

GSE Reform Makes Progress in House

By Michael J. Novogradac, CPA

With the U.S. House of Representatives' passage on May 22 of the GSE reform bill, the affordable housing industry is one step closer to witnessing the realization of an off-budget, non-taxpayer financed affordable housing fund for very low- and extremely low-income families, which will pour \$600 million annually into market segments that Fannie Mae and Freddie Mac had not reached previously. The measure, which would sunset in five years, includes a provision that would allow the funds to be transitioned into a future National Housing Trust fund.

The affordable housing fund would be supported by a percentage of the government-sponsored enterprises' (GSEs) investment portfolio rather than their profits. During the first year of the fund, the money would be used exclusively to rebuild Gulf Coast areas devastated by Hurricane Katrina. For the remaining four years, the money would be allocated to states for housing programs for the disadvantaged.

In approving H.R. 1427, the Federal Housing Finance Reform Act of 2007, the House adopted changes to how the federal government oversees Fannie Mae and Freddie Mac and the 12 Federal Home Loan Banks. The measure was approved on a 312-104 bipartisan vote.

The bill is now with the Senate Committee on Banking, Housing and Urban Affairs.

A Little History

H.R. 1427 is the product of both bipartisan legislation in the 109th Congress and careful discussions and compromise with the Department of Treasury. The bill comes after a series of deliberations in the House under an open rule, a committee process that considered more than 30 amendments and legislative hearings on GSE reforms and proposals, where regulators and expert witnesses testified before both the Financial Services Committee and the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

H.R. 1427

The resulting bill, introduced originally by

House Committee on Financial Services chairman Barney Frank, D-Mass., and Reps. Richard Baker, R-La., Mel Watt, D-N.C., and Gary Miller, R-Calif., will overhaul the regulatory oversight of the GSEs and create a new, independent regulator that will have broad powers analogous to current banking regulators.

Under the new legislation, oversight of the GSEs would be transferred from the Department of Housing and Urban Development (HUD) to the new regulator, which would have increased control over the GSEs' portfolios and capital requirements. Fannie Mae's and Freddie Mac's combined portfolio is \$1.4 trillion and their required reserves as of December 31, 2006 were, according to the Office of Federal Housing Enterprise Oversight (OFHEO), adequately capitalized.

Among other things, according to the National Multi Housing Council, the bill tightens Fannie Mae's and Freddie Mac's affordable housing goals by counting only mortgages purchased on homes or rental units that are affordable to families making 80 percent or less of area median income, down from 100 percent. "This will likely increase the GSEs' incentives to expand their multifamily lending, which already accounts for approximately 30 percent of their qualified affordable activities," the organization noted.

"This is a great step forward in a long-standing effort to build a stronger wall between the trillion-dollar liabilities of these financial giants and the taxpayers' pockets," said Baker. He voiced disappointment on an amendment that he said weakened the regulator's authority over the companies' investment portfolios but said he voted for passage of the bill to keep the process moving. "I will work with the White House, the Treasury, members of the Senate and Chairman Frank and others in the House to improve the final legislation," he said.

Watt said the bill would provide a big stimulus for more affordable housing while Miller praised the GSEs' leadership in creating affordable housing opportunities for American families and noted that

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the bill would ensure that leadership would continue.

“The comprehensive GSE reform bill offers a sound regulatory solution for our secondary market institutions that would safeguard and strengthen their financial health while simultaneously supporting their ability to fulfill their housing-mission activities,” said Jerry Howard, executive vice president and CEO of the National Association of Home Builders (NAHB). Before the measure was passed, NAHB had designated passage of the bill as a “key vote” and sent a letter to every representative urging them to support the bill.

In other key votes designated by NAHB, three amendments that would have restricted GSE portfolios, eliminated the affordable housing fund and prevented conforming loan limits from being raised in high-cost areas were defeated or withdrawn.

“This is a major first step toward the establishment of a National Housing Trust Fund. Finally, a solution to the housing crisis is in sight for many elderly and disabled people on fixed incomes and low wage workers who cannot afford to rent a decent home in today’s market,” said Sheila Crowley, president of the National Low Income Housing Coalition (NLIHC).

NLIHC and more than 5,600 endorsers have joined in a campaign to establish a National Housing Trust Fund. The National Housing Trust Fund Campaign is advocating for a National Housing Trust Fund that would support the production, rehabilitation and preservation of 1.5 million rental homes over 10 years, at least 75 percent of which will be affordable to extremely low income families.

Grounds for Debate

On an amendment offered by Reps. Randy Neugebauer, R-Texas, Melissa Bean, D-Ill., Dennis Moore, D-Kan., and Gary Miller, R-Calif., lawmakers overwhelmingly approved a revision that would clarify that a new regulator must base its evaluation on the risk of Fannie Mae’s and Freddie Mac’s portfolio holdings solely on mission, and safety and soundness considerations rather than comparing them to the broader market. The Bush Administration has voiced concern

on this amendment and suggests that its support of the legislation may be tenuous because of its passage. A White House statement says the regulator should be able to take into account whether the portfolios pose a risk to the larger financial system.

“Regretfully, the House significantly weakened the regulator’s abilities to examine systemic risk issues,” said Robert K. Steel, Treasury under secretary for Domestic Finance. “Additionally, we remain troubled by the provisions relating to conforming loan limits, the federal government’s appointment of directors and aspects of the affordable housing fund.” Senate Republicans oppose the provision in the House bill that would require the GSEs to fund an affordable housing trust fund at 0.012 percent of the prior year’s mortgage portfolios.

Steel added that as a result of the amendments adopted on the floor, Treasury does not believe the bill adequately guards the financial system with the necessary oversight. “We look forward to working with the Senate to address reforms critical to the safety and soundness of the U.S. financial system,” he said.

Other Provisions

H.R. 1427 gives the new regulator latitude to adjust minimum capital requirements based on issues related to the safety and soundness of the GSEs. Temporary increases would be reviewed regularly and rescinded once the issues that led to them are resolved or no longer exist.

The bill allows the conforming loan limit in high cost areas to be equal to the median home price up to 150 percent of the national loan limit. This provision recognizes that special consideration should be given to mortgage borrowers who live in areas that have relatively high housing prices.

The structure of the new GSE regulator is fashioned in a way that incorporates a housing focus by establishing a deputy director for mission oversight for all the housing GSEs.

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Conclusion

While some of its provisions remain somewhat controversial, H.R. 1427 builds on the significant work done in the last two Congresses to create a strong and independent regulator with broad supervisory powers. The affordable housing industry must monitor the bill's progress and press the Senate to pass a well-crafted bill that will further enhance the nation's confidence in the GSEs as well as safeguard and strengthen their financial health while adequately addressing the very real and very critical housing needs of the nation. ❖