes or its employees
3 unless such retailer or its employees receive compensation
4 or gain for engaging in activities described in subpara-
5 graph (A) that is in excess of any compensation or gain
6 received in a comparable cash transaction”.

7 (b) TECHNICAL AMENDMENTS.—Section 1401 of the
8 Dodd-Frank Wall Street Reform and Consumer Protec-
9 tion Act is amended, in the matter proposed to be added
10 to section 103 of the Truth in Lending Act, by redesi-
11 gnating subsection (cc) as subsection (dd).

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as if included in the provisions
14 of the Dodd-Frank Wall Street Reform and Consumer
15 Protection Act to which they relate.

16 **SEC. 502. COMMON SENSE ECONOMIC RECOVERY.**

17 (a) SHORT TITLE.—This section may be cited as the
18 “Common Sense Economic Recovery Act of 2013”.

19 (b) TREATMENT OF CERTAIN LOANS.—

20 (1) IN GENERAL.—For purposes of determining
21 capital requirements or measuring capital of an in-
22 sured depository institution under section 38 of the
23 Federal Deposit Insurance Act (12 U.S.C. 1831o) or
24 any other provision of law or regulatory guidance, an
25 insured depository institution that would otherwise

1 be required to treat a loan as a non-accrual loan
2 may treat such loan as an accrual loan, if—

3 (A) the loan is current;

4 (B) during the previous 6-month period, no
5 monthly payment on the loan has been more
6 than 30 days delinquent; and

7 (C) the payments on the loan are being
8 made pursuant to the contractual terms of the
9 loan agreement and any refinances and modi-
10 fications that are agreed to by all of the parties.

11 (2) DEMONSTRATION OF ABILITY TO PERFORM
12 ON A LOAN.—Notwithstanding paragraph (1), a
13 modified or restructured loan may not be treated as
14 a non-accrual loan if the borrower demonstrates the
15 ability to perform on such a loan—

16 (A) over a period of 6 months; or

17 (B) with respect to a loan on a quarterly,
18 semi-annual, or longer repayment schedule, over
19 a period of 3 consecutive payments.

20 (3) NO ADDITIONAL ADVERSE TREATMENT.—

21 With respect to a loan held by an insured depository
22 institution and treated as an accrual loan by reason
23 of paragraph (1), an appropriate Federal banking
24 agency may not impose any additional accounting
25 requirements on such institution with respect to

1 such loan compared to the requirements that would
2 otherwise have been placed on such institution with
3 respect to such loan if such loan were not being
4 treated as an accrual loan by reason of paragraph
5 (1), if the result of such additional requirement
6 would adversely impact the measurement of capital
7 of the institution.

8 (4) PROHIBITION ON THE RE-CLASSIFICATION
9 OF LOANS BASED SOLELY ON COLLATERAL
10 VALUE.—An appropriate Federal banking agency
11 may not require an insured depository institution to
12 treat a loan as a non-accrual loan solely on the basis
13 that the collateral of such loan has reduced in value.

14 (5) PROVISIONS NOT APPLICABLE TO PUBLICLY
15 TRADED INSTITUTIONS.—This subsection shall not
16 apply with respect to any issuer of a security reg-
17 istered pursuant to section 12 of the Securities Ex-
18 change Act of 1934 (15 U.S.C. 78l).

19 (c) STUDY.—

20 (1) IN GENERAL.—The Financial Stability
21 Oversight Council shall conduct a study of how best
22 to prevent contradictory guidance from being issued
23 by appropriate Federal banking agencies to insured
24 depository institutions with respect to loan classifica-
25 tions and capital requirements.

1 (2) REPORT.—Not later than the end of the 60-
2 day period beginning on the date of the enactment
3 of this Act, the Financial Stability Oversight Council
4 shall issue a report to the Congress containing—

5 (A) all determinations and conclusions
6 made by the Council in carrying out the study
7 required under paragraph (1); and

8 (B) legislative recommendations that the
9 Council believe will prevent contradictory guid-
10 ance from being issued by appropriate Federal
11 banking agencies to insured depository institu-
12 tions with respect to loan classifications and
13 capital requirements.

14 (d) DEFINITIONS.—For purposes of this section:

15 (1) APPROPRIATE FEDERAL BANKING AGEN-
16 CY.—The term “appropriate Federal banking agen-
17 cy”—

18 (A) has the meaning given such term
19 under section 3 of the Federal Deposit Insur-
20 ance Act (12 U.S.C. 1813); and

21 (B) means the National Credit Union Ad-
22 ministration Board, in the case of a credit
23 union.

24 (2) INSURED DEPOSITORY INSTITUTION.—The
25 term “insured depository institution” means—

1 (A) an insured depository institution, as
2 defined under section 3 of the Federal Deposit
3 Insurance Act (12 U.S.C. 1813); and

4 (B) a credit union.

5 (e) SUNSET.—Effective after the end of the 2-year
6 period beginning on the date of the enactment of this Act,
7 this section shall cease to have any force or effect.

8 **SEC. 503. TECHNICAL AMENDMENTS TO FEDERAL HOME**
9 **LOAN BANK ACT.**

10 (a) IN GENERAL.—Section 10 of the Federal Home
11 Loan Bank Act (12 U.S.C. 1430) is amended—

12 (1) in subsection (a)—

13 (A) by redesignating paragraph (6) as
14 paragraph (7); and

15 (B) by inserting after paragraph (5) the
16 following:

17 “(6) REPORT ON COLLATERAL.—The Director
18 shall annually report to the Committee on Banking,
19 Housing, and Urban Affairs of the Senate and the
20 Committee on Financial Services of the House of
21 Representatives on the collateral pledged to the
22 Banks, including an analysis of collateral by type
23 and by Bank district.”;

24 (2) by striking subsection (g); and

1 (3) in subsection (j)(12), by striking subpara-
2 graphs (C) and (D).

3 (b) INITIAL REPORT.—The Director of the Federal
4 Housing Finance Agency shall make the first report re-
5 quired under section 10(a)(7) of the Federal Home Loan
6 Bank Act, as added by subsection (a), not later than the
7 end of the 180-day period beginning on the date of the
8 enactment of this Act.

9 **SEC. 504. PRESERVATION OF ATTORNEY-CLIENT PRIVI-**
10 **LEGE FOR INFORMATION PROVIDED TO**
11 **FHFA.**

12 Section 1317 of the Federal Housing Enterprises Fi-
13 nancial Safety and Soundness Act of 1992 (12
14 U.S.C.4517) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO
17 AGENCY.—

18 “(1) IN GENERAL.—The submission by any per-
19 son of any information to the Agency for any pur-
20 pose in the course of any supervisory or regulatory
21 process of the Agency shall not be construed as
22 waiving, destroying, or otherwise affecting any privi-
23 lege such person may claim with respect to such in-
24 formation under Federal or State law as to any per-
25 son or entity other than such Agency.

1 “(2) RULE OF CONSTRUCTION.—No provision
2 of paragraph (1) may be construed as implying or
3 establishing that—

4 “(A) any person waives any privilege appli-
5 cable to information that is submitted or trans-
6 ferred under any circumstance to which para-
7 graph (1) does not apply; or

8 “(B) any person would waive any privilege
9 applicable to any information by submitting the
10 information to the Agency, but for this sub-
11 section.”.

12 **SEC. 505. FHFA LIAISON MEMBERSHIP IN FEDERAL FINAN-**
13 **CIAL INSTITUTIONS EXAMINATION COUNCIL.**

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

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

20 (2) in the first sentence, by inserting after “fi-
21 nancial institutions” the following: “, and one rep-
22 resentative of the Federal Housing Finance Agen-
23 cy,”; and

24 (3) in the last sentence, by inserting “State”
25 after “among the”.

1 **SEC. 506. RECOGNITION OF FHFA ENFORCEMENT AUTHOR-**
2 **ITY WITH REGARD TO REGULATED ENTITIES.**

3 Section 1125(c) of the Financial Institution Reform,
4 Recovery and Enforcement Act of 1989 (12 U.S.C.
5 3354(c); as added by section 1473(q) of the Dodd Frank
6 Wall Street Reform and Consumer Protection Act) is
7 amended—

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

10 (2) by redesignating paragraph (2) as para-
11 graph (3); and

12 (3) by inserting after paragraph (1) the fol-
13 lowing new paragraph:

14 “(2) with respect to any regulated entity (as
15 such term is defined in section 1303 of the Federal
16 Housing Enterprises Financial Safety and Sound-
17 ness Act of 1992 (12 U.S.C. 4502), the Federal
18 Housing Finance Agency; and”.

19 **SEC. 507. EXCEPTION FROM RIGHT TO FINANCIAL PRIVACY**
20 **ACT FOR FHFA AS CONSERVATOR OR RE-**
21 **CEIVER.**

22 Section 1113(o) of the Right to Financial Privacy Act
23 of 1978 (12 U.S.C. 3413(o)) is amended—

24 (1) by striking “(o)” and inserting “(o)(1)”;
25 and

1 (2) by adding at the end the following new
2 paragraph:

3 “(2) This title shall not apply to the examination by
4 or disclosure to the Federal Housing Finance Agency or
5 its employees or agents of financial records or information
6 in the exercise of its supervisory or regulatory functions,
7 including conservatorship and receivership functions, with
8 respect to any regulated entity or other person partici-
9 pating in the conduct of the affairs thereof.”.

10 **SEC. 508. TECHNICAL AMENDMENT TO FEDERAL HOUSING**
11 **ENTERPRISES FINANCIAL SAFETY AND**
12 **SOUNDNESS ACT OF 1992.**

13 Section 1368(d) of the Federal Housing Enterprises
14 Financial Safety and Soundness Act of 1992 (12 U.S.C.
15 4618(d)) is amended by striking “Committee on Banking,
16 Finance and Urban Affairs” and inserting “Committee on
17 Financial Services”.

18 **SEC. 509. APPLICATION OF PRESUMPTION TO ENTERPRISE**
19 **STREAMLINED REFINANCINGS.**

20 Section 129C(b)(3)(B)(ii) of the Truth in Lending
21 Act (15 U.S.C. 1639c(b)(3)(B)(ii); as added by section
22 1412 of the Dodd Frank Wall Street Reform and Con-
23 sumer Protection Act) is amended—

1 izing statute or the Federal Housing Enterprises Fi-
2 nancial Safety and Soundness Act of 1992—

3 “(A) such performance shall be subject to
4 regulation and examination by the Federal
5 Housing Finance Agency to the same extent as
6 if such services were being performed by the
7 regulated entity or the Office of Finance itself
8 on its own premises, and

9 “(B) the regulated entity or the Office of
10 Finance shall notify the Director of the exist-
11 ence of the service relationship within thirty
12 days after the making of such service contract
13 or the performance of the service, whichever oc-
14 curs first.

15 “(2) REGULATIONS AND ORDERS.—The Direc-
16 tor may issue such regulations and orders as may be
17 necessary to enable the Agency to administer and to
18 carry out the purposes of this subsection and to pre-
19 vent evasions thereof.”.

20 **SEC. 511. ELECTION OF DIRECTORS OF A MERGED FED-**
21 **ERAL HOME LOAN BANK.**

22 Section 7 of the Federal Home Loan Bank Act (12
23 U.S.C. 1427) is amended—

24 (1) in subsection (a)(1), by inserting “and sub-
25 section (d)” after “paragraphs (2) through (4)”;

1 (2) in subsection (b)—

2 (A) in the matter preceding paragraph

3 (2)—

4 (i) by striking “Each” and inserting
5 “(1)(A) Except as provided in subsection
6 (d), each”;

7 (ii) by inserting “(B)” before “No
8 person”;

9 (iii) by inserting “(C)” before “As
10 used”;

11 (iv) in the third sentence—

12 (I) by striking “this subsection”
13 and inserting “subparagraph (A)”;
14 and

15 (II) by striking “home loan
16 bank” and inserting “Home Loan
17 Bank”; and

18 (B) in paragraph (2)(A)(ii), by inserting
19 “or subsection (d)(4), if applicable,” after
20 “paragraph (1)”;

21 (3) by striking subsections (c), (d), and (h);

22 (4) by redesignating subsections (e), (f), and
23 (g) as subsections (f), (g), and (h), respectively;

24 (5) by inserting after subsection (b) the fol-
25 lowing:

1 “(c) ALLOCATION OF MEMBER DIRECTORSHIPS
2 AMONG STATES IN BANK DISTRICT.—

3 “(1) DESIGNATION OF MEMBER LOCATION.—

4 The Director shall designate the State in which each
5 member of each Federal Home Loan Bank shall be
6 deemed to be located for the purposes of this sub-
7 section and subsections (b) and (d), and may from
8 time to time change any such designation. If the
9 principal place of business of any Bank member is
10 located in a State within the district of the Bank of
11 which it is a member, the Director shall designate
12 that State as the State in which the member shall
13 be deemed to be located for those purposes.

14 “(2) STOCK-BASED ALLOCATION OF DES-
15 IGNATED MEMBER DIRECTORSHIPS.—The number of
16 member directorships designated as representing the
17 members located in each separate State in a Federal
18 Home Loan Bank district shall be determined by the
19 Director in the approximate ratio of the percentage
20 of the required stock, as prescribed by regulation of
21 the Director, of the members located in that State
22 at the end of the calendar year next preceding the
23 date of the election to the total required stock, as so
24 determined, of all members of the Bank as of that
25 same date.

1 “(3) LIMITATIONS ON STOCK-BASED ALLOCA-
2 TIONS.— Except as provided in subsection (d), the
3 following provisions shall apply to the allocation of
4 member directorships among the States of a Bank
5 district, notwithstanding the requirements of para-
6 graph (2):

7 “(A) In the case of each State, the number
8 of member directorships designated as rep-
9 resenting the members located in that State
10 shall not be less than one and shall not be more
11 than six.

12 “(B) If at any time the number of member
13 directorships designated as representing the
14 members located in any State would not be at
15 least equal to the total number of member di-
16 rectorships which, on December 31, 1960, were
17 filled by officers or directors of members whose
18 principal places of business were located in that
19 State, the Director shall add to the board of di-
20 rectors of the Bank of the district in which that
21 State is located such number of member direc-
22 torships, and shall so designate the directorship
23 or directorships thus added, that the number of
24 member directorships designated as rep-
25 resenting the members located in that State will

1 equal said total number. Any member director-
2 ship so added shall exist only until the expira-
3 tion of its first term.

4 “(d) BOARD SIZE, COMPOSITION, AND ELECTIONS
5 FOR COMBINED BANKS.—Notwithstanding any other pro-
6 vision of this section, the following requirements shall
7 apply to the size and composition of, and the election of
8 directors to, the board of any Bank created as result of
9 the combination of two or more Banks under section 26:

10 “(1) BOARD SIZE.—The management of a com-
11 bined Bank shall be vested in a board of 15 direc-
12 tors, or such lesser number as the Director deter-
13 mines appropriate, consistent with the safe and
14 sound operation of the combined Bank.

15 “(2) BOARD MAKEUP.—The Director shall es-
16 tablish the respective number of member director-
17 ships and independent directorships for the board of
18 the combined Bank such that—

19 “(A) member directors shall comprise at
20 least the majority of the members of the board
21 of directors; and

22 “(B) independent directors shall comprise
23 not fewer than $\frac{2}{5}$ of the members of the board
24 of directors.

1 “(3) ALLOCATION OF MEMBER DIRECTOR-
2 SHIPS.—The Director shall allocate the member di-
3 rectorships of the board of a combined Bank among
4 the States of the Bank district in accordance with
5 the requirements of subsection (c)(2), except that—

6 “(A) no State shall be allocated more than
7 two member directorships until every state has
8 been allocated at least one member directorship;
9 and

10 “(B) if, after the Director has allocated all
11 but one of the member directorships, there re-
12 main any States to which no member director-
13 ship has yet been allocated, then the Director
14 shall allocate the remaining member director-
15 ship to represent the members located in all of
16 the States that have not otherwise been allo-
17 cated a member directorship.

18 “(4) ELECTION OF DIRECTORS.—The directors
19 of a combined Bank shall be nominated and elected
20 as provided in subsection (b), except that, in the
21 case of a member directorship that has been des-
22 ignated as representing the members of two or more
23 States pursuant to paragraph (3)(B), the following
24 requirements shall apply in lieu of those set forth in
25 subsection (b)(1)(A):

1 “(A) The directorship shall be filled by a
2 person who is an officer or director of a mem-
3 ber located in one of the States represented.

4 “(B) Each member located in each State
5 represented shall be entitled to nominate an eli-
6 gible person to fill the directorship, and the
7 member director shall be elected from persons
8 so nominated by a plurality of the votes that
9 those members may cast under subparagraph
10 (C).

11 “(C) Each member located in each State
12 represented may cast a number of votes equal
13 to the number of shares of stock in the Bank
14 required to be held by the member at the end
15 of the calendar year next preceding the election,
16 but not in excess of the average number of
17 shares of stock in the Bank required to be held
18 at the end of that year by the respective mem-
19 bers of the Bank located in those States.

20 “(5) INITIAL DIRECTORS FOR NEWLY-COM-
21 BINED BANKS.—The following requirements shall
22 apply to the selection of the individuals to serve as
23 the initial directors of a combined Bank as of the ef-
24 fective date of the combination:

1 “(A) The terms of office of any directors
2 of the combining Banks who do not become di-
3 rectors of the combined Bank shall terminate as
4 of the effective date of the combination.

5 “(B) The individuals to serve as the initial
6 directors of a newly-combined Bank shall be
7 chosen from among the incumbent directors of
8 the predecessor Banks serving immediately
9 prior to the effective date of the combination of
10 those Banks and shall be—

11 “(i) as designated by the Director in
12 the case of a Bank created from a com-
13 bination of two or more Banks pursuant to
14 a reorganization under section 26(a); and

15 “(ii) as agreed upon among the merg-
16 ing Banks and approved by the Director in
17 the case of a Bank created from a vol-
18 untary merger of two or more Banks pur-
19 suant to section 26(b).

20 “(C) Each initial director of the combined
21 Bank shall be entitled to serve for the remain-
22 der of the term of office that the director had
23 with the predecessor Bank. Terms served as a
24 director of a predecessor Bank shall be counted
25 as being served as a director of the combined

1 Bank for purposes of determining term limits
2 under subsection (e)(3).

3 “(D) Beginning with the first election of
4 directors occurring after the combination of the
5 predecessor Banks, the Director shall adjust the
6 term of any directorship of the combined Bank
7 as necessary to achieve and maintain the stag-
8 gering of terms that is required under sub-
9 section (e)(2).

10 “(e) TERMS; RULES AND REGULATIONS GOVERNING
11 NOMINATIONS AND ELECTIONS.—

12 “(1) TERMS.—Except as provided in paragraph
13 (2), the term of each Federal Home Loan Bank di-
14 rector shall be 4 years.

15 “(2) ADJUSTMENT OF TERMS.—The Director
16 shall adjust the terms of members from time to time
17 as necessary to ensure that the terms of the mem-
18 bers of the board of directors are staggered with ap-
19 proximately $\frac{1}{4}$ of the terms expiring each year.

20 “(3) TERM LIMITS.— If any person has been
21 elected to each of three consecutive full terms as a
22 director of a Federal Home Loan Bank and has
23 served for all or part of each of those terms, that
24 person shall not be eligible for election to a director-
25 ship of that Bank for a term which begins earlier

1 than two years after the expiration of the last expir-
2 ing of the three terms.

3 “(4) RULES AND REGULATIONS GOVERNING
4 NOMINATIONS AND ELECTIONS.— The Director is
5 hereby authorized to prescribe such rules and regu-
6 lations as the Director may deem necessary or ap-
7 propriate for the nomination and election of direc-
8 tors of Federal Home Loan Banks, including, with-
9 out limitation on the generality of the foregoing,
10 rules and regulations with respect to the breaking of
11 ties and with respect to the inclusion of more than
12 one directorship on a single ballot and the methods
13 of voting and of determining the results of voting in
14 such cases.”;

15 (6) in subsection (f), as so redesignated, by
16 striking the first and second sentences;

17 (7) in subsection (h), as so redesignated—

18 (A) by striking “home loan bank” each
19 place such term appears and inserting “Home
20 Loan Bank”; and

21 (B) in paragraph (1), by striking “such
22 bank” and “the bank” and inserting “such
23 Bank” and “the Bank”, respectively;

24 (8) in subsection (i)(1)—

1 (A) by striking “bank” and inserting
2 “Bank”; and

3 (B) by striking “board” and inserting “Di-
4 rector”;

5 (9) in subsection (j), by striking “bank” and in-
6 serting “Bank”; and

7 (10) by striking the second subsection (l), as
8 added by section 1202(8) of the Housing and Eco-
9 nomic Recovery Act of 2008.

