THE FINANCIAL SERVICES ROUNDTABLE
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Comparison of House and Senate Housing Reform Legislation

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PART I: Comparison of GSE Reform Provisions in H.R. 2767, "Protecting American Taxpayers and Homeowners Act of 2013" (PATH Act) and S. 1217, "Housing Finance Reform and Taxpayer Protection Act of 2013" (Corker-Warner) 2

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PART I: Comparison of GSE Reform Provisions in H.R. 2767, "Protecting American Taxpayers and Homeowners Act of 2013" (PATH Act) and S. 1217, "Housing Finance Reform and Taxpayer Protection Act of 2013" (Corker-Warner)

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
1. Wind-down of Fannie Mae and Freddie Mac (the GSEs)		
1.1 Receivership	The Federal Housing Finance Agency (FHFA) is directed to place the GSEs into receivership 5 years after the date of enactment, but the Director may extend the conservatorship for an additional 2 years based on an increase in the spread between conforming and non-conforming loans. (§ 103)	No similar provision, but as of the date of enactment, the FHFA is directed to begin the wind down of the GSEs and the liquidation of their assets.
1.2 Charter Repeal	The PATH Act provides for the repeal of federal charters 5 years after date of enactment. The repeal of the charters will be delayed if the receivership is delayed. (§ 110)	The federal charters of the GSEs are repealed when the Federal Mortgage Insurance Corporation (FMIC) is able to perform the insurance functions authorized in the bill (the FMIC Certification Date) In in no event may the repeal take place later than 5 years after the date of enactment. (§ 501(a))
1.3 Treatment of Outstanding GSE Debt and Mortgage Securities During Transition	*Rights of Existing Investors* The charter repeal would not impair pre-existing rights of investors who hold GSE debt or mortgage backed securities (MBS). (§ 110) *Federal Guarantee* GSE debt and MBS issued prior to the charter repeal would be fully guaranteed by the federal government. (§ 110)	Same as House bill. (§ 501(a)) Same as House bill. (§ 501(c)(1))
1.4 Treatment of Dividends and G-Fees During Transition	Between the date of enactment and charter repeal all dividends and g-fees would go to the Treasury Department. (§ 110)	Same as House bill. (§ 501(c)(2))

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1.5 Amount of G-Fees During Transition	In the 5 years before charter repeal the GSEs would be required to charge guarantee fees in an amount that the Director of FHFA determines is equivalent to the amount the GSEs would have to charge if they were subject to the same capital standards as private banks, provided that the amount of any increase required by the Director could not be more than 25% of the then existing fee. (§ 104)	No similar provision.
1.6 Repeal of Housing Goals	The current housing goals for the GSEs and the Housing Trust Fund would be repealed upon enactment. (§ 104)	Same as House bill, except the Housing Trust Fund is not repealed. (§ 506)
1.7 Portfolios During Transition	Beginning on the date of enactment, the GSEs must start reducing the size of their portfolios, but in no event shall the portfolio of either GSE be less than $250 billion. (§ 104)	Similar to House bill. After the start-up of the FMIC the portfolios may be used only to facilitate the orderly wind down of the GSEs and to mitigate losses incurred in connection with legacy guarantees. (§ 505)
1.8 Conforming Loan Limits During Transition	The House bill retains the current statutory limits of $417,000 for single family loans. It also provides that decreases in the housing price index will result in decreases in the limit. (§ 105)	Similar to the House bill, except the Senate bill retains current law regarding adjustments in the limit (i.e., increases in the housing price index increase the limit and decreases in the housing price index reduce the amount of a future increase). (§ 504(a))
1.9 Loan Limits for High Cost Areas During Transition	High cost limits in effect on the date of enactment are the maximum for these areas, and they can be reduced if the interest rate spread between conforming and non-conforming loans is less than 80 basis points. (§ 105)	The Senate bill provides for the gradual reduction of the high cost limit. The current limit is the lesser of 150% of applicable limit or 115% of median housing prices in the area. At the end of 5 years the limit would be the lesser of 125% of applicable limit or 115% of median housing prices in area. (§ 504(c))
1.10 Risk Sharing During Transition	During the transition no less than 10% of the GSE's annual business must involve some form of risk-sharing with the private sector, such as increased mortgage insurance, credit-linked notes, or senior and subordinated security structures. (§ 106)	No similar provision.

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1.11 Limitation on Loan Purchases	The GSEs may not purchase, service, sell or deal in mortgages that do not meet the ability to repay standard set in the Dodd Frank Act. This limitation applies to loans with an application date of January 10, 2014 or later. (§ 107)	No similar provision.
1.12 Eminent Domain During Transition	During the transition the GSEs may not purchase or guarantee any mortgage secured by a house within a county in which a residential mortgage loan was acquired through the State's eminent domain power. (§ 108)	No similar provision.
1.13 Other Wind Down Provisions	*Receivership Entity* The PATH Act permits FHFA, as the receiver of a GSE, to establish a receivership entity. (§ 109) No similar provision. No similar provision.	*Receivership Entity* Subject to certain limitations, the Senate bill gives the Director of FHFA the power to take actions necessary to facilitate the wind down of the GSEs, including the establishment of a holding company for the purpose of wind down the enterprises or one or more trusts to hold outstanding debt or MSB. (§ 502) *Proceeds* All proceeds from the wind down are to be paid first to the Treasury then to preferred shareholders and common shareholders. (§ 502(c)) *Conservatorship Goals* The bill also amends FHFA's conservatorship powers to align them with the goal of an efficient, effective and expeditious wind down. (§ 503)
2. Federal Regulator		
2.1 Federal Regulator	The PATH Act retains FHFA and gives FHFA supervisory authority over a National Mortgage Market Utility (the Utility), which is authorized to set	The Senate bill replaces FHFA with a new independent federal agency called the Federal Mortgage Insurance Corporation (FMIC). The FMIC

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
	standards for securitization of residential mortgages and operate a securitization platform. The Utility may not own, originate, service, insure or guarantee any residential mortgage or MBS. (§ 311)	must be operational no later than 5 years after the date of enactment. (§§ 2(16), 101, 303)
2.2 Structure and Governance	The Utility would be a not-for-profit entity that could take any organizational form (e.g., corporation, partnership, mutual association, limited liability corporation, or cooperative), and would be governed by a board that has at least 10 members (2 with experience in mortgage securitization, 2 from large banks, 2 from small banks, 2 with experience in electronic documentation, and 2 with experience in investing in MBS). (§ 311)	FMIC would be an independent federal agency governed by a 5 member board appointed by the President and confirmed by the Senate; one board member would serve as the Chairperson of the Board and as the Director of the agency. (§§ 101(c), 102, 103)
2.3 Funding	*Start-up Funding* Initial funding for the Utility would be provided by an appropriation of $150 million. This initial funding would have to be repaid within ten years. (§ 314) *On-going Funding* On-going funding for the Utility would come from fees charged by the Utility. Fees charged by the Utility may differentiate on basis classes or types of services, operations, and users of services or operations, but may not differentiate based on size or loan volume. (§ 314)	*Start-up Funding* Initial funding for the FMIC will come from assessments imposed on the GSEs. (§ 107) *On-going Funding* After the FMIC is fully operational its costs would be covered by guarantee fees charged to the issuers of MBS that carry a federal guarantee. Fees for federal guarantee may not vary based on location or size of issuer or the volume of insurance purchased by issuer. (§§ 201(a)(5), 203(f))
2.4 Federal Home Loan Banks	No similar provision.	One year after the date of enactment the regulation of FHLBs is transferred from FHFA to FMIC. (§§ 2(19), 301)
3. Mortgage Securities		
3.1 Federal	The PATH Act does not provide for any federal	One of the principal duties of the FMIC is to provide a

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Guarantee for MBS	guarantee on MBS.	backstop federal guarantee on MBS that meet certain standards (i.e., "Covered Securities"). (§§ 2(9), 201)
3.2 Eligible Securities	While the PATH Act does not provide for a federal guarantee on MBS, it does require that securities issued through the Platform run by the Utility be "qualified securities." A "qualified security" is defined as a security that is: (1) collateralized by one or more classes of residential mortgages defined by the Utility on the basis of credit risk characteristics (e.g., debt-to-income ratio, loan-to-value ratio, credit history, credit enhancement) and loan terms, including a 30-year fixed rate mortgage; (2) issued in accordance with a standard form securitization agreement established by the Utility; (3) issued by an issuer that meets qualification standards set by the Utility; and (4) issued through the securitization Platform run by the Utility. (§ 321)	A security can qualify as a "covered security" eligible for a federal guarantee if it meets three conditions: (1) the security must be backed by "eligible mortgages", which are defined to mean mortgages that meet Qualified Mortgage standards, do not exceed the conforming loan limit of $417,000, are backed by private mortgage insurance, lender recourse or some other form of credit enhance if the LTV is greater than 80%, have a down payment of no less than 5%, and carry title insurance (§ 2(11)); (2) the security must have a credit-risk sharing structure (e.g. senior-subordinate structure, credit-linked notes, or bond insurance)under which private investors cover losses consistent with home price declines experiences in moderate to severe recessions during the last 100 years, but in no event may this first loss coverage be less than 10% of the value of the security (§ 202); and (3) the federal backstop guarantee is purchased by an issuer that meets standards set by FMIC (§ 213). Note: A security issued by an approved issuer that is insured by an approved bond guarantor will be deemed to have satisfied this 10% requirement and thereby be eligible for the federal Guarantee. (§ 214(b))

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3.3 Treatment of Securities Under Federal Securities Laws	Qualified securities would be exempt from SEC registration. (§ 343)	Same as House bill, except the exemption applies to "covered securities." (§ 207(a))
3.4 Treatment of Securities Under DFA Risk Retention Requirement	The PATH Act repeals the risk retention provisions of DFA, so qualified securities would not be subject to a risk retention requirement. (§ 407)	Covered securities would be exempt from the DFA risk retention requirement. (§ 207(b))
3.5 Application of Ability to Repay Standard to Mortgages Collateralizing Securities	Mortgages securitized through the platform are not subject to the ability to repay standard. (§ 408)	Mortgages collateralizing covered securities must meet ability to repay standard set in Dodd Frank Act. (§ 2(11))
3.6 Trigger for Federal Guarantee	No similar provision.	The federal guarantee is triggered when (1) losses on a covered security exceed the first loss position, or (2) a bond guarantor that has assumed responsibility for the first loss position becomes insolvent. (§§ 203(a), 204)
3.7 Wavier of First Loss Requirement	No similar provision.	FMIC may waive the first loss requirement on a covered security for 6 months in "unusual and exigent" circumstances, if the Chairman of the Fed and the Secretary of the Treasury agree, and FMIC consults with the Secretary of HUD. This authority may be waiver only once in any 3-year period. (§ 205)
3.8 Funding for Federal Guarantee; Federal Mortgage Insurance Fund	No similar provision.	The Senate bill establishes a Federal Mortgage Insurance Fund to meet the government's obligations under the federal guarantee. This Fund would be financed by uniform guarantee fees paid by the issuers of covered securities and guarantee fees paid in connection with the multi-family business of the GSEs that would be transferred to the FMIC when the GSE

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		charters are repealed. The Fund would be backed by the full faith and credit of the U.S. (§ 203)
3.9 Guarantee Fees	No similar provision.	Fees for the federal guarantee may not vary based on location or size of issuer or the volume of insurance purchased by issuer. (§ 203(f)(3))
3.10 Securitization Agreements	The Utility must develop standard and uniform securitization agreements for qualified securities, including pooling and servicing, purchase and sale, representations and warranties, indemnification and remedies, and the qualification, responsibilities, and duties of trustees. (§ 322(b))	Similar to the House bill, except standards are set by the FMIC, and agreements must permit the transfer of servicing rights if the transfer is in the best interest of the investor. (§ 223)
3.11 Securitization Platform	*GSE Platform* No later than 1-year after the establishment of the Utility, the FHFA shall provide for the sale of the securitization platform established by the GSEs to the Utility. (§ 313) *Access* Access rules and fees may not discriminate against eligible loan originators, aggregators, or qualified issuers on basis of size, composition, business line, or loan volume. (§ 312(c)) No similar provision.	*GSE Platform* The bill creates an Office of Securitization within FMIC to oversee and supervise the securitization platform being developed by FHFA and the GSEs. (§ 232) *Access* The Office of Securitization must ensure that the platform may be used by credit unions, community and mid-sized banks, and small non-depository lenders, including through the development of multi-lender pools of eligible mortgages that are issued as covered securities. Also the bill states that credit unions and community and mid-sized banks may not be discriminated against through discounts for volume pricing or other mechanisms. (§§ 232, 201(2)(13)) *Non-Covered Securities* FMIC may permit securities other than covered

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
	  Securitization Agreement Securities issued through the platform must adhere to standard form securitization agreement established by the Utility. (§ 321) *Issuer* Issuers that use the platform must meet qualification standards set by the Utility. (§ 321)	securities to be issued through the platform. (§ 232) *Securitization Agreement* FMIC may require that any securities issued through the platform be subject to the standard securitization agreement developed by FMIC. (§ 232(b)(2)(B)) No similar provision.
3.12 Mutual Securitization Company	No similar provision.	The FMIC is directed to establish the FMIC Mutual Securitization Company to service credit unions, community and mid-sized banks (up to $15 billion in assets), and non-depository lenders by purchasing whole loans from those institutions and assisting in the securitization of covered securities for those institutions. (§ 215)
3.13 Restructuring MBS	No similar provision.	Nothing in the Senate bill is intended to prohibit or restrict the ability of a holder of any loss position in a covered security from restructuring, retranching, or resecuritizing the holder's position. (§ 703)
4. Market Participants		
4.1 Private Mortgage Insurers	No similar provision	*Standards* In order to offer mortgage insurance on mortgages that collateralize covered securities private mortgage insurers must be approved by the FMIC. To be approved, a mortgage insurer must meet standards set by FMIC, including a capital requirement that permits the insurer to withstand a 30 percent drop in national home prices. (§ 211)

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
	No similar provision.	*Limitation* A private mortgage insurer may not provide both loan level and pool level coverage on the same covered security. (§ 211(e))
4.2 Servicers	*Standards* The Utility must develop servicing standards, including standards for modification, restructuring, or work-out. It also must develop standards for reporting obligations of servicers. (§ 322(d)) *Change in Servicers* One of the standards the Utility must develop is a servicer succession plan for replacing an existing servicer if the performance of the mortgage pool deteriorates to specified levels. (§ 332(d)) See also servicing provisions in Part IV.8.	*Standards* Servicers that seek to service eligible mortgages must be approved by the FMIC. To be approved, a servicer must meet standards set by FMIC, including standards on collection of principal and interest payments, maintenance of escrow accounts, and the payment of taxes and insurance. In setting these standards the FMIC must "coordinate" with the Bureau of Consumer Financial Protection (CFPB). (§ 212) *Change in Servicers* FMIC is directed to develop a process for private holders of the first loss position in a covered security to petition the FMIC for a change in approved servicer if the holders can demonstrate that the servicer has failed to protect their investment. Also, securitization agreements must permit the transfer of servicing rights if the transfer is in the best interest of the investor. (§§ 212(e) and 223) No similar provision.
4.3 Aggregators	*Standards* The Utility may develop standards for aggregation of eligible collateral by entities other than an issuer. (§ 322(f)) *FHLBs* Federal Home Loan Banks may act as aggregators for	No similar provision. No similar provision.

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
	members, subject to regulations issued by FHFA. (§§ 322(f), 341)	
4.4 Issuers	*Standards* The Utility must develop standards for the issuers of qualified securities. Such standards may only address the experience, financial resources and integrity of the issuer, the adequacy of the issuer's insurance coverage, and auditing of the issuer. (§ 322(g)) No similar provision. No similar provision. No similar provision.	*Standards* Issuers of covered securities must be approved by the FMIC. To be approved an issuer meet standards set by FMIC, including standards on the issuer's ability to aggregate and securitize eligible mortgages, the financial condition of the issuer, the capital of the issuer, and general character and fitness of management. (§ 213) *Credit Unions and Small Banks* FMIC must ensure that at least one issuer is approved to issue covered securities for credit unions and community and mid-sized banks. (§ 213(b)(2)(B)) *FHLBs* A Federal Home Loan Bank may be an issuer (directly or through a subsidiary) and any covered securities issued will not be treated as an obligation of any Home Loan Bank that is not an issuer. Capital standards for Home Loan Banks that are issuers would be based upon the volume of mortgage loan originations made by the Banks that are issuers. (§§ 213(b)(2)(B), 213(c)) *Limit on Market Share* An issuer may not have more than a 15% share of the covered securities issued in any 12 month period. This limitation does not apply to Federal Home Loan Banks, the FMIC Mutual Securitization Company or to an issuer that only securitizes loans made by the

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		issuer or an affiliate of the issuer. Also, during the 3 year period after the FMIC becomes operational, the FMIC may waive the application of this limit to an issuer if the FMIC determines that the number of approved issuers is insufficient and the limit would adversely affect the availability of mortgage credit. (§ 213(f))
	No similar provision.	*Holding Mortgages* An issuer may not hold an eligible mortgage and a first loss position on a covered security for more than 6 months. (§ 213(g))
	No similar provision.	*Acting as a Bond Guarantor* An issuer may also be a bond guarantor. (§ 214(g))
4.5 Bond Guarantors	No similar provision.	*Standards* Any entity that meets standards set by the FMIC may be approved by the FMIC to act as a bond guarantor for the first loss position on a covered security. Bond guarantors must maintain a minimum capital level of no less than 10% of the unpaid principal balance of outstanding MBS for which the bond guarantor is providing insurance, net of hedging that reduces credit risk. (§ 214)
	No similar provision.	*Affiliate of a Bank* A separately capitalized subsidiary or affiliate of a bank may act as a bond guarantor. (§ 214(c)(1)(B))
	No similar provision	*Issuer* A bond guarantor also may be an issuer. (§ 214(g))

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
	No similar provision. No similar provision.	*10% First Loss Requirement* A security issued by an approved issuer that is insured by an approved bond guarantor will be deemed to have satisfied the 10% first loss requirement necessary to obtain a federal guarantee. (§ 214(b)) *Loan Level and Pool Level Coverage* A bond insurer may not provide both loan level and pool level insurance. (§ 214(f))
4.6 Trustees	The standard securitization agreements developed by the Utility must address the qualifications, responsibilities and duties of trustees. The FHFA also must establish qualifications for trustees, and there must be at least one trustee for each pool of mortgages that collateralize a qualified security. (§§ 322(b), 322(h))	Similar to the House bill except there is no similar provision regarding FHFA's duties. (§ 223)
4.7 Investors	No similar provision. No similar provision. No similar provision.	*Transfer of Servicing Rights* Securitization agreements must permit the transfer of servicing rights if the transfer is in the best interest of the investor. (§ 223) *Civil Immunity* Investors in covered securities are given immunity from Federal and State civil actions related to whether or not the mortgages collateralizing the security complied with applicable underwriting and other requirements. (§ 222) *Access to Loan Data* FMIC shall require approved issuers to provide to investors data on mortgage loans collateralizing

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
		covered securities to investors and servicing reports. (§ 221)
	Role of Trustee For the purpose of protecting investor rights, a trustee for a qualified security must maintain a list of all investors in the security and acts as a means for investors to communicate with each other. (§ 322(h))	No similar provision.
	Independent Third Parties A third party retained to act on the behalf of investors shall be granted access to loan documents backing a qualified security, the list of investors in the security, and shall have the right to inform the trustee of any breach in the securitization agreement. (§ 322(i))	No similar provision.
	Arbitration Disputes between investors and issuers are subject to mandatory arbitration. (§ 322(j))	No similar provision.
4.8 Additional Authority Over Market Participants	No similar provision.	The FMIC may develop additional standards to ensure competition among approved market participants, competitive pricing by approved market participants, and liquidity, transparency and access to mortgage credit in the secondary mortgage market. (§ 216)
4.9 Sanctions for Market Participants	The FHFA may bring an enforcement action against the Utility or any Utility-affiliated party. (§ 315)	The FMIC may suspend or revoke the approved status for a market participant if a market participant fails to adhere to applicable standards, and may impose civil money penalties for violations of applicable standards. (§§ 211, 212, 213, 214, 217)
4.10 Information Sharing with Other Regulators	Any person may submit information to the FHFA without waiving an existing privilege. (§ 504)	The FMIC may share information about approved market participants with other federal and state regulators, without waiving any existing evidentiary

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
		privileges. (§ 218)
5. Data		
5.1 Disclosure of Loan Data	The Utility is directed to develop and publish standard data definitions for loan origination, appraisals, and servicing, and to develop standards for disclosure of loan origination, appraisal, and servicing data on mortgages that collateralize qualified securities. (§ 322(k))	FMIC is directed to establish and operate a loan level database on eligible mortgages that includes loan characteristics, borrower information, property security the mortgage, and other data. FMIC also is directed to determine what data in the data base will be available to the public. Personally identifiable information is to be protected. (§ 224)
5.2 Mortgage Registry	*Repository* The Utility is directed to establish and operate a National Mortgage Data Repository for mortgage-related documents. Ten years after the date of enactment the Repository may only accept electronic submissions, unless the Director provides an extension for a period of up to 5 additional years. (§§ 331, 335) *Legal Effect* Mortgages registered with the registry shall be deemed to satisfy any requirement for a demonstration of a right to act regarding the note that exists in Federal and State law. However, mortgages would still need to be recorded as required under state/county law. (§ 332) *Grant to States* The PATH Act authorizes $50 million to be appropriated for grants to the States to facilitate participation in the registry. (§ 333)	*Registry* The FMIC is required to establish and operate an electronic registry system for eligible mortgages. (§ 225) No similar provision. No similar provision.
5.3 Data on Lien Holders	No similar provision.	The FMIC's Office of Securitization is required to establish and operate a data base that can be accessed by any holder of a lien on an eligible mortgage,

Subject	PATH Act (H.R. 2767)	Corker-Warner (S. 1217)
		identifies and tracks junior liens, notifies (to the extent feasible) senior lien holders of the existence of a junior lien, and informs lien holders of the performance on other liens. (§ 232(c))
6. Other		
6.1 Affordable Housing	No similar provision.	Issuers of covered securities are required to pay a fee of 5-10 basis points for each dollar of the outstanding principal balance of eligible mortgages collateralizing covered securities that carry a federal guarantee. Eighty percent of this fee is to be transferred to the Housing Trust Fund managed by HUD, and twenty percent to the Capital Magnet Fund managed by Treasury. (§ 401)
6.2 Multifamily Business	No similar provision.	When the FMIC becomes operational, all of the multifamily guarantee business conducted by the GSEs is to be transferred, without cost, to the FMIC, and this business shall be supported by the full faith and credit of the U.S. (§ 601)
6.3 Multiple Lenders	Creditors for a junior lien must notify the holder of a senior lien. (§ 413)	Creditors who seek to place a junior lien on an eligible mortgage that has a LTV of 80% or more must obtain the prior approval of the senior creditor. (§ 602)
6.4 GAO Report on Full Privatization	No similar provision.	No later than 8 years after the date of enactment, the GAO must issue a report on the feasibility of fully privatizing the secondary mortgage market. (§ 603)
6.5 Fair Value Accounting	No similar provision.	The cost of the Mortgage Insurance Fund must be based on fair-value accrual accounting, not the FCRA.
6.6 Public Input on Standards	The PATH Act sets time limits for the issuance of standards by FHFA and directs the Utility to seek public input in developing standards. (§§ 322(l), 322(m))	No similar provision.

PART II: Comparison of FHA Reform Provisions in the PATH ACT (H.R. 2767) and S. 1376, "The FHA Solvency Act of 2013" (Johnson-Crapo)

Subject	PATH Act (H.R. 2767)	Johnson-Crapo (S. 1376)
1. Organization of independent FHA	Establishes FHA as a wholly owned government corporation, an independent agency of the U.S. (§ 211)	No similar provision.
1.1 Purposes of independent FHA	Purposes include (1) provide single-family homeowner ship to first-time homebuyers, LMI homebuyers, and those in areas subject to counter-cyclical markets or natural disasters, (2) affordable rental housing for LMI borrowers, and (3) mortgage insurance for residential health care facilities. (§ 212)	No similar provision.
1.2 Board of Directors	The FHA board of directors consists of 5 voting members and 2 non-voting members. The 5 voting members will be appointed by the President with the Advice and Consent of the Senate. Voting members must include at least one person with experience in mortgage finance and at least once person with experience in affordable housing. The non-voting members will be an individual appointed by the Secretary of HUD (to represent that Department) and an individual appointed by the Secretary of Agriculture (to represent the Rural Housing Service). The FHA board will elect a Chairperson from its members. (§ 214)	No similar provision.
1.3 Officers and personnel	Board to appoint President, Chief Risk Officer, and Chief Technology Officer. The Chief Risk Officer and Chief Technology Officer may report to Congress without review by Board of Directors. Salaries of employees shall be comparable to Ginnie Mae, OCC	No similar provision.

Subject	PATH Act (H.R. 2767)	Johnson-Crapo (S. 1376)
	and Federal Reserve Board salaries. (§ 215)	
1.4 Financial, Underwriting and Operations Systems	The FHA will develop financial, underwriting and operations systems to be used by both FHA and the RHS. (§ 216)	No similar provision.
1.5 Funding of salaries, expenses and claims	The FHA is self-funding, but may borrow from Treasury. (§ 220)	No similar provision.
1.6 GNMA Authority	GNMA to continue to guarantee principal and interest payments on GNMA securities backed by new FHA loans. Restrictions on GNMA guarantee fees are lifted. GNMA is also authorized to purchase interests in mortgage reinsurance products. (§ 291)	No similar provision.
1.7 Termination of HUD authority over FHA	No sooner than 2 years and not later than 5 years. (§§ 231, 281)	No similar provision.
1.8 Transition	Transition period for new FHA begins on date of enactment and ends no sooner than 2 years thereafter or (1) on date Director says it has ended with OMB agreement, or 5 years after enactment. All functions are transferred from HUD to new FHA, and old FHA is terminated. Employees of old FHA shall be transferred to new FHA and guaranteed same position, employee benefits and pay rate for 12 months. (§§ 281-89)	No similar provision.
2. Oversight of FHA		
2.1 Authority of FHFA Director	FHFA Director is the safety and soundness regulator for FHA and RHS.	No similar provision.
2.2 Budgets, Business Plans, Exams, Reports,	FHA must submit annually a budget and a business plan to Director in time for Director to include credit subsidy cost estimates in its report. FHA must submit	No similar provision.

Subject	**PATH Act (H.R. 2767)**	**Johnson-Crapo (S. 1376)**
Cost Estimates	any reports requested by Director, and Director may conduct examinations to assess safety and soundness. FHA shall reimburse FHFA for its costs in conducting its FHA responsibilities. (§§ 252-55)	
3. FHA Underwriting		
3.1 Underwriting standards	*Standards for eligible single-family mortgages:* (a) The mortgage amount shall not exceed: (i) 100 percent of the appraised value of the property; and (ii) the lesser of 115 % of the Area Median Home Price or 150% of the conforming GSE loan limit for the area. (b) Down payment for first-time home buyers is at least 3.5% and for others 5%. (c) Public Purpose: Mortgages must meet one of the following requirements: (i) first time homebuyer, (ii) be a borrower having an income less than 115% of the AMI or 150% of AMI in a high-cost area, (iii) be located in a counter-cyclical market, or (iv) be within a presidentially declared disaster area. (§ 232) (d) Residual Income: FHA may not insure single-family property unless mortgagor has sufficient residual income as provided through regulation by FHA. (§ 267)	*General Underwriting Standards:* Within 180 days after enactment, HUD Secretary shall promulgate underwriting standards that take into account (a) income, (b) employment, (c) monthly mortgage payment, (d) monthly payment on other loans, (e) monthly payment for mortgage related obligations, (f) other debt obligations, (g) DTI or residual income, (h) credit history, and (i) other factors the Secretary deems appropriate. (§ 6)
3.2 Foreclosures	*Lender Statement at Origination.* Lenders must provide borrowers with a statement at origination indicating percentage of insured mortgages with borrowers of characteristics similar to borrower and that have defaulted or been foreclosed upon. (§ 236)	No similar provision.

Subject	PATH Act (H.R. 2767)	Johnson-Crapo (S. 1376)
	1 Prior Foreclosure. FHA and RHS may not insure any mortgagor for a 7-year period after his mortgage has been foreclosed upon, although this may be waived in cases in which hardship (e.g., divorce, job loss, health problems, etc.) materially contributed to the default and foreclosure. (§ 261) *2 Prior Foreclosures* FHA may not insure a new mortgage if the individual has been subject to 2 prior foreclosures. (§ 262)	No similar provision. Same as House bill. (Vitter Amendment #7)
3.3 Affordability Requirements for Multifamily MI	FHA multifamily insurance should be used for LMI individuals. (§ 237)	No similar provision.
3.4 Eminent Domain	FHA and RHS may not insure mortgages that are within jurisdictions that have exercised power of eminent domain to seize a mortgage loan during preceding 120 months. (§ 266) *Note there is a drafting error in the text: the word "not" is mistakenly omitted from (a) but it is present in (b).*	No similar provision.
3.5 Resources Guide	FHA shall consolidate all origination and underwriting requirements in single manual. (§ 265)	HUD Secretary shall issue unified resource guide to inform lenders and servicers of the policies, processes and procedures applicable to insured mortgages. (§ 5)
4. Premiums, Risk-Sharing, Coverage		
4.1 Mortgage Insurance Premiums	Sets minimum annual premiums at .55 percent of the remaining insured principal balance. Premiums may be shared with entities that share risk with FHA. Premiums established to cover (1) costs of insurance, (2) all administrative costs for the FHA, (3) capital ratio required under MMIF, and (4) salaries and expenses for officers and personnel of FHA. The FHA	Sets minimum annual premiums at .55 per cent of loan balance. Up-front and annual caps increased by 50 basis points. Premiums reviewed annually and must cover expected risk to the fund and maintain mandated capital reserve ratios. Rules to be effective 6 months after enactment. (§ 2)

Subject	PATH Act (H.R. 2767)	Johnson-Crapo (S. 1376)
	is also authorized to establish a single payment model and a risk-based premium system. (§ 235)	
4.2 Risk-Sharing	2 years after enactment, FHA must enter into loan-level risk-sharing agreements on 10 percent of its new business, spread broadly among all categories of its business. It shall adopt standards qualifying entities to participate in such sharing. (§ 233)	No similar provision.
4.3 Limitation on Coverage	FHA insurance coverage shall be limited to a declining amount, starting with 90% of the loan amount 1 year after enactment, decreasing by 10% each year until the coverage is at 50% of the original loan amount. (§ 234)	No similar provision.
5. Lender Standards		
5.1 Lender Repurchase Requirement	FHA must require lenders to agree to repurchase any mortgage in which the mortgagor is in default with respect to the mortgagor's obligation to make payments under the mortgage for 60 or more consecutive days during the 6 month period beginning upon origination of the mortgage (subject to "hardship" cases). (§ 264)	No similar provision.
5.2 Indemnification by Lenders	If the FHA determines that the lender "knew or should have known" of a serious and material violation of FHA requirements by a borrower under the direct endorsement program or a loan insured pursuant to a delegation of authority, the FHA *may* require the lender to indemnify the FHA for any loss. If the FHA determines that fraud or material misrepresentation was involved, the FHA *must* require the lender to indemnify the FHA for the loss. The FHA will establish an appeals process for disputed claims. (§ 265)	HUD Secretary may seek indemnification under either lender insurance or direct endorser programs if loan has (a) material defect sufficient to have disqualified it from coverage, (b) becomes delinquent within 36 months of approval or endorsement, and (c) defaults. If fraudulent, no time limits on Secretary's claim unless the Secretary determines that the fraud was committed by third person and Mortgagee had implemented adequate quality controls. Regs on appeals and on public reporting or results to be promulgated. (§ 3)

Subject	PATH Act (H.R. 2767)	Johnson-Crapo (S. 1376)
5.3 Review of Lender Performance	No similar provision.	HUD Secretary shall review performance of lenders annually and compare them with performance of other lenders. Secretary may terminate lenders on national or other basis if performance presents unacceptable risk to the insurance funds. (§ 4)
6. MMI Fund		
6.1 Capital in MMI Fund	MMI Fund must maintain a 4% capital reserve ratio for loans FHA insures after passage of PATH Act. FHFA assess the ratio every quarter. A positive ratio below 4% classifies the fund as “undercapitalized.” If fund ratio is between 2and 4%, then FHA may not insure property in an amount exceeding 90% of the appraised value. If between 0 and 2%, limit is 80% of the appraised value. If ratio is negative, fund is “significantly undercapitalized” and FHFA Director may take a variety of severe enforcement actions, including (1) restricting growth of assets or liabilities, (2) terminating activities, (3) terminating agreements, (4) employing qualified employees reporting to Director, or (5) submitting detailed operating plan. A temporary plan for 18 months may be established in times of contraction in available credit throughout a significant portion of the U.S., a significant decline in housing prices in significant portion of the U.S., or significant contraction of capital throughout significant portion of the U.S. (§§ 256 – 260)	MMI Fund must attain a capital ratio of at least 3% within 10 years of date of enactment. If it fails to do so, or fails to meet benchmark ratios at key points during that 10 year period, then mandated reviews, reports to Congress, and corrective actions will be imposed, including capital restoration plans and premium surcharges which may escalate to as much as 30 basis points if the fund is critically undercapitalized. Levels of undercapitalization include “undercapitalized” (between 50 and 100% of benchmark); “significantly undercapitalized” (0 to 50% of benchmark), and “critically undercapitalized” (a negative capital ratio). If critically undercapitalized, changes in product lines, services, and underwriting criteria must be considered. (§ 7)
6.2 Chief Risk Officer	A Chief Risk Officer shall be appointed by the Board of Directors of FHA. (§ 215)	Position of Deputy Assistant Secretary and Chief Risk Officer is mandated. Task is to assess risk to the MMI Fund and ensure performance of insured mortgages. The default characteristics of mortgages insured by FHA shall be analyzed annually by the CRO. (§ 8)

Subject	PATH Act (H.R. 2767)	Johnson-Crapo (S. 1376)
6.3 Disclosure of Events	No similar provision.	If events occur subsequent of submission of report to Congress that would have altered the forecasts of the economic value of the MMI Fund or actuary's projections, Congress must be notified with an addendum to the report. (§ 9)
6.4 MMI Fund Shall be Stress Tested	No similar provision.	The MMI Fund shall be stress tested under scenarios developed by the Federal Reserve Board based on relevant assumptions used in the annual CCAR stress tests. (Vitter Amendment # 10)
6.5 Treasury Secretary Notification to Congress of Funding accounts	No similar provision.	Treasury Secretary shall notify Congress within 48 hours of funding of any HUD, FHA, or MMI Fund account established under section 202 of the NHA, and HUD Secretary must also notify them within 48 hours of receipt of such funds. HUD must include in any report required by law to be submitted to Congress to include the dollar amount of any amounts owed to Treasury Secretary. (Vitter/Colburn Amendment # 4)
7. Other		
7.1 Effective Date	Except for §§ 292, 293 and 295, the effective date of the Act shall be the end of the transition period in § 281. The transition period is 2-5 years, depending upon whether Director determines FHA is ready to begin operations prior to the 5 year date. (§ 296)	No similar provision.
7.2 GAO Study of Data Disclosures and FHA loan limits	No similar provision.	GAO must study HUD's disclosure of FHA data and make recommendations regarding the data. It must study the appropriate dollar amount limitations on maximum original principal of a mortgage that may be insured. (§ 10)
7.3 Mortgage Insurance for Hospitals	HUD Secretary must establish standards and limitations for FHA's hospital insurance program to ensure that a reasonable percentage of that coverage is provided to LMI populations. (§ 292)	No similar provision.

Subject	**PATH Act (H.R. 2767)**	**Johnson-Crapo (S. 1376)**
7.4 Home Equity Conversion Mortgage (HECM) Program	Repeals the HECM program 2 years after date of enactment (§ 293)	*Stabilizing the HECM Program.* When HUD issues mortgagee letter under HECM program, it must follow up with notice and comment rulemaking or mortgagee letters will be null and void 24 months after issuance. The HUD Secretary may mandate a set-aside or escrow when the Secretary determines that such action would mitigate the risk of loss to the Mortgage, the mortgagor, the program, or the MMIF. Fixed rate full draw products will be subject to elimination by rulemaking within one year. Other products will be the subjects of a report to the Banking committees to identify which ones have high default rates. (§ 11)
7.5 Finalize Seller Concessions Rule	No insurance may be issued if seller contributes more than the lesser of 3% of the sales price or the property’s appraised value. (§ 263)	Directs HUD to issue final rule on seller concessions within 90 days of enactment. (§ 12)
7.6 Transfer of Mortgage Servicing Duties	No similar provision.	Effective for mortgages insured after date of enactment, HUD Secretary may require servicer to enter into a subservicing agreement with a specialty servicer approved by the Secy. Rules promulgated by the Secretary must set forth the performance conditions that would warrant the use of the authority; require that they materially and adversely affect the Secretary’s ability to recover amounts owed; provide a reasonable amount of time for the servicer to rebut or correct the condition; limit the scope of use of the authority to mortgages that share similar characteristics; and permit the Secretary to apply more extensive programmatic discipline if during a 5 year period the servicer is subject to use of the authority 3 or more times. (Reed/Brown Amendment # 3)

PART III: Covered Bond Provisions in the PATH ACT (H.R. 2767)

(Note: There are no similar provisions in current Senate legislation)

Subject	PATH Act (H.R. 2767)
1. Definitions	
1.1 Definition of Covered Bond	A "covered bond" is a debt obligation issued by an eligible issuer, and that is collateralized by a *dynamic* pool of eligible assets, and is also backed by the issuer in the event the collateral is insufficient to repay the debt. In other words, the security holders have recourse against the issuer in addition to the protection afforded by the collateral. (§ 352)
1.2. Covered Bond Regulator	A covered bond regulator is the appropriate federal banking agency for the issuer, the Federal Reserve Board for any company subject to its supervision, and the Treasury Secretary for entities not subject to federal bank regulatory oversight. (§ 352)
1.3 Eligible Assets	A covered bond may be collateralized by a range of asset classes, including residential mortgages, commercial mortgages, public sector obligations, automobile loans, student loans, credit card loans, small business loans, and any other asset class designated by the Secretary of the Treasury. Eligible assets may not include delinquent loans, securities that are below a minimum required credit grade and assets that were not originated in compliance with supervisory or regulatory guidance. An asset will not qualify as an "eligible asset" if it is subject to a prior perfected security interest or perfect lien. The bill also provides that nothing in this subtitle affects the rights of prior lien holders. As passed by the Committee, the bill also provides that assets subject to a prior perfected security interest or lien are not transferred from the cover pool to the covered bond "estate" if the issuer defaults on its covered bond obligations. The change made in Committee is apparently intended to protect prior perfected lien holders, such as Federal Home Loan Banks. (§ 352)
1.4 Eligible Issuers	Eligible issuers include insured depository institutions (and subsidiaries thereof); bank and savings and loan holding companies; nonbank financial institutions subject to the supervision of the Federal Reserve Board, and any entity that is sponsored by one or more eligible issuers. (§ 352)
1.5 Substitute Asset	The term "substitute asset" means cash, obligations issued or guaranteed by the United States; obligations of Government corporations; overnight investment in Federal funds; and any other substitute asset designated by the Secretary of the Treasury in consultation with the covered bond regulators. Substitute assets also include obligations of Government Sponsored Enterprises of the

	"highest credit quality," but these assets can only make up 20 percent of the asset pool unless a larger amount is specifically approved by the covered bond regulator. (§ 352)
2. Covered Bond Program	
2.1 Establishment of Covered Bond Program	The Treasury Secretary, in consultation with the covered bond regulators, is to issue regulations to establish a covered bond program in the United States and standards for the issuance of such bonds. An eligible issuer may issue a covered bond if the issuance is approved by the appropriate covered bond regulator. (§ 353)
2.2 Cap on Covered Bonds	When an eligible issuer submits an application to issue a covered bond, the regulator for that institution will set a cap on the total amount of the institution's assets that may be used for covered bond purposes. (§ 353)
2.3 Registry	Treasury will have a public registry for the names of covered bond programs, the names of the issuers, and the amount of outstanding covered bonds issued under that program. (§ 353)
2.4 Over-Collateralization Requirements	Treasury will establish minimum over-collateralization requirements for covered bonds. Monthly reports must be submitted on the adequacy of the asset pool. An independent asset manager must be appointed to verify compliance with the over-collateralization requirement. If the asset pool fails to meet this requirement, and if the failure is not timely cured, the issuer will be deemed to be in default. (§ 353)
2.5 Default and Establishment of an "Estate"	*Establishment of an Estate.* If there is a default on the part of the issuer, an "estate" is automatically created by operation of law. The estate consists of the cover pool that secures the covered bonds, free and clear of any interest or claim of the issuer or any conservator, receiver or trustee in bankruptcy for the issuer or any other assets of the issuer. However, assets that are subject to a prior perfected security interest or lien are not released to the estate, but remain in the cover pool. *Use of Estate.* The estate is to be used to pay the covered bond obligations and related agreements. If the estate is insufficient, covered bond holders may also file an unsecured claim against the issuer. When the estate is established, a "residual interest" is given to the issuer representing the rights to any remainder in the estate following satisfaction of covered bond claims. The estate will be managed by a trustee appointed and supervised by the applicable covered bond regulator. *FDIC's Role.* If the FDIC is appointed conservator or receiver for the issuer before the creation of an estate for the covered bond holders, the FDIC will have 1 year to transfer the covered bond obligation and cover pool to another eligible issuer. During this 1 year period, the FDIC will

	continue to perform on the covered bond obligations until the transfer of the program to another eligible issuer, or until the FDIC issues a written notice electing to cease further performance. If the FDIC issues such a written notice (or fails to transfer the program within 1 year), an estate for the benefit of covered bond holders is immediately established by operation of law. If a conservator or receiver other than the FDIC is appointed for a covered bond issuer, an estate for the covered bond holders is immediately created by operation of law. (§ 354)
3. Other	
3.1 GAO Study	The GAO is required to conduct a study on whether the Federal Reserve Banks should be authorized to lend funds to an estate. A report is due six months after the date of enactment. (§ 354)
3.2 No Losses to Taxpayers or DIF	The bill states that "taxpayers shall bear no loses from the resolution of an estate." If the FDIC and the Treasury Secretary jointly determine that the deposit insurance fund incurred actual losses that are higher because of the existence of a covered bond program of a failed insured bank, the FDIC may use its assessment authority to recover an amount equal to those losses from other insured banks. (§ 354)
3.3 Securities Law Amendments	Covered bonds issued by any eligible issuer (including non-bank issuers) are to be treated as bank issued or guaranteed securities under Securities Act of 1933, the Investment Company Act, and the Trust Indenture Act. These bonds are not to be considered asset-backed securities under the Securities and Exchange Act of 1934. Each covered bond regulator is to adopt disclosure and reporting regulations. (§§ 355-56)
3.4 Tax Issues	Covered bond estates will not be subject to taxation under the Internal Revenue Code, but instead will be treated as a "disregarded entity" owned by the issuer. The Secretary of the Treasury may promulgate regulations to provide that the estate will not be subject to tax under State law. The bill imposes a new tax on any issuer when there is a default leading to the creation of a covered bond estate *prior* to the appointment of a conservator or receiver for the issuer. The new tax is equal to 1 percent of the covered bonds secured by the cover pool, and will be paid by the issuer. The tax will not affect the cover pool itself. If a receiver or conservator is appointed for the issuer within five years after the establishment of the estate, or if the issuer enters bankruptcy during this five year period, the tax will be refunded. (§ 356)

PART IV: Dodd-Frank Amendments in the PATH Act (H.R. 2767)

(**Note:** Except as noted below, there are no similar provisions in current Senate legislation)

Subject	H.R. 2767 (PATH Act)
1. Effective Date of Dodd-Frank Title XIV Rules	The Act removes the self-effectuating provision of Title XIV of Dodd-Frank and delays the effective date of the mortgage rules issued under Title XIV to be either 24 months after the issuance of the final rules (January 2015 for most rules) or such later time as specified by regulation. (§ 406)
2. Risk Retention Repealed	The Act repeals the credit risk retention provisions of Dodd-Frank (§ 941), and prohibits the federal banking agencies, the CFPB and SEC from issuing any rule requiring risk retention, premium capture cash reserve account, or any similar mechanism, unless directly authorized by statute. (§ 407) **Corker-Warner** exempts covered securities from risk retention (S. 1217, § 207(b); see Part I.3.4)
3. Points and Fees	The Act incorporates H.R. 1077 which amends the definition of "points and fees" (P&F) for purposes of the Qualified Mortgage (QM) and high-cost mortgage definitions. (§ 403) Loan level price adjustments set by the GSEs, FHA or a similar entity are excluded from P&F. Additionally, the following are excluded from P&F: (i) compensation paid by a mortgage originator or a creditor to an individual employed by the originator or creditor; (ii) escrow payments for required property insurance; and (iii) fees or premiums for title examination and title insurance. With regards to fees for preparation of loan-related documents, fees for notarizing deeds and other documents, appraisal fees and credit reports, those fees are included unless (i) the charge is reasonable; (ii) the creditor receives no direct or indirect compensation, except as retained by a creditor or its affiliate as a result of their participation in an affiliated business arrangement; and (iii) the charge is a bona fide third-party charge not retained by the mortgage originator, creditor, or an affiliate of the creditor or originator. *There is a potential conflict with clauses (ii) and (iii) as a creditor can retain compensation if it is part of an affiliated business arrangement but the charge also must be a bona fide third-party charge not retained by the originator, creditor or affiliate.* ***Conflicts between §§ 403 and 410:*** *There is a conflict with another provision of Title IV. This provision (§ 403) amends the points and fees provision in the Dodd-Frank Act. However, § 410 of the PATH Act repeals that entire section of the Dodd-Frank Act. These two sections of the PATH Act would need to be reconciled.*

Subject	H.R. 2767 (PATH Act)
4. Ability to Repay (ATR)	
4.1 Exemptions from ATR	Mortgages securitized through the Platform created under Title III are exempt from ATR. (§ 408) Under **Corker-Warner**, mortgages collateralizing covered securities must meet ATR (S. 1217, § 2(11); see Part I.3.5) Separately, loans held in a creditor's portfolio are exempt from ATR. (§ 409)
4.2 Defense to Foreclosure	The Act repeals the ability to use violations of ATR as a defense to foreclosure. (§ 410)
4.3 Definition of QM	The term of a QM cannot exceed 40 years (rather than the current 30 year limit). (§ 411) The limitations on prepayment penalties for QMs are eliminated. (§ 411)
5. Additional Amendments to TILA	
5.1 Changes for High-Cost Mortgages	The Act repeals the Dodd-Frank Act provision on the new thresholds for high-cost mortgages and the prohibition of balloon payments for high-cost mortgages. (§ 410) The Act clarifies that the pre-loan counseling required for high-cost mortgages may be performed online or through a telephone-operated counseling service approved or operated by HUD. (§ 411)
5.2 Right to Waive Certain Disclosures	The CFPB must prescribe rules and forms authorizing a consumer to modify or waive the right to receive certain disclosures three days before closing. (§ 411)
5.3 Single Premium Credit Insurance and Mandatory Arbitration	The Act eliminates the single premium credit insurance prohibition and the prohibition on mandatory arbitration. (§ 411)
5.4 Exemptions for Loans in Portfolio	Loans held in portfolio are exempt from the escrow account requirements for certain higher cost loans and the appraisal requirements for certain higher risk loans. (§ 409)
5.5 Appraisal Penalties	The Act eliminates civil penalties for failure to report an appraiser that is thought to be violating appraisal standards or regulatory requirements, or otherwise engaging in unethical or unprofessional conduct. (§ 411)
6. HMDA Exemptions for Portfolio Loans	Loans held in portfolio by the creditor are exempt from HMDA data requirements. Under the amendment, loans are only exempt if they are: (i) made by a mortgage banking subsidiary of a bank holding company or savings and loan holding company or by any savings and loan service corporation that originates or purchases mortgage loans; (ii) approved for FHA; **and** (iii) made by the creditor and kept on its balance sheet. *The language may need to be modified if the intent was to separately exempt*

Subject	H.R. 2767 (PATH Act)
	loans held in portfolio. (§ 409)
7. Notice of Junior Lien	If a borrower enters into a new mortgage or other lien on a property that is already securitized by a mortgage, the creditor of the new mortgage or lien must notify the servicer of the existing mortgage that this new mortgage or other lien exists. (§ 413) Under **Corker-Warner**, creditors who seek to place a junior lien on an eligible mortgage that has a LTV of 80% or more must obtain the prior approval of the senior creditor (S. 1217, § 602; see Part I.6.3)
8. Servicing Requirements	
8.1 Limitations on Mortgages Held by Loan Servicers	The Act prohibits a servicer of a residential mortgage (or its affiliate) from holding an interest in any other security interest on the same dwelling. Servicers have 12 months to comply with this requirement with regards to existing mortgage loans. (§ 414)
8.2 Small Servicer Exemption	The Act requires the CFPB to provide exemptions or adjustments for servicers that service 20,000 or fewer mortgage loans from requirements regarding: (i) the notice requirements when servicing is transferred; (ii) responding to borrower inquiries; (iii) escrow account payments; and (iv) force-placed insurance. (§ 415)
9. Examination Fairness and Reform	The Act incorporates H.R. 1553, making several amendments regarding examinations of financial institutions. (§ 412) *While the CFPB is a member of the FFIEC, the definition of a "federal financial institutions regulatory agency" does not include the CFPB. CFPB would need to be added to the definition of "federal financial institutions regulatory agency" for these provisions to apply to the CFPB.*
9.1 Timeliness of Exams	The Act amends the FFIEC Act and requires a federal financial institutions regulatory agency to provide a final examination report to a financial institution no later than 60 days after the later of the exit interview or the provision of additional information by the institution relating to the examination. An exit interview must occur no later than 9 months after the examination commenced, unless the agency extends that period by providing written notice to the institution and the Office of Examination Ombudsman describing with particularity the reasons that a longer period is needed to complete the exam. At the request of the financial institution, the agency must include with the final report an appendix listing all examination or other factual information relied upon by the agency in support of a material supervisory determination. (§ 412)

Subject	H.R. 2767 (PATH Act)
9.2 Exam Standards	The Act sets certain examination standards regarding commercial loans, and requires the federal financial regulatory agencies to develop and apply identical definitions and reporting requirements for non-accrual loans. (§ 412)
9.3 Exam Ombudsman	The Act also establishes an Examination Ombudsman which will be hired by the FFIEC and be independent from any member agency of the FFIEC. The Ombudsman would: (i) receive and, at its discretion, investigate complaints from financial institutions concerning examinations, examination practices or examination reports; (ii) hold meetings at least quarterly with financial institutions to discuss examinations; (iii) review examination procedures of the federal financial institutions regulatory agencies to ensure the written policies are being followed in practice and adhere to the FFIEC's standards for consistency; (iv) conduct a program of examination quality assurance; (v) process supervisory appeals; and (vi) report annually to Congress. The Ombudsman must keep all meetings, discussion and information provided by financial institutions confidential. (§ 412)
9.4 Right to Appeal	Finally, the Act gives a financial institution the right to appeal before an independent administrative law judge a material supervisory determination contained in a final report of examination and establishes a process for that appeal. (§ 412)
10. Basel III	
10.1 Study and Delay of Basel III Capital Rules	The Act requires the federal banking agencies to conduct an empirical study on the potential impact of the final capital rules issued by the federal banking agencies in early July. The final report of the study must be made available for notice and comment, and the federal banking agencies must consider comments received and prescribe new rules, if appropriate, based on the results of the study and the comments. The implementation date of the final capital rules is delayed until the later of: (i) two years after enactment of the PATH Act and (ii) 1 year after the promulgation of revised rules or a determination that no revised rules are needed. (§ 401)
10.2 Basel III Liquidity Coverage Ratio	The Act states that in implementing the Basel III liquidity coverage ratio amendments, the federal banking agencies may not require that residential mortgage-backed securities be collateralized only by (or be collateralized by a certain percentage of) full recourse mortgage loans. (§ 402)
11. Volcker Rule	The Volcker rule generally prohibits a banking organization from investing in or having an ownership interest in hedge funds or private equity funds. The Act states that this prohibition does not apply to an issuer of asset-backed securities. (§ 404)
12. Regulation AB Rulemaking	The Act provides that the SEC may not condition the availability of an exemption from section 5 the Securities Act of 1933 upon an issuer's agreement to provide investors the same information as would be required for non-exempt issuers under section 5. (§ 405)

PART V: Miscellaneous Provisions in the PATH Act (H.R. 2767)

(Note: There are no similar provisions in current Senate legislation.)

Subject	PATH Act (H.R. 2767)
1. Preserving Access to Manufactured Housing	Currently the term "mortgage originator" under the Truth-in-Lending Act does not include an employee of a retailer of manufactured homes who does not advise a consumer on loan terms. Under the bill the exemption is expanded to cover both manufactured homes and "modular homes," and would apply to both the retailer and to the retailer's employees. Further, the retailer and its employees could take a loan application, assist the consumer in obtaining a loan, and offer or negotiate loan terms, provided the retailer and its employees do not receive compensation in excess of any compensation that would be paid in a cash transaction. (§ 501)
2. Restriction on Loans Placed in Non-Accrual Status	Establishes conditions under which a non-accrual loan can be considered an accrual loan for purposes of determining capital of an insured depository institution. This does not apply to any institution that is an issuer of a security registered under section 12 of the Securities Exchange Act of 1934. This section sunset 2 years after enactment of the PATH Act. (§ 502)
3. Amendments to the Federal Home Loan Bank Act	*Annual Report on Collateral.* The FHFA Director is required to issue an annual report to Congress on the collateral pledged to the FHLBs, including an analysis of collateral by type and Bank district. The first report is due within 180 days of the date of enactment. *Community Investment or Service.* The bill repeals the requirement that FHLB members must meet standards of community investment or service in order to be eligible for long-term advances. The bill rewrites the existing provisions regarding the allocation of directorships among the States, without substantive change except with respect to a Bank that results from the combination of two or more FHLBs. *Management of Combined FHLBs.* Under the bill, if two or more FHLBs are combined, the management of the FHLB will be vested in a board of 15 directors, or such lesser number as the FHFA Director determines appropriate. The FHFA Director shall determine the required number of member and independent directorships such that member directors shall comprise at least the majority of the board, and independent directors shall comprise at least 40 percent of the board. The Director shall allocate the member directorships of a combined Bank among the States of the district based on the ratio of stock held by members in each State to the total amount of Bank stock outstanding. However, no State may be allocated more than two directorships until every State has at least one directorship. Further, if after the

	Director has allocated all but one of the member directorships there remains one or more States with no allocation, the Director shall allocate the remaining directorship to represent the members located in all States without an allocation. *Directorship Representing All States.* In the case of a directorship that has been designated as representing all States without a specific allocation, the directorship shall be filled by a person who is an officer or director of a member institution located in a State without an allocated directorship. Each member located in the States without an allocation shall be entitled to nominate an eligible person to fill the directorship. The member director will then be elected from the persons nominated by a plurality of the votes that the members in the unallocated States cast. *Existing Directors of Combined FHLBs.* When two or more Banks combine, the terms of existing directors who do not become directors of the newly combined Banks will terminate as of the date of the combination. The initial directors of the new Bank are chosen from among the incumbent directors of the predecessor Banks, and are designated by the Director of FHFA in the case of a mandated combination. In the case of a voluntary combination, the merging Banks will agree among themselves (with the approval of the Director) on which directors will remain after the combination. These directors will serve for the remainder of their term that they had with the predecessor Bank. Beginning with the first election of directors occurring after the combination, the Director of FHFA will adjust the term of any directorship as necessary to achieve and maintain the staggering of terms. (§§ 503, 511)
4. FHFA Amendments	*Confidential Information.* The submission of information to FHFA in the course of any supervisory or regulatory process does not waive any evidentiary privilege that may otherwise exist. (§ 504) *FFIEC.* The FHFA is added to the FFIEC liaison committee. (§ 505) *Enforcement Authority.* The FHFA is given enforcement authority with respect to violation of regulations governing automated valuation models used by the Enterprises or the FHLBs. (§ 506) *Right to Financial Privacy.* The restrictions contained in the Right to Financial Privacy Act do not apply to the FHFA in the exercise of its supervisory or regulatory functions, including conservatorship and receivership functions. (§ 507) *QM.* The FHFA is given the authority to define the characteristics of a "qualified mortgage" for

	mortgages that are owned or guaranteed by an entity regulated or supervised by FHFA. Equivalent authority is given to the Department of HUD, Department of Veterans Affairs, the Department of Agriculture and the Rural Housing Service with respect to mortgages owned by entities regulated or supervised by these departments and agencies. (§ 509) *Supervision of Contractors.* The FHFA is given the authority to examine and regulate contractors and others that perform services for the Enterprises, the FHLBs, or the Office of Finance. The Enterprises, the FHLBs and the Office of Finance must notify the FHFA of such service arrangements within 30 days of entering into a service contract or the performance of the service, whichever is earlier. (§ 510)