



**Our
Perspectives:**
Commentary on the economy & regulatory
policies affecting financial companies

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Another Approach to GSE Reform*

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It has been over seven years since Fannie Mae and Freddie Mac failed and were placed into conservatorship. During that time, both the Administration and the Congress have devoted significant amounts of attention and resources to proposals designed to end the conservatorship and establish a new framework for the secondary mortgage market. For many and various reasons, however, all of those proposals have faltered. In the interim, the two GSEs have started to generate positive earnings, and Congress has started to see those funds as potential offsets for spending programs. This creates an incentive for the permanent nationalization of the two GSEs, and the permanent exposure of taxpayers to the trillions in dollars of GSE obligations.

The proposal below is one possible way to avoid this result and break the impasse that has blocked action on GSE reform legislation. The proposal calls for the creation of a National Commission on Secondary Mortgage Market Reform, which would be charged with developing recommendations to end the conservatorship of Fannie Mae and Freddie Mac and propose a new framework for the secondary mortgage market that reduces the exposure of taxpayers and ensures a steady supply of reasonably priced mortgage credit to all borrowers in all economic cycles.

The Commission would be bi-partisan, composed of four members from the Administration and four members from Congress. The Commission would be given six months to submit its recommendations to the President and the Congress. This would give the Congress sufficient time to resolve this lingering problem before the next Presidential election.

*The information contained in this newsletter does not constitute legal advice. This newsletter is intended for educational and informational purposes only.

114TH CONGRESS

1ST SESSION

H. R. XXX

To establish a National Commission on Secondary Mortgage Market Reform.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 4, 2015

Mr. XXX introduced the following bill; which was referred to the Committee on Financial Services.

A BILL

To establish a National Commission on Secondary Mortgage Market Reform.

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

SEC. 1. SHORT TITLE. —

This Act may be cited as the “National Commission on Secondary Mortgage Market Reform Act of 2015.”

SEC. 2. FINDINGS AND PURPOSE. —

(a) FINDINGS. —

(1) The secondary market for mortgages facilitates a steady supply of mortgage credit for homebuyers by enabling mortgage lenders to sell mortgages to investors and free capital to support new mortgage lending.

(2) National Mortgage Corporation (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”) were chartered by Congress as government sponsored enterprises (“GSEs”) and given special privileges and obligations to support the secondary mortgage market through the purchase of mortgage loans from mortgage lenders, including mortgages for low- and moderate-income families;

(3) In addition to purchasing mortgages, Fannie Mae and Freddie Mac expanded the availability of mortgage credit by pooling the mortgages they purchased into mortgage-backed securities, selling those securities to investors, and guaranteeing the performance of those securities;

(4) In 2008, at the height of the financial crisis, Fannie Mae and Freddie Mac were declared insolvent as a result of mortgage delinquencies and portfolio losses, and the two GSEs were placed into conservatorship under the control of the Federal Housing Finance Agency;

(5) In conjunction with the conservatorship of the GSEs, the Treasury Department has provided Fannie Mae and Freddie Mac with over \$187 billion in financial support to enable them

to continue to purchase and securitize mortgage loans;

(6) Today, some seven years after the financial crisis, Fannie Mae and Freddie Mac remain in conservatorship, and taxpayers are responsible for their obligations, which exceed \$5 trillion.

(b) **PURPOSE.** — It is the purpose of this Act to establish a national commission to develop recommendations for ending the conservatorship of Fannie Mae and Freddie Mac and establishing a new framework for the secondary mortgage market that reduces the exposure of taxpayers and ensures a steady flow of reasonably priced mortgage credit for all borrowers in all economic cycles.

SEC. 3. ESTABLISHMENT OF COMMISSION. —

(a) **ESTABLISHMENT.** — There is established the National Commission on Secondary Mortgage Market Reform (the “Commission”).

(b) **MEMBERSHIP.** — The Commission shall be comprised of eight members, as follows:

(1) The Secretary of the Treasury, who shall serve as the Chair of the Commission;

(2) The Secretary of Housing and Urban Affairs;

(3) The Director of the Federal Housing Finance Agency;

(4) The President of the Government National Mortgage Association;

(5) Two members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(6) Two members of the Senate appointed by the Majority Leader of the Senate.

(c) **COMPENSATION.** — The members of the Commission shall serve without compensation in addition to that received for their services as officers of the United States government or Members of Congress.

(d) **QUORUM.** — A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(e) **ADMINISTRATIVE AND PROCEDURAL AUTHORITIES.** — The following provisions of law do not apply to the Commission:

(1) Section 3161 of title 5, United States Code; and

(2) The Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 4. DUTIES OF THE COMMISSION. —

(a) **IN GENERAL.** — The Commission shall undertake a review of the structure and functions of Fannie Mae and Freddie Mac in order to develop recommendations for ending the conservatorship of the two GSEs and establishing a new framework for the secondary mortgage market that reduces the exposure of taxpayers and ensures a steady supply of reasonably priced mortgage credit for all borrowers in all economic cycles.

(b) **CONSIDERATIONS.** — In developing its recommendations, the Commission shall consider the following factors:

(1) The costs and benefits of an explicit back-stop government guarantee for mortgage-backed securities including —

(A) the exposure of taxpayers under such a guarantee;

(B) the ability of the private sector to assume the performance risk on mortgage-backed securities; and

(C) the volume and price of mortgage credit with and without an explicit back-stop federal guarantee on mortgage-backed securities;

(2) The ability of the housing finance market to support multiple entities which guarantee mortgage-backed securities (“guarantors”);

(3) The appropriate level of capital for guarantors;

(4) The potential for securitization structures to act as substitutes for guarantors, and the appropriate level of capital or risk retention in such structures;

(5) The ability of guarantors and securitization structures to ensure a stable flow of mortgage credit to all borrowers, including borrowers located in rural and low-income census tracts, and low- and moderate-income families, in all economic cycles;

(6) Access to the secondary mortgage market by mortgage originators of all sizes and characters;

(7) The governance structure and regulation of Fannie Mae, Freddie Mac, and any successor guarantors; and

(8) The statutory loan limits applicable to mortgages purchased by Fannie Mae and Freddie Mac and the relationship between those limits and the loan limits applicable to mortgages insured by the Federal Housing Administration.

(c) **REPORT.** — The Commission shall report its recommendations to the President and the Congress not later than March 31, 2016.

SEC. 5. POWERS. —

(a) **HEARINGS.** — The Commission may hold such hearings at such times and places as it deems advisable to carry out its duties under this Act.

(b) **INFORMATION FROM FEDERAL AGENCIES.** — The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under this Act. Upon the request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) **PERSONNEL.** — Any Federal Government employee may be detailed to the Commission without reimbursement, and such details shall be without interruption or loss of civil service status or privilege.

(d) ADMINISTRATIVE EXPENSES. — The Commission may incur administrative expenses in connection with its duties under this Act. All such expenses will be covered by the payments provided to the Treasury Department by Fannie Mae and Freddie Mac pursuant to Senior Preferred Stock Purchase Agreements between the Treasury Department and Fannie Mae and Freddie Mac.

SEC. 6. TERMINATION. — The Commission shall terminate 90 days after the date on which the Commission submits its report under Section 4.

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