

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 2d Sess.

S. 1217

To provide secondary mortgage market reform, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Housing Finance Reform and Taxpayer Protection Act
6 of 2014”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—ELIMINATION OF FANNIE MAE AND FREDDIE MAC

Sec. 101. Elimination of Fannie Mae and Freddie Mac.

TITLE II—FEDERAL MORTGAGE INSURANCE CORPORATION

Sec. 201. Establishment.

2

- Sec. 202. Management of Corporation.
- Sec. 203. Advisory Committee.
- Sec. 204. Office of the Inspector General.
- Sec. 205. Staff, experts, and consultants.
- Sec. 206. Reports; testimony; audits.
- Sec. 207. Specific offices.
- Sec. 208. Office of Consumer and Market Access.
- Sec. 209. Office of Multifamily Housing.
- Sec. 210. Equitable access for lenders and borrowers.

TITLE III—DUTIES AND RESPONSIBILITIES OF THE FMIC

Subtitle A—Duties and Authorities

- Sec. 301. Duties and responsibilities.
- Sec. 302. Standards for credit risk-sharing mechanisms.
- Sec. 303. Insurance; Mortgage Insurance Fund.
- Sec. 304. Loan limits; Housing Price Index.
- Sec. 305. Authority to protect taxpayers in unusual and exigent market conditions.
- Sec. 306. General powers.
- Sec. 307. Exemptions.
- Sec. 308. Regulatory consultation and coordination.
- Sec. 309. Authority to issue regulations.
- Sec. 310. Equivalency in protection of the Mortgage Insurance Fund.

Subtitle B—Approval and Supervision of Approved Entities for Single-family Activities

- Sec. 311. Approval and supervision of guarantors.
- Sec. 312. Approval and supervision of aggregators.
- Sec. 313. Approval of private mortgage insurers.
- Sec. 314. Approval of servicers.
- Sec. 315. Authority to establish and approve small lender mutuals.
- Sec. 316. Supervisory actions related to capital and solvency.
- Sec. 317. Acquisitions and operations of covered entities.

Subtitle C—Securitization Platform and Transparency in Market Operations

PART I—SECURITIZATION PLATFORM

- Sec. 321. Establishment of the Securitization Platform.
- Sec. 322. Management of the Platform.
- Sec. 323. Membership in the Platform.
- Sec. 324. Fees.
- Sec. 325. Purposes and obligations of the Platform.
- Sec. 326. Uniform securitization agreements for covered securities and required contractual terms for noncovered securities.
- Sec. 327. Approval and standards for collateral risk managers.

PART II—TRANSPARENCY IN MARKET OPERATIONS

- Sec. 331. Review of loan documents; disclosures.
- Sec. 332. Investor immunity.
- Sec. 333. National mortgage database.
- Sec. 334. Working group on electronic registration of mortgage loans.
- Sec. 335. Multiple lender issues.

- Sec. 336. Required harmonization of standards within eligible mortgage criteria.

TITLE IV—FHFA AND FMIC TRANSITION

- Sec. 401. Definitions.
Sec. 402. FHFA transition.
Sec. 403. Transfer and rights of employees of the FHFA.
Sec. 404. Transition Committee.
Sec. 405. Transition assessments.
Sec. 406. Transfer of powers and duties on the system certification date; continuation and coordination of certain actions.
Sec. 407. Technical and conforming amendments relating to abolishment of FHFA.
Sec. 408. Repeal of mandatory housing goals.

TITLE V—IMPROVING TRANSPARENCY, ACCOUNTABILITY, AND EFFICACY WITHIN AFFORDABLE HOUSING

- Sec. 501. Affordable housing allocations.
Sec. 502. Housing Trust Fund.
Sec. 503. Capital Magnet Fund.
Sec. 504. Market Access Fund.
Sec. 505. Additional taxpayer protections.

TITLE VI—TRANSITION AND TERMINATION OF FANNIE MAE AND FREDDIE MAC

- Sec. 601. Minimum housing finance system criteria to be met prior to system certification date.
Sec. 602. Transition of the housing finance system.
Sec. 603. Resolution authority; technical amendments.
Sec. 604. Wind down.
Sec. 605. Portfolio reduction.
Sec. 606. Oversight of transition of the housing finance system.
Sec. 607. Authority to establish provisional standards.
Sec. 608. Initial fund level for the Mortgage Insurance Fund.
Sec. 609. GAO report on full privatization of secondary mortgage market.

TITLE VII—MULTIFAMILY

- Sec. 701. Establishment of multifamily subsidiaries.
Sec. 702. Disposition of multifamily businesses.
Sec. 703. Approval and supervision of multifamily guarantors.
Sec. 704. Multifamily housing requirement.
Sec. 705. Establishment of small multifamily property program.
Sec. 706. Multifamily housing study.
Sec. 707. Multifamily platform study.

TITLE VIII—GENERAL PROVISIONS

- Sec. 801. Rule of construction.
Sec. 802. Severability.
Sec. 803. Transfer notification under TILA.
Sec. 804. Determination of budgetary effects.

1 **SEC. 2. DEFINITIONS.**

2 As used in this Act, the following definitions shall
3 apply:

4 (1) **AFFILIATE.**—The term “affiliate” means
5 any person that controls, is controlled by, or is
6 under common control with another person.

7 (2) **AFFORDABLE RENTAL HOUSING.**—The term
8 “affordable rental housing” means a rental housing
9 unit that is considered affordable for extremely low-
10 , very low-, low-, and moderate-income families if the
11 rent charged, including utilities or a utility allow-
12 ance, does not exceed 30 percent of the respective
13 income limit in that market area for extremely low-
14 , very low-, low-, or moderate-income families, re-
15 spectively, of the size appropriate for the number of
16 bedrooms in the unit, as established by the Secretary
17 of Housing and Urban Development.

18 (3) **AGENCY TRANSFER DATE.**—The term
19 “agency transfer date” means the date that is 6
20 months after the date of enactment of this Act.

21 (4) **APPROPRIATE FEDERAL BANKING AGEN-**
22 **CY.**—The term “appropriate Federal banking agen-
23 cy” has the same meaning as in section 3(q) of the
24 Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

1 (5) APPROVED AGGREGATOR.—The term “ap-
2 proved aggregator” means an entity that is approved
3 by the Corporation pursuant to section 312.

4 (6) APPROVED ENTITY.—The term “approved
5 entity” means—

6 (A) an approved guarantor;

7 (B) an approved multifamily guarantor;

8 (C) an approved aggregator;

9 (D) an approved private mortgage insurer;

10 and

11 (E) an approved servicer.

12 (7) APPROVED GUARANTOR.—The term “ap-
13 proved guarantor” means an entity that is approved
14 by the Corporation pursuant to section 311.

15 (8) APPROVED MULTIFAMILY GUARANTOR.—
16 The term “approved multifamily guarantor” means
17 an entity that is approved by the Corporation pursu-
18 ant to section 703.

19 (9) APPROVED PRIVATE MORTGAGE INSURER.—
20 The term “approved private mortgage insurer”
21 means an entity that is approved by the Corporation
22 pursuant to section 313.

23 (10) APPROVED SERVICER.—The term “ap-
24 proved servicer” means an entity that is approved by
25 the Corporation pursuant to section 314.

1 (11) AREA.—The term “area” means a metro-
2 politan statistical area, a micropolitan statistical
3 area, and a noncore area, as such areas may be es-
4 tablished by the Office of Management and Budget.

5 (12) BOARD; BOARD OF DIRECTORS.—The
6 terms “Board” and “Board of Directors” mean the
7 Board of Directors of the Federal Mortgage Insur-
8 ance Corporation, unless the context otherwise re-
9 quires.

10 (13) CHAIRPERSON.—The term “Chair-
11 person”—means the Chairperson of Board of Direc-
12 tors of the Federal Mortgage Insurance Corporation,
13 unless the context otherwise requires.

14 (14) CHARTER.—The term “charter” means—

15 (A) with respect to the Federal National
16 Mortgage Association, the Federal National
17 Mortgage Association Charter Act (12 U.S.C.
18 1716 et seq.); and

19 (B) with respect to the Federal Home
20 Loan Mortgage Corporation, the Federal Home
21 Loan Mortgage Corporation Act (12 U.S.C.
22 1451 et seq.).

23 (15) COMMUNITY DEVELOPMENT FINANCIAL IN-
24 STITUTION.—The term “Community Development
25 Financial Institution” has the same meaning as in

1 section 103 of the Riegle Community Development
2 and Regulatory Improvement Act of 1994 (12
3 U.S.C. 4702).

4 (16) COMMUNITY LAND TRUST.—The term
5 “community land trust” means a nonprofit organiza-
6 tion or State or local government that owns real
7 property and leases the land through homeownership
8 programs that—

9 (A) use a ground lease to—

10 (i) make real property affordable to
11 low- or moderate-income borrowers; and

12 (ii) stipulate a preemptive option to
13 purchase the real property from the home
14 owner at resale so that the affordability of
15 the real property is preserved for succes-
16 sive low- and moderate-income borrowers;

17 (B) monitor properties to ensure afford-
18 ability is preserved over resales; and

19 (C) support homeowners to promote suc-
20 cessful homeownership and prevent foreclosure.

21 (17) CORPORATION.—The term “Corporation”
22 means the Federal Mortgage Insurance Corporation
23 established under title II.

24 (18) COVERED ENTITY.—The term “covered
25 entity” means—

1 (A) an approved guarantor;

2 (B) an approved multifamily guarantor;

3 and

4 (C) an approved aggregator that is neither
5 an insured depository institution nor an affiliate
6 of an insured depository institution.

7 (19) COVERED GUARANTEE TRANSACTION.—

8 (A) DEFINITION.—The term “covered
9 guarantee transaction” means a transaction, as
10 that term shall be defined by the Corporation
11 by regulation, involving the guarantee on—

12 (i) any eligible mortgage loan;

13 (ii) any pool of such eligible mortgage
14 loans; or

15 (iii) the payment of principal and in-
16 terest on covered securities collateralized
17 by eligible mortgage loans before being in-
18 sured by the Corporation.

19 (B) RULES OF CONSTRUCTION.—A covered
20 guarantee transaction—

21 (i) shall not be construed to be—

22 (I) a contract of sale of a com-
23 modity for future delivery or a swap
24 under the Commodity Exchange Act;

25 or

1 (II) a contract of insurance or re-
2 insurance under any Federal or State
3 law regulating the sale, underwriting,
4 provision, or brokerage of insurance;

5 (ii) shall not be subject to any re-
6 quirement of Commodity Exchange Act;
7 and

8 (iii) shall not be subject to any re-
9 quirement imposed under State law per-
10 taining to the sale, underwriting, provision,
11 or brokerage of insurance or reinsurance.

12 (20) COVERED MARKET-BASED RISK-SHARING
13 TRANSACTION.—

14 (A) DEFINITION.—The term “covered
15 market-based risk-sharing transaction” means
16 any private market transaction, as that term
17 shall be defined by the Corporation by regula-
18 tion, involving a covered security issued subject
19 to a standard risk-sharing mechanism, product,
20 contract, or other security agreement approved
21 by the Corporation under section 302.

22 (B) RULES OF CONSTRUCTION.—A covered
23 market-based risk-sharing transaction—

24 (i) shall not be construed to be a con-
25 tract of insurance or reinsurance under

1 any Federal or State law regulating the
2 sale, underwriting, provision, or brokerage
3 of insurance; and

4 (ii) shall not be subject to any re-
5 quirement imposed under State law per-
6 taining to the sale, underwriting, provision,
7 or brokerage of insurance or reinsurance.

8 (21) COVERED SECURITY.—The term “covered
9 security” means—

10 (A) a single-family covered security; and

11 (B) a multifamily covered security.

12 (22) CREDIT RISK-SHARING MECHANISM.—The
13 term “credit risk-sharing mechanism” means any
14 mechanism, product, structure, contract, or security
15 agreement by which a private market holder as-
16 sumes the first loss position, or any part of such po-
17 sition, associated with the pool of eligible mortgage
18 loans collateralizing a covered security, or by which
19 an approved guarantor or approved multifamily
20 guarantor manages the credit risk related to guaran-
21 tees provided for covered securities.

22 (23) CSP.—The term “CSP” means the
23 securitization infrastructure announced by the Fed-
24 eral Housing Finance Agency on October 4, 2012,
25 and developed by the enterprises while under con-

1 servatorship, under the authority of the Federal
2 Housing Finance Agency pursuant to the Safety and
3 Soundness Act, and commonly referred to as the
4 “common securitization platform”.

5 (24) DAYS.—The term “days” means—

6 (A) with respect to any period of time less
7 than or equal to 10 days, business days; and

8 (B) with respect to any period of time
9 greater than 10 days, calendar days.

10 (25) DEPOSITORY INSTITUTION HOLDING COM-
11 PANY.—The term “depository institution holding
12 company” has the same meaning as section 3(w)(1)
13 of the Federal Deposit Insurance Act (12 U.S.C.
14 1813(w)(1)).

15 (26) ELIGIBLE BORROWER.—The term “eligible
16 borrower” means a borrower who—

17 (A) applies for an eligible mortgage loan;
18 and

19 (B) meets the standards required of a bor-
20 rower to be approved for an eligible mortgage
21 loan.

22 (27) ELIGIBLE MORTGAGE LOAN.—The term
23 “eligible mortgage loan” means—

24 (A) an eligible single-family mortgage loan;
25 and

1 (B) an eligible multifamily mortgage loan.

2 (28) ELIGIBLE MULTIFAMILY MORTGAGE

3 LOAN.—The term “eligible multifamily mortgage

4 loan” means a commercial real estate loan—

5 (A) secured by a property with—

6 (i) 5 or more residential units; or

7 (ii) 2 or more residential units, if the

8 requirement under clause (i) is waived by

9 the Corporation for purposes of carrying

10 out a demonstration or pilot program;

11 (B) the primary source of repayment for

12 which is expected to be derived from rental in-

13 come generated by the property;

14 (C) the term of which may not be less than

15 5 years but not more than 40 years;

16 (D) that satisfies any additional under-

17 writing criteria established by the Corporation

18 to balance supporting access to capital with

19 managing credit risk to the Mortgage Insurance

20 Fund, including—

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

22 (ii) a minimum debt service coverage

23 ratio; and

24 (iii) considerations for restrictive or

25 special uses of a property, including non-

1 residential uses, properties for seniors,
2 manufactured housing, and affordability
3 restrictions, and the impact of such uses
4 on clauses (i) and (ii); and

5 (E) that satisfies any additional under-
6 writing criteria that may be established by the
7 Corporation.

8 (29) ELIGIBLE SINGLE-FAMILY MORTGAGE
9 LOAN.—The term “eligible single-family mortgage
10 loan” means—

11 (A) a loan that—

12 (i) has been originated in compliance
13 with minimum standards issued by the
14 Corporation by regulation, provided that
15 such standards—

16 (I) are uniform and equal in
17 kind, nature, and application regard-
18 less of—

19 (aa) the originator of the
20 mortgage loan; or

21 (bb) the role performed by
22 an approved entity with respect
23 to the mortgage loan;

24 (II) are, to the greatest extent
25 possible, substantially similar to the

14

1 regulations issued by the Bureau of
2 Consumer Financial Protection under
3 section 129C(b) of the Truth in Lend-
4 ing Act (15 U.S.C. 1639c); and

5 (III) permit—

6 (aa) residential real estate
7 loans secured by a property with
8 1 to 4 single-family units, includ-
9 ing units that are not owner-oc-
10 cupied;

11 (bb) loans secured by manu-
12 factured homes, as defined by
13 section 603(6) of the National
14 Manufactured Housing Construc-
15 tion and Safety Standards Act of
16 1974 (42 U.S.C. 5402(6));

17 (cc) residential real estate
18 loans secured by a property with
19 1 to 4 single-family units that
20 are originated by a State housing
21 finance agency, as defined in sec-
22 tion 106 of the Housing and
23 Urban Development Act of 1968
24 (12 U.S.C. 1701x);

1 (dd) loans originated by a
2 Community Development Finan-
3 cial Institution;

4 (ee) loans originated by a
5 mission-based non-profit lender;
6 and

7 (ff) loans secured by real
8 property in a permanently afford-
9 able homeownership program or
10 community land trust;

11 (ii) has a maximum original principal
12 obligation amount that does not exceed the
13 applicable loan limitation established under
14 section 304;

15 (iii) has an outstanding principal bal-
16 ance at the time of purchase of insurance
17 available under title II that does not ex-
18 ceed 80 percent of the value of the prop-
19 erty securing the loan, unless—

20 (I) for such period and under
21 such circumstances as the Corporation
22 may require, the seller agrees to re-
23 purchase or replace the loan upon de-
24 mand of the Corporation in the event
25 the loan is in default;

16

1 (II) an approved private mort-
2 gage insurer guarantees or insures—

3 (aa) not less than 12 per-
4 cent of the unpaid principal bal-
5 ance of the loan, accounting for
6 any down payment required
7 under subparagraph (D), for
8 loans in which the unpaid prin-
9 cipal balance exceeds 80 percent
10 but not more than 85 percent of
11 the value of the property securing
12 the loan;

13 (bb) not less than 25 per-
14 cent of the unpaid principal bal-
15 ance of the loan, accounting for
16 any down payment required
17 under subparagraph (D), for
18 loans in which the unpaid prin-
19 cipal balance exceeds 85 percent
20 but not more than 90 percent of
21 the value of the property securing
22 the loan; and

23 (cc) not less than 30 percent
24 of the unpaid principal balance of
25 the loan, accounting for any

17

1 down payment required under
2 subparagraph (D), for loans in
3 which the unpaid principal bal-
4 ance exceeds 90 percent of the
5 value of the property securing the
6 loan; or

7 (III) that portion of the unpaid
8 principal balance of the loan which ex-
9 ceeds 80 percent of the value of the
10 property securing the loan is subject
11 to other credit enhancement that—

12 (aa) meets standards com-
13 parable to the standards required
14 of private mortgage insurers
15 under clause (ii); and

16 (bb) is approved by the Cor-
17 poration;

18 (iv) has a down payment that is—

19 (I) for a first-time homebuyer, as
20 that term shall be defined by the Cor-
21 poration by regulation, equal to not
22 less than 3.5 percent of the purchase
23 price of the property securing the
24 loan; or

18

1 (II) for non first-time home-
2 buyers, equal to—

3 (aa) not less than 3.5 per-
4 cent of the purchase price of the
5 property securing the loan, if
6 such purchase occurs prior to the
7 system certification date or less
8 than 1 year after the system cer-
9 tification date;

10 (bb) not less than 4 percent
11 of the purchase price of the prop-
12 erty securing the loan, if such
13 purchase occurs during the pe-
14 riod that begins 1 year after the
15 system certification date and
16 ends less than 2 years after the
17 system certification date;

18 (cc) not less than 4.5 per-
19 cent of the purchase price of the
20 property securing the loan, if
21 such purchase occurs during the
22 period that begins 2 years after
23 the system certification date and
24 ends less than 3 years after the
25 system certification date; or

1 (dd) not less than 5 percent
2 of the purchase price of the prop-
3 erty securing the loan, if such
4 purchase occurs during any pe-
5 riod after the period set forth in
6 subelause (III);

7 (v) satisfies standards related to es-
8 tablishing title or marketability of title, as
9 may be required by the Corporation, which
10 standards may include the required pur-
11 chase of title insurance on the property se-
12 curing the loan;

13 (vi) contains such terms and provi-
14 sions with respect to insurance, property
15 maintenance, repairs, alterations, payment
16 of taxes, default, reserves, delinquency
17 charges, foreclosure proceedings, anticipa-
18 tion of maturity, additional and secondary
19 liens, and other matters, including matters
20 that set forth terms and provisions for es-
21 tablishing escrow accounts, performing fi-
22 nancial assessments, or limiting the
23 amount of any payment made available
24 under the loan as the Corporation may
25 prescribe; and

1 (vii) contains such other terms, char-
2 acteristics, or underwriting criteria as the
3 Corporation, in consultation with the Bu-
4 reau of Consumer Financial Protection,
5 may determine necessary or appropriate;
6 or

7 (B) a loan refinanced pursuant to the au-
8 thority granted under section 305(i).

9 (30) ENTERPRISE.—The term “enterprise”
10 means—

11 (A) the Federal National Mortgage Asso-
12 ciation and any affiliate thereof; and

13 (B) the Federal Home Loan Mortgage
14 Corporation and any affiliate thereof.

15 (31) EXTREMELY LOW-INCOME.—The term
16 “extremely low-income” means—

17 (A) in the case of owner-occupied units, in-
18 come not in excess of 30 percent of the median
19 income of the area; and

20 (B) in the case of rental units, income not
21 in excess of 30 percent of the median income of
22 the area, with adjustments for smaller and larg-
23 er families, as determined by the Secretary of
24 Housing and Urban Development.

25 (32) FHFA RELATED TERMS.—

1 (A) FEDERAL HOUSING FINANCE AGEN-
2 CY.—The term “Federal Housing Finance
3 Agency” shall mean—

4 (i) prior to the agency transfer date,
5 the Federal Housing Finance Agency es-
6 tablished under section 1311 of the Safety
7 and Soundness Act (12 U.S.C. 4511);

8 (ii) on and after the agency transfer
9 date but prior to the system certification
10 date, the Federal Housing Finance Agency
11 established within the Corporation under
12 title IV; and

13 (iii) on and after the system certifi-
14 cation date, the Corporation.

15 (B) FHFA DIRECTOR.—The term “FHFA
16 Director” has the same meaning as the term
17 “Director” in section 401(1).

18 (33) FEDERAL REGULATORY AGENCIES.—The
19 term—

20 (A) “Federal regulatory agency” means,
21 individually, the Board of Governors of the
22 Federal Reserve System, the Office of the
23 Comptroller of the Currency, the Federal De-
24 posit Insurance Corporation, the Bureau of
25 Consumer Financial Protection, the National

1 Credit Union Administration, the Securities and
2 Exchange Commission, the Commodity Futures
3 Trading Commission, and the Federal Housing
4 Finance Agency; and

5 (B) “Federal regulatory agencies” means
6 all of the agencies referred to in subparagraph
7 (A), collectively.

8 (34) FEDERAL HOME LOAN BANK.—The term
9 “Federal Home Loan Bank” means a bank estab-
10 lished under the authority of the Federal Home
11 Loan Bank Act (12 U.S.C. 1421 et seq.).

12 (35) FEDERAL HOME LOAN BANK SYSTEM.—
13 The term “Federal Home Loan Bank System”
14 means the Federal Home Loan Banks and the Of-
15 fice of Finance and any authorized subsidiary of one
16 or more Federal Home Loan Banks.

17 (36) FIRST LOSS POSITION.—The term “first
18 loss position” means, with regard to a covered secu-
19 rity—

20 (A) either—

21 (i) that fully-funded position to which
22 any credit loss on such covered security re-
23 sulting from the nonperformance of under-
24 lying mortgage loans will accrue and be ab-

1 sorbed, to the full extent of the holder’s in-
2 terest in such position; or

3 (ii) the guarantee provided by an ap-
4 proved guarantor or approved multifamily
5 guarantor with respect to an eligible sin-
6 gle-family mortgage loan, pool of eligible
7 single-family mortgage loans, or a covered
8 security or eligible multifamily mortgage
9 loan, pool of eligible multifamily mortgage
10 loans, or a multifamily covered security, as
11 applicable; and

12 (B) the position or guarantee described
13 under subparagraph (A), as applicable, which is
14 required to absorb any initial credit loss on a
15 covered security prior to the Corporation be-
16 coming obligated to make any payment of in-
17 surance in accordance with this Act.

18 (37) HUD-APPROVED HOUSING COUNSELING
19 AGENCY.—The term “HUD-approved housing coun-
20 seling agency” means an agency certified by the Sec-
21 retary of Housing and Urban Development under
22 section 106(e) of the Housing and Urban Develop-
23 ment Act of 1968 (12 U.S.C. 1701x(e)).

24 (38) 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) an insured credit union, as defined
5 under section 101 of the Federal Credit Union
6 Act (12 U.S.C. 1752).

7 (39) **LOW-INCOME.**—The term “low-income”
8 means—

9 (A) in the case of owner-occupied units, in-
10 come not in excess of 80 percent of median in-
11 come of the area; and

12 (B) in the case of rental units, income not
13 in excess of 80 percent of median income of the
14 area, with adjustments for smaller and larger
15 families, as determined by the Secretary of
16 Housing and Urban Development.

17 (40) **MARKET PARTICIPANT.**—The term “mar-
18 ket participant” means any—

19 (A) approved entity;

20 (B) private market holder; and

21 (C) member of the Securitization Platform.

22 (41) **MEDIAN INCOME.**—The term “median in-
23 come” means, with respect to an area, the
24 unadjusted median family income for the area, as

1 determined and published annually by the Secretary
2 of Housing and Urban Development.

3 (42) MISSION-BASED NON-PROFIT LENDER.—

4 The term “mission-based non-profit lender” means
5 an organization that—

6 (A) is exempt from taxation pursuant to
7 section 501(c)(3) of the Internal Revenue Code
8 of 1986;

9 (B) makes—

10 (i) residential real estate loans for the
11 purpose of promoting or facilitating home-
12 ownership for poor or lower- or moderate-
13 income, disabled, or other disadvantaged
14 persons or families; or

15 (ii) real estate loans for the purpose
16 of promoting or facilitating affordable
17 rental housing for persons or families at or
18 below 80 percent of the median income for
19 the area and subject to any other addi-
20 tional criteria established by the Corpora-
21 tion;

22 (C) sets interest rates on such loans that—

23 (i) are lower than the bank prime loan
24 rate, as determined under the Federal Re-
25 serve Statistical Release of selected inter-

1 est rates (commonly referred to as the
2 “H.15”) by the Board of Governors of the
3 Federal Reserve System, for the last day
4 of the most recent weekly release of such
5 rates; and

6 (ii) are, after adjusting for inflation,
7 no-interest loans or loans with interest
8 rates significantly below the interest rates
9 for loans for purchase of single-family
10 housing generally available in the market;

11 (D) except as described under subpara-
12 graph (B), does not engage in the business of
13 a mortgage originator or mortgage broker;

14 (E) conducts its activities in a manner that
15 serves public or charitable purposes;

16 (F) receives funding and revenue and
17 charges fees in a manner that does not
18 incentivize the organization or its employees to
19 act other than in the best interests of its cli-
20 ents;

21 (G) compensates employees in a manner
22 that does not incentivize employees to act other
23 than in the best interests of its clients; and

24 (H) meets such other requirements as the
25 Corporation determines appropriate.

1 (43) MODERATE-INCOME.—The term “mod-
2 erate-income” means

3 (A) in the case of owner-occupied units, in-
4 come not in excess of median income of the
5 area; and

6 (B) in the case of rental units, income not
7 in excess of median income of the area, with ad-
8 justments for smaller and larger families, as de-
9 termined by the Secretary of Housing and
10 Urban Development.

11 (44) MORTGAGE AGGREGATOR.—The term
12 “mortgage aggregator” means a person that—

13 (A) purchases or receives from a third
14 party residential real estate loans or commercial
15 real estate loans; and

16 (B) delivers, transfers, or sells such loans
17 to the Securitization Platform.

18 (45) MORTGAGE-BACKED SECURITY.—The term
19 “mortgage-backed security” means an asset-backed
20 security, as defined in section 3(a) of the Securities
21 Exchange Act of 1934 (15 U.S.C. 78c(a)), that is
22 collateralized by—

23 (A) a mortgage loan, including any resi-
24 dential real estate loan or commercial real es-
25 tate loan; or

1 (B) a collateralized mortgage obligation of
2 mortgage-backed securities.

3 (46) MORTGAGE ORIGINATOR.—The term
4 “mortgage originator” has the same meaning as in
5 section 103(cc)(2) of the Truth in Lending Act (15
6 U.S.C. 1602(cc)(2)).

7 (47) MULTIFAMILY BUSINESS.—The term
8 “multifamily business” means the activities and
9 processes of the enterprises of—

10 (A) purchasing, selling, lending on the se-
11 curity of, or otherwise dealing in multifamily
12 mortgage loans;

13 (B) securitizing a pool of multifamily
14 mortgage loans; and

15 (C) issuing multifamily securities.

16 (48) MULTIFAMILY COVERED SECURITY.—The
17 term “multifamily covered security” means a multi-
18 family mortgage-backed security—

19 (A) collateralized by eligible multifamily
20 mortgage loans; and

21 (B) which is insured by the Corporation
22 pursuant to section 303.

23 (49) MULTIFAMILY MORTGAGE-BACKED SECU-
24 RITY.—The term “multifamily mortgage-backed se-
25 curity” means a mortgage-backed security

1 collateralized by commercial real estate loans se-
2 cured by properties with 5 or more residential units
3 in accordance with the requirements of this Act.

4 (50) NONCOVERED SECURITY.—The term “non-
5 covered security” means any mortgage-backed secu-
6 rity other than a covered security.

7 (51) NONELIGIBLE MORTGAGE LOAN.—The
8 term “noneligible mortgage loan” means any mort-
9 gage loan other than an eligible mortgage loan.

10 (52) OFFICE OF FINANCE.—The term “Office
11 of Finance” means the Office of Finance in the Fed-
12 eral Home Loan Bank System.

13 (53) PERMANENTLY AFFORDABLE HOMEOWN-
14 ERSHIP PROGRAM.—The term “permanently afford-
15 able homeownership program” includes programs
16 administered by community land trusts, nonprofit
17 organizations, or State or local governments that—

18 (A) use a ground lease, deed restriction,
19 subordinate loan, or similar legal mechanism
20 to—

21 (i) make real property affordable to
22 low- or moderate-income borrowers; and

23 (ii) stipulate a preemptive option to
24 purchase the real property from the home-
25 owner at resale to preserve the afford-

1 ability of the real property for successive
2 low- and moderate-income borrowers;

3 (B) monitor properties to ensure afford-
4 ability is preserved over resales; and

5 (C) support homeowners to promote suc-
6 cessful homeownership and prevent foreclosure.

7 (54) PERSON.—The term “person” means an
8 individual, corporation, company (including a limited
9 liability company or joint stock company), associa-
10 tion (incorporated or unincorporated), mutual or co-
11 operative organization, partnership, trust, estate, so-
12 ciety, or any other legal entity.

13 (55) PLATFORM; SECURITIZATION PLAT-
14 FORM.—The terms “Platform” and “Securitization
15 Platform” mean the securitization infrastructure es-
16 tablished under part I of subtitle C of title III.

17 (56) PLATFORM DIRECTORS.—The term “Plat-
18 form Directors” means the board of directors of the
19 Securitization Platform.

20 (57) PLATFORM SECURITY.—The term “Plat-
21 form security” means a mortgage-backed security
22 issued through the Securitization Platform.

23 (58) PRIVATE LABEL MORTGAGE-BACKED SECU-
24 RITIES MARKET.—The term “private label mortgage-
25 backed securities market” means the market in

1 which noncovered securities are bought, sold, traded,
2 and exchanged.

3 (59) PRIVATE MARKET HOLDER.—The term
4 “private market holder” means the holder or hold-
5 ers, other than an approved guarantor or an ap-
6 proved multifamily guarantor, of the first loss posi-
7 tion with respect to eligible mortgage loans
8 collateralizing any covered security insured in ac-
9 cordance with this Act.

10 (60) REGULATED ENTITY.—The term “regu-
11 lated entity” means—

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

14 (B) the Federal Home Loan Mortgage
15 Corporation and any affiliate thereof;

16 (C) any Federal Home Loan Bank; and

17 (D) the Securitization Platform.

18 (61) RESIDENTIAL REAL ESTATE LOAN.—The
19 term “residential real estate loan” includes any—

20 (A) real estate mortgage loan;

21 (B) personal property loan secured solely
22 by the home itself;

23 (C) hybrid land-home loan for a manufac-
24 tured home, as defined by section 603(6) of the
25 National Manufactured Housing Construction

1 and Safety Standards Act of 1974 (42 U.S.C.
2 5402(6)), to which the requirements of para-
3 graph (29)(A)(v) shall not apply; and

4 (D) mortgage loan secured by real prop-
5 erty in a community land trust or permanently
6 affordable homeownership program.

7 (62) SAFETY AND SOUNDNESS ACT.—The term
8 “Safety and Soundness Act” means the Federal
9 Housing Enterprises Financial Safety and Sound-
10 ness Act of 1992 (12 U.S.C. 4501 et seq.).

11 (63) SENIOR PREFERRED STOCK PURCHASE
12 AGREEMENT.—The term “Senior Preferred Stock
13 Purchase Agreement” means—

14 (A) the Amended and Restated Senior Pre-
15 ferred Stock Purchase Agreement, dated Sep-
16 tember 26, 2008, as such Agreement has been
17 amended on May 6, 2009, December 24, 2009,
18 and August 17, 2012, respectively, and as such
19 Agreement may be further amended and re-
20 stated, entered into between the Department of
21 the Treasury and each enterprise, as applicable;
22 and

23 (B) any provision of any certificate in con-
24 nection with such Agreement creating or desig-
25 nating the terms, powers, preferences, privi-

1 leges, limitations, or any other conditions of the
2 Variable Liquidation Preference Senior Pre-
3 ferred Stock of an enterprise issued or sold pur-
4 suant to such Agreement.

5 (64) SINGLE-FAMILY ACTIVITIES.—The term
6 “single-family activities” means the activities and
7 processes of the Corporation in providing insurance
8 for single-family covered securities as provided in
9 this Act.

10 (65) SINGLE-FAMILY COVERED SECURITY.—
11 The term “single-family covered security” means a
12 single-family mortgage-backed security—

13 (A) collateralized by eligible single-family
14 mortgage loans; and

15 (B) which is insured by the Corporation
16 pursuant to section 303.

17 (66) SMALL MORTGAGE LENDER.—The term
18 “small mortgage lender” means a community bank,
19 credit union, mid-sized bank, non-depository institu-
20 tion, Community Development Financial Institution,
21 a mission-based non-profit lender, or housing finance
22 agency that originates residential real estate loans or
23 commercial real estate loans.

24 (67) STANDARDIZED COVERED SECURITY;
25 STANDARDIZED SECURITY FOR SINGLE-FAMILY COV-

1 ERED SECURITIES.—The terms “standardized cov-
2 ered security” and “standardized single-family cov-
3 ered security” mean a single-family covered security
4 that is—

5 (A) issued by or through the Platform; and

6 (B) in a form, and includes standardized
7 and uniform terms that have been, developed by
8 the Platform Directors for use across various
9 issuances.

10 (68) STANDARDIZED NONCOVERED SECURITY;
11 STANDARDIZED SECURITY FOR SINGLE-FAMILY NON-
12 COVERED SECURITIES.—The terms “standardized
13 noncovered security” and “standardized single-fam-
14 ily noncovered security” mean a single-family non-
15 covered security that is—

16 (A) issued by or through the Platform; and

17 (B) in a form, and includes standardized
18 and uniform terms that have been, developed by
19 the Platform Directors for use across various
20 issuances.

21 (69) STATE.—The term “State” means any
22 State, territory, or possession of the United States,
23 the District of Columbia, the Commonwealth of
24 Puerto Rico, the Commonwealth of the Northern
25 Mariana Islands, Guam, American Samoa, or the

1 United States Virgin Islands or any Federally recog-
2 nized Indian tribe, as defined by the Secretary of the
3 Interior under section 104(a) of the Federally Rec-
4 ognized Indian Tribe List Act of 1994 (25 U.S.C.
5 479a-1(a)).

6 (70) SYSTEM CERTIFICATION DATE.—The term
7 “system certification date” means the date on which
8 the Board of Directors certifies that the require-
9 ments of section 601 have been met.

10 (71) VERY LOW-INCOME.—

11 (A) IN GENERAL.—The term “very low-in-
12 come” means—

13 (i) in the case of owner-occupied
14 units, families having incomes not greater
15 than 50 percent of the median income of
16 the area; and

17 (ii) in the case of rental units, fami-
18 lies having incomes not greater than 50
19 percent of the median income of the area,
20 with adjustments for smaller and larger
21 families, as determined by the Secretary of
22 Housing and Urban Development.

23 (B) RULE OF CONSTRUCTION.—For pur-
24 poses of the Housing Trust Fund established
25 under section 1338 of the Safety and Sound-

1 ness Act (12 U.S.C. 4568), the Capital Magnet
2 Fund established under section 1339 of the
3 Safety and Soundness Act (12 U.S.C. 4569),
4 and the Market Access Fund established under
5 section 504, the term “very low-income”
6 means—

7 (i) in the case of owner-occupied
8 units, income in excess of 30 percent but
9 not greater than 50 percent of the median
10 income of the area; and

11 (ii) in the case of rental units, income
12 in excess of 30 percent but not greater
13 than 50 percent of the median income of
14 the area, with adjustments for smaller and
15 larger families, as determined by the Sec-
16 retary of Housing and Urban Develop-
17 ment.

18 **TITLE I—ELIMINATION OF**
19 **FANNIE MAE AND FREDDIE MAC**
20 **SEC. 101. ELIMINATION OF FANNIE MAE AND FREDDIE**
21 **MAC.**

22 (a) FANNIE MAE.—Effective on the agency transfer
23 date, the Corporation shall take all steps necessary to dis-
24 solve and eliminate the Federal National Mortgage Asso-
25 ciation pursuant to the provisions of this Act. The charter

1 for the Federal National Mortgage Association shall be re-
2 pealed pursuant to title VI.

3 (b) FREDDIE MAC.—Effective on the agency transfer
4 date, the Corporation shall take all steps necessary to dis-
5 solve and eliminate the Federal Home Loan Mortgage
6 Corporation pursuant to the provisions of this Act. The
7 charter for the Federal Home Loan Mortgage Corporation
8 shall be repealed pursuant to title VI.

9 **TITLE II—FEDERAL MORTGAGE** 10 **INSURANCE CORPORATION**

11 **SEC. 201. ESTABLISHMENT.**

12 (a) ESTABLISHMENT.—Effective on the agency
13 transfer date, there is established the Federal Mortgage
14 Insurance Corporation, which is charged with ensuring the
15 safety and soundness of, and compliance with laws and
16 regulations, fair access to financial services, and fair treat-
17 ment of customers by the institutions and other persons
18 subject to its jurisdiction and which shall have the powers
19 hereinafter granted.

20 (b) PURPOSE.—The purpose of the Corporation shall
21 be to—

22 (1) facilitate a liquid, transparent, and resilient
23 single-family and multifamily mortgage credit mar-
24 ket by supporting a robust secondary mortgage mar-

1 ket, including during the transition to the new hous-
2 ing finance system;

3 (2) provide insurance on any mortgage-backed
4 security that satisfies the requirements under this
5 Act to become a covered security;

6 (3) monitor and supervise approved entities;

7 (4) supervise the regulated entities; and

8 (5) facilitate the broad availability of mortgage
9 credit and secondary mortgage market financing
10 through fluctuations in the business cycle for eligible
11 single-family and multifamily lending across all—

12 (A) regions;

13 (B) localities;

14 (C) institutions;

15 (D) property types, including housing serv-
16 ing renters; and

17 (E) eligible borrowers.

18 (c) GENERAL SUPERVISORY AND REGULATORY AU-
19 THORITY.—

20 (1) IN GENERAL.—Each approved entity shall,
21 to the extent provided in this Act, be subject to the
22 supervision and regulation of the Corporation.

23 (2) REGULATED ENTITIES; OFFICE OF FI-
24 NANCE.—The Corporation shall have general regu-
25 latory authority over each regulated entity and the

1 Office of Finance, and shall exercise such general
2 regulatory authority to ensure that the purposes of
3 this Act, any amendments made by this Act, and
4 any other applicable law are carried out.

5 (d) FEDERAL STATUS.—The Corporation shall be an
6 independent agency and an instrumentality of the Federal
7 Government.

8 (e) SUCCESSION.—The Corporation shall have suc-
9 cession until dissolved by an Act of Congress.

10 (f) PRINCIPAL OFFICE.—The Corporation shall
11 maintain its principal office in the District of Columbia
12 and shall be deemed, for purposes of venue in civil actions,
13 to be a resident thereof.

14 (g) AUTHORITY TO ESTABLISH OTHER OFFICES.—
15 The Corporation may establish such other offices in such
16 other place or places as the Corporation may deem nec-
17 essary or appropriate in the conduct of its business.

18 (h) PROHIBITION.—The Corporation shall not engage
19 in mortgage loan origination.

20 **SEC. 202. MANAGEMENT OF CORPORATION.**

21 (a) BOARD OF DIRECTORS.—

22 (1) MEMBERS.—The management of the Cor-
23 poration shall be vested in a Board of Directors con-
24 sisting of 5 members who shall be appointed by the

1 President, by and with the advice and consent of the
2 Senate, from among individuals who—

3 (A) are citizens of the United States; and

4 (B) have demonstrated technical, aca-
5 demic, or professional understanding of, and
6 practical, disciplinary, vocational, or regulatory
7 experience working in, housing and housing fi-
8 nance.

9 (2) POLITICAL AFFILIATION.—Not more than 3
10 of the members of the Board of Directors may be
11 members of the same political party.

12 (3) DUTIES.—The Board of Directors shall ad-
13 vise the Chairperson regarding overall strategies and
14 policies to carry out the duties and purposes of this
15 Act.

16 (b) CHAIRPERSON AND VICE CHAIRPERSON.—

17 (1) CHAIRPERSON.—

18 (A) DESIGNATION.—1 of the members ap-
19 pointed pursuant to subsection (a)(1) shall be
20 designated by the President to serve as Chair-
21 person of the Board of Directors.

22 (B) TERM.—Except as provided in sub-
23 section (c)(1)(A), the Chairperson shall be ap-
24 pointed for a term of 5 years, unless removed

1 before the end of such term by the President
2 under subparagraph (C).

3 (C) REMOVAL FOR CAUSE.—The President
4 may remove the Chairperson for inefficiency,
5 neglect of duty, or malfeasance in office.

6 (D) DUTIES AND AUTHORITIES.—

7 (i) IN GENERAL.—The Chairperson—

8 (I) shall—

9 (aa) be the active executive
10 officer of the Corporation, sub-
11 ject to supervision by the Board
12 of Directors;

13 (bb) oversee the prudential
14 operations of each regulated enti-
15 ty; and

16 (cc) ensure that each ap-
17 proved entity and regulated enti-
18 ty operates in a safe and sound
19 manner, including—

20 (AA) through the main-
21 tenance of adequate capital,
22 standards, and internal con-
23 trols; and

24 (BB) by ensuring com-
25 pliance with the rules, regu-

1 lations, guidelines, and or-
2 ders issued pursuant to this
3 Act; and

4 (II) may exercise such incidental
5 powers as may be necessary or appro-
6 priate to assist the Corporation in ful-
7 filling the duties and responsibilities
8 of the Corporation in the supervision
9 and regulation of each approved entity
10 and regulated entity.

11 (ii) DELEGATION.—The Chairperson
12 may delegate to officers and employees of
13 the Corporation any of the functions, pow-
14 ers, or duties of the Chairperson, as the
15 Chairperson considers appropriate.

16 (2) VICE CHAIRPERSON.—

17 (A) DESIGNATION.—1 of the members ap-
18 pointed pursuant to subsection (a)(1) shall be
19 designated by the President to serve as Vice
20 Chairperson of the Board of Directors.

21 (B) TERM.—Except as provided in sub-
22 section (c)(1)(B), the Vice Chairperson shall be
23 appointed for a term of 5 years, unless removed
24 before the end of such term by the President
25 under subparagraph (C).

1 (C) REMOVAL FOR CAUSE.—The President
2 may remove the Vice Chairperson for ineffi-
3 ciency, neglect of duty, or malfeasance in office.

4 (3) ACTING CHAIRPERSON.—

5 (A) DURING VACANCY IN THE POSITION OF
6 CHAIRPERSON.—Except as provided in section
7 402, in the event of a vacancy in the position
8 of Chairperson of the Board of Directors or
9 during the absence or disability of the Chair-
10 person, the Vice Chairperson shall act as Chair-
11 person.

12 (B) DURING VACANCIES IN THE POSITION
13 OF CHAIRPERSON AND VICE CHAIRPERSON.—
14 Except as provided in section 402, in the event
15 of vacancies in the positions of Chairperson and
16 Vice Chairperson, or during the absence or dis-
17 ability of both the Chairperson and the Vice
18 Chairperson, the President shall designate 1 of
19 the other members appointed pursuant to sub-
20 section (a)(1) as Acting Chairperson.

21 (C) RETENTION OF AUTHORITY.—Any per-
22 son confirmed to serve as Chairperson, or act-
23 ing as Chairperson, whether designated to act
24 as such by the President under this paragraph
25 or acting in such capacity by operation of this

1 paragraph or section 402, shall for the period
2 that such person is serving as Chairperson or
3 acting as Chairperson—

4 (i) act for all purposes as the Chair-
5 person; and

6 (ii) have all the rights, duties, powers,
7 and responsibilities of the Chairperson.

8 (c) STAGGERED TERMS; TERM CONTINUATION.—

9 (1) TERMS.—

10 (A) TERM OF INITIAL CHAIRPERSON.—The
11 initial member of the Board of Directors ap-
12 pointed pursuant to subsection (a)(1) and des-
13 ignated as Chairperson under subsection (b)(1)
14 shall serve a term of 30 months.

15 (B) TERM OF INITIAL VICE CHAIR-
16 PERSON.—The initial member of the Board of
17 Directors appointed pursuant to subsection
18 (a)(1) and designated as Vice Chairperson
19 under subsection (b)(2) shall serve a term of 30
20 months.

21 (C) TERM OF OTHER APPOINTED MEM-
22 BERS.—1 of the other initial members of the
23 Board of Directors appointed pursuant to sub-
24 section (a)(1) and not designated as Chair-
25 person or Vice Chairperson under subsection

1 (b) shall serve a term of 30 months and the
2 other 2 initial members shall serve a term of 4
3 years.

4 (D) ALL OTHER TERMS.—After the expira-
5 tion of the initial terms under subparagraphs
6 (A) through (C), all subsequent members of the
7 Board of Directors appointed pursuant to sub-
8 section (a)(1) shall serve for a term of 5 years.

9 (2) CONTINUATION OF SERVICE.—Each mem-
10 ber of the Board of Directors appointed pursuant to
11 subsection (a)(1), including any member appointed
12 to serve as Chairperson or Vice Chairperson, may
13 continue to serve after the expiration of the term of
14 office to which such member was appointed until the
15 expiration of the next session of Congress subse-
16 quent to the expiration of said fixed term of office.

17 (d) VACANCY; MANNER OF FULFILLMENT.—Any va-
18 cancy on the Board of Directors shall be filled in the man-
19 ner in which the original appointment was made, and the
20 person appointed to fill such vacancy shall be appointed
21 only for the remainder of such term.

22 (e) COMPENSATION OF MEMBERS.—

23 (1) CHAIRPERSON.—The Chairperson shall re-
24 ceive compensation at the rate prescribed for Level

1 II of the Executive Schedule under section 5313 of
2 title 5, United States Code.

3 (2) OTHER APPOINTED MEMBERS.—All mem-
4 bers of the Board of Directors not described in para-
5 graph (1) shall receive compensation at the rate pre-
6 scribed for Level III of the Executive Schedule
7 under section 5314 of title 5, United States Code.

8 (f) INELIGIBILITY FOR OTHER OFFICES DURING
9 SERVICE; POSTSERVICE RESTRICTION.—

10 (1) RESTRICTIONS DURING SERVICE.—No
11 member of the Board of Directors may, during the
12 time such member is serving in such capacity and
13 for the 2-year period beginning on the date such
14 member ceases to serve as a member of the Board
15 of Directors—

16 (A) be an officer or director of any—

17 (i) insured depository institution;

18 (ii) insured depository institution
19 holding company;

20 (iii) Federal Reserve bank;

21 (iv) regulated entity;

22 (v) approved entity; or

23 (vi) non-bank financial institution or
24 company that originates eligible mortgage
25 loans; or

1 (B) hold stock or have beneficial ownership
2 in any—

3 (i) insured depository institution;

4 (ii) insured depository institution
5 holding company;

6 (iii) regulated entity;

7 (iv) approved entity; or

8 (v) non-bank financial institution or
9 company that originates eligible mortgage
10 loans.

11 (2) CERTIFICATION.—Upon taking office, each
12 member of the Board of Directors shall certify under
13 oath that such member has complied, and will com-
14 ply, with this subsection and such certification shall
15 be filed with the secretary of the Board of Directors.

16 (g) STATUS OF DIRECTORS, OFFICERS, AND EM-
17 PLOYEES.—

18 (1) IN GENERAL.—A member of the Board of
19 Directors, officer, or employee of the Corporation
20 has no liability under the Securities Act of 1933 (15
21 U.S.C. 77b et seq.) with respect to any claim arising
22 out of or resulting from any act or omission by such
23 person within the scope of such person's employment
24 in connection with any transaction involving the dis-
25 position of assets (or any interests in any assets or

1 any obligations backed by any assets) by the Cor-
2 poration. This subsection shall not be construed to
3 limit personal liability for criminal acts or omissions,
4 willful or malicious misconduct, acts or omissions for
5 private gain, or any other acts or omissions outside
6 the scope of such person's employment.

7 (2) EFFECT ON OTHER LAW.—This subsection
8 does not affect—

9 (A) any other immunities and protections
10 that may be available to such person under ap-
11 plicable law with respect to such transactions;
12 or

13 (B) any other right or remedy against the
14 Corporation, against the United States under
15 applicable law, or against any person other than
16 a person described in paragraph (1) partici-
17 pating in such transactions.

18 (3) RULE OF CONSTRUCTION.—This subsection
19 shall not be construed to limit or alter in any way
20 the immunities that are available under applicable
21 law for Federal officials and employees not described
22 in this subsection.

23 (h) INDEPENDENCE.—

1 (1) IN GENERAL.—Each member of the Board
2 of Directors shall be independent in performing his
3 or her duties.

4 (2) INDEPENDENCE DETERMINATION.—In
5 order to be considered independent for purposes of
6 this subsection, a member of the Board of Direc-
7 tors—

8 (A) may not, other than in his or her ca-
9 pacity as a member of the Board of Directors
10 or any committee thereof—

11 (i) accept any consulting, advisory, or
12 other compensatory fee from the Corpora-
13 tion; or

14 (ii) be a person associated with the
15 Corporation or with any affiliate of the
16 Corporation; and

17 (B) shall be disqualified from any delibera-
18 tion involving any transaction of the Corpora-
19 tion in which the member has a financial inter-
20 est in the outcome of the transaction.

21 (i) ADMINISTRATION.—Except as may be otherwise
22 provided in this Act, the Board of Directors shall admin-
23 ister the affairs of the Corporation fairly and impartially
24 and without discrimination.

1 (j) VOTING.—A majority vote of all members of the
2 Board of Directors is necessary to resolve all voting issues
3 of the Corporation.

4 (k) MEETINGS.—The Board of Directors shall meet
5 in accordance with the bylaws of the Corporation—

6 (1) at the call of the Chairperson; and

7 (2) not less frequently than once each quarter.

8 (l) QUORUM.—3 members of the Board of Directors
9 then in office shall constitute a quorum.

10 (m) BYLAWS.—A majority of the members of the
11 Board of Directors may amend the bylaws of the Corpora-
12 tion.

13 **SEC. 203. ADVISORY COMMITTEE.**

14 (a) ESTABLISHMENT.—

15 (1) IN GENERAL.—The Corporation shall estab-
16 lish an Advisory Committee for the purpose of advis-
17 ing the Office of Consumer and Market Access and
18 the Board of Directors on developments in the pri-
19 mary and secondary mortgage markets that have
20 material effects on the ongoing mission of the Cor-
21 poration.

22 (2) DUTIES.—The Advisory Committee shall
23 provide advice and recommendations to the Office of
24 Consumer and Market Access and the Board of Di-

1 rectors as to material developments in the following
2 areas:

3 (A) Housing prices and affordability.

4 (B) The effectiveness of consumer protec-
5 tions in the housing market.

6 (C) Volume and characteristics of mort-
7 gage loan originations.

8 (D) The condition of the rental housing
9 market.

10 (E) Small lender participation in the sec-
11 ondary mortgage market.

12 (F) Access to credit in rural and under-
13 served communities.

14 (G) Competition among approved market
15 entities.

16 (b) COMPOSITION AND QUALIFICATIONS.—

17 (1) IN GENERAL.—The Advisory Committee
18 shall be composed of 9 members as follows:

19 (A) 1 member who shall have a dem-
20 onstrated technical, academic, or professional
21 understanding of, and practical, disciplinary,
22 vocational, or regulatory experience working
23 with, non-depository mortgage originators hav-
24 ing less than \$10,000,000,000 in total assets.

1 (B) 1 member who shall have a dem-
2 onstrated technical, academic, or professional
3 understanding of, and practical, disciplinary,
4 vocational, or regulatory experience working
5 with, credit unions having less than
6 \$10,000,000,000 in total assets.

7 (C) 1 member who shall have a dem-
8 onstrated technical, academic, or professional
9 understanding of, and practical, disciplinary,
10 vocational, or regulatory experience working
11 with, banks having less than \$10,000,000,000
12 in total assets.

13 (D) 1 member who shall have a dem-
14 onstrated technical, academic, or professional
15 understanding of, and practical, disciplinary,
16 vocational, or regulatory experience with private
17 mortgage insurance.

18 (E) 1 member who shall have a dem-
19 onstrated technical, academic, or professional
20 understanding of, or practical, disciplinary, or
21 vocational experience with consumer protection
22 and policies and programs to support sustain-
23 able homeownership.

24 (F) 1 member who shall have a dem-
25 onstrated technical, academic, or professional

1 understanding of, or practical, disciplinary, or
2 vocational experience with multifamily housing
3 development.

4 (G) 1 member who shall have a dem-
5 onstrated technical, academic, or professional
6 understanding of, or practical, disciplinary, or
7 vocational experience with affordable rental
8 housing.

9 (H) 1 member who shall have a dem-
10 onstrated technical, academic, or professional
11 understanding of, or practical, disciplinary, or
12 vocational experience with asset management.

13 (I) 1 member who shall have a dem-
14 onstrated technical, academic, or professional
15 understanding of, or practical, disciplinary, or
16 vocational experience with State bank, non-
17 bank, or insurance regulation.

18 (2) EXPERIENCE WITH RURAL HOUSING.—Of
19 the members of the Advisory Committee identified
20 under subparagraphs (B) and (C) of paragraph (1),
21 at least 1 shall be required to have practical, dis-
22 ciplinary, or vocational experience working in rural
23 areas and with rural borrowers.

24 (c) MEMBER SELECTION.—Members of the Advisory
25 Committee shall be appointed to the Committee by the

1 Chairperson, subject to approval by a majority of the
2 Board of Directors.

3 (d) MEETINGS.—The Advisory Committee shall meet
4 no less frequently than once during each calendar quarter.

5 **SEC. 204. OFFICE OF THE INSPECTOR GENERAL.**

6 (a) OFFICE OF INSPECTOR GENERAL.—

7 (1) ESTABLISHMENT.—On the agency transfer
8 date, there is established the Office of the Inspector
9 General of the Federal Mortgage Insurance Corpora-
10 tion.

11 (2) HEAD OF OFFICE.—

12 (A) IN GENERAL.—The head of the Office
13 of the Inspector General of the Federal Mort-
14 gage Insurance Corporation shall be the Inspec-
15 tor General of the Federal Mortgage Insurance
16 Corporation, who shall be appointed by the
17 President, by and with the advice and consent
18 of the Senate, in accordance with section 3(a)
19 of the Inspector General Act of 1978 (5 U.S.C.
20 App.).

21 (B) TRANSITIONAL PROVISION.—Notwith-
22 standing subparagraph (A), during the period
23 beginning on the agency transfer date and end-
24 ing on the date on which the Inspector General
25 of the Federal Mortgage Insurance Corporation

1 is confirmed, the person serving as the Inspec-
2 tor General or the Acting Inspector General for
3 the Office of the Inspector General within the
4 Federal Housing Finance Agency on the date
5 that is 1 day prior to the agency transfer date
6 shall act for all purposes as, and with the full
7 powers of, the Inspector General of the Federal
8 Mortgage Insurance Corporation.

9 (3) OFFICE OF THE INSPECTOR GENERAL AU-
10 THORITIES.—Beginning on the agency transfer date,
11 the authority of the Office of the Inspector General
12 of the Federal Mortgage Insurance Corporation shall
13 include all rights and responsibilities of the Office of
14 the Inspector General of the Federal Housing Fi-
15 nance Agency as such rights and responsibilities ex-
16 isted on the date that is 1 day prior the agency
17 transfer date.

18 (b) PROVISION OF PROPERTY AND FACILITIES.—The
19 Chairperson of the Corporation shall provide the Office of
20 the Inspector General of the Federal Mortgage Insurance
21 Corporation with—

22 (1) appropriate and adequate office space at
23 each central and field office location established by
24 the Corporation, together with such equipment, of-
25 fice supplies, and communications facilities and serv-

1 ices as may be necessary for the Inspector General
2 of the Federal Mortgage Insurance Corporation to
3 operate such offices; and

4 (2) the necessary maintenance services for—

5 (A) any office provided under paragraph
6 (1); and

7 (B) the equipment and facilities located in
8 any such office.

9 (c) **HIRING OF EMPLOYEES, EXPERTS, AND CON-**
10 **SULTANTS.**—Notwithstanding paragraphs (7) and (8) of
11 section 6(a) of the Inspector General Act of 1978 (5
12 U.S.C. App.), the Inspector General of the Federal Mort-
13 gage Insurance Corporation may select, appoint, and em-
14 ploy such officers and employees as may be necessary—

15 (1) for carrying out the functions, powers, and
16 duties of the Office of the Inspector General; and

17 (2) to obtain the temporary or intermittent
18 services of experts or consultants or an organization
19 of experts or consultants, subject to the applicable
20 laws and regulations that govern such selections, ap-
21 pointments, and employment, and the obtaining of
22 such services, within the Corporation.

23 (d) **SUBMISSION OF BUDGET.**—

24 (1) **IN GENERAL.**—For each fiscal year, the In-
25 specter General of the Federal Mortgage Insurance

1 Corporation shall transmit a budget estimate and re-
2 quest for funds to the Chairperson of the Corpora-
3 tion.

4 (2) REQUIRED CONTENT.—The budget request
5 required under paragraph (1) shall—

6 (A) specify—

7 (i) the aggregate amount of funds re-
8 quested for such fiscal year for the oper-
9 ations of the Office of the Inspector Gen-
10 eral of the Federal Mortgage Insurance
11 Corporation; and

12 (ii) the amount requested for all train-
13 ing needs, including a certification from
14 the Inspector General that the amount re-
15 quested satisfies all training requirements
16 for the Office of the Inspector General of
17 the Federal Mortgage Insurance Corpora-
18 tion for that fiscal year; and

19 (B) specifically—

20 (i) identify and specify any resources
21 necessary to support the Council of the In-
22 spectors General on Integrity and Effi-
23 ciency; and

24 (ii) justify the need for any resources
25 identified and specified under clause (i).

1 (e) AMENDMENTS TO INSPECTOR GENERAL ACT OF
2 1978.—The Inspector General Act of 1978 (5 U.S.C.
3 App.) is amended—

4 (1) in section 6(e)(3), by inserting “Federal
5 Mortgage Insurance Corporation” after “Federal
6 Emergency Management Agency”;

7 (2) in section 8G(a)(2), by striking “the Fed-
8 eral Housing Finance Board”; and

9 (3) in section 12—

10 (A) in paragraph (1), by striking “Director
11 of the Federal Housing Finance Agency” and
12 inserting “Chairperson of the Federal Mortgage
13 Insurance Corporation”; and

14 (B) in paragraph (2), by striking “Federal
15 Housing Finance Agency” and inserting “Fed-
16 eral Mortgage Insurance Corporation”.

17 (f) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the agency transfer date.

19 **SEC. 205. STAFF, EXPERTS, AND CONSULTANTS.**

20 (a) COMPENSATION.—

21 (1) IN GENERAL.—The Board of Directors may
22 appoint and fix the compensation of such officers,
23 attorneys, economists, examiners, and other employ-
24 ees as may be necessary for carrying out the func-
25 tions of the Corporation.

1 (2) RATES OF PAY.—Rates of basic pay and the
2 total amount of compensation and benefits for all
3 employees of the Corporation may be—

4 (A) set and adjusted by the Board of Di-
5 rectors without regard to the provisions of
6 chapter 51 or subchapter III of chapter 53 of
7 title 5, United States Code; and

8 (B) reasonably increased, notwithstanding
9 any limitation set forth in paragraph (3), if the
10 Board of Directors determines such increases
11 are necessary to attract and hire qualified em-
12 ployees.

13 (3) PARITY.—The Board of Directors may pro-
14 vide additional compensation and benefits to employ-
15 ees of the Corporation, of the same type of com-
16 pensation or benefits that are then being provided by
17 any agency referred to under section 1206 of the Fi-
18 nancial Institutions Reform, Recovery, and Enforce-
19 ment Act of 1989 (12 U.S.C. 1833b) or, if not then
20 being provided, could be provided by such an agency
21 under applicable provisions of law, rule, or regula-
22 tion. In setting and adjusting the total amount of
23 compensation and benefits for employees, the Board
24 of Directors shall consult with and seek to maintain
25 comparability with the agencies referred to under

1 section 1206 of the Financial Institutions Reform,
2 Recovery, and Enforcement Act of 1989 (12 U.S.C.
3 1833b).

4 (b) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon
5 the request of the Board of Directors, any Federal Gov-
6 ernment employee may be detailed to the Corporation
7 without reimbursement from the Corporation, and such
8 detail shall be without interruption or loss of civil service
9 status or privilege.

10 (c) **EXPERTS AND CONSULTANTS.**—The Corporation
11 may procure the services of experts and consultants as the
12 Corporation considers necessary or appropriate.

13 (d) **TECHNICAL AND PROFESSIONAL ADVISORY COM-**
14 **MITTEES.**—The Board of Directors may appoint such spe-
15 cial advisory, technical, or professional committees as may
16 be useful in carrying out the functions of the Corporation.

17 **SEC. 206. REPORTS; TESTIMONY; AUDITS.**

18 (a) **REPORTS.**—

19 (1) **IN GENERAL.**—After the system certifi-
20 cation date, the Corporation shall submit, on an an-
21 nual basis, to the Committee on Banking, Housing,
22 and Urban Affairs of the Senate and the Committee
23 on Financial Services of the House of Representa-
24 tives a written report of its operations, activities,

1 budget, receipts, and expenditures for the preceding
2 12-month period.

3 (2) CONTENTS OF REPORT.—The report re-
4 quired under subsection (a) shall include—

5 (A) an analysis of—

6 (i) with respect to the Mortgage In-
7 surance Fund established under section
8 303(d)—

9 (I) the current financial condition
10 of the Mortgage Insurance Fund;

11 (II) the exposure of the Mortgage
12 Insurance Fund to economic condi-
13 tions and an analysis of any stress
14 tests conducted with respect to the
15 Fund;

16 (III) an estimate of the resources
17 needed for the Mortgage Insurance
18 Fund to achieve the purposes of this
19 Act; and

20 (IV) any findings, conclusions,
21 and recommendations for legislative
22 and administrative actions considered
23 appropriate to the future activities of
24 the Corporation;

1 (ii) whether or not the actual reserve
2 ratio of the Mortgage Insurance Fund
3 met—

4 (I) the reserve ratio set for the
5 preceding 12-month period; or

6 (II) the reserve ratio goals estab-
7 lished in section 303(d)(7);

8 (iii) the detailed plan of the Corpora-
9 tion to ensure that the goals set for the re-
10 serve ratio for the Mortgage Insurance
11 Fund are met and maintained for the next
12 12-month period;

13 (iv) the state of the private label
14 mortgage-backed securities market, includ-
15 ing the submission of a reasonable set of
16 administrative, regulatory, and legislative
17 proposals on how to limit the Federal Gov-
18 ernment's footprint in the secondary mort-
19 gage market; and

20 (v) the report required under section
21 208(b)(2)(B);

22 (B) a discussion of the significant prob-
23 lems faced by consumers in shopping for or ob-
24 taining mortgage credit or services;

1 (C) a justification of the Corporation's
2 budget for the preceding 12-month period;

3 (D) a list of the significant rules and or-
4 ders adopted by the Corporation, as well as
5 other significant initiatives conducted by the
6 Corporation, during the preceding 12-month pe-
7 riod and the plan of the Corporation for rules,
8 orders, or other initiatives to be undertaken
9 during the next 12-month period;

10 (E) a list, with a brief statement of the
11 issues, of the public supervisory and enforce-
12 ment actions to which the Corporation was a
13 party during the preceding 12-month period;

14 (F) the actions of the Corporation taken
15 regarding rules, orders, and supervisory actions
16 with respect to covered entities; and

17 (G) an assessment of significant actions by
18 State attorneys general or State regulators re-
19 lating to Federal law within the Corporation's
20 jurisdiction.

21 (b) TESTIMONY.—After the system certification date,
22 the Chairperson shall appear annually before the Com-
23 mittee on Banking, Housing, and Urban Affairs of the
24 Senate and the Committee on Financial Services of the

1 House of Representatives to provide testimony on the re-
2 port submitted under subsection (a).

3 (c) REPORTS TO OMB.—

4 (1) FINANCIAL OPERATING PLANS AND FORE-
5 CASTS.—The Corporation shall provide to the Direc-
6 tor of the Office of Management and Budget copies
7 of the—

8 (A) Corporation’s financial operating plans
9 and forecasts as prepared by the Corporation in
10 the ordinary course of its operations; and

11 (B) quarterly reports of the Corporation’s
12 financial condition and results of operations as
13 prepared by the Corporation in the ordinary
14 course of its operations.

15 (2) RULE OF CONSTRUCTION.—This subsection
16 shall not be construed to—

17 (A) require any obligation on the part of
18 the Corporation to consult with, or obtain the
19 consent or approval of, the Director of the Of-
20 fice of Management and Budget with respect to
21 any reports, plans, forecasts, or other informa-
22 tion referred to in paragraph (1); or

23 (B) authorize any jurisdiction or oversight
24 by the Director of the Office of Management

1 and Budget over the affairs or operations of the
2 Corporation.

3 (d) AUDIT.—

4 (1) ANNUAL AUDIT.—The Comptroller General
5 of the United States shall annually audit—

6 (A) the financial transactions of the Cor-
7 poration; and

8 (B) the Mortgage Insurance Fund.

9 (2) AUDITING STANDARDS.—The audit required
10 under this subsection shall be completed in accord-
11 ance with the United States generally accepted gov-
12 ernment auditing standards as may be prescribed by
13 the Comptroller General.

14 (3) PLACE OF AUDIT.—The audit required
15 under this subsection shall be conducted at the place
16 or places where accounts of the Corporation are nor-
17 mally kept.

18 (4) ACCESS.—Notwithstanding any other provi-
19 sion of law, upon request and in such reasonable
20 form as the Comptroller General may request, the
21 Comptroller General shall have access to—

22 (A) any records, books, accounts, docu-
23 ments, reports, files, papers, property, or other
24 information under the control of or used by the
25 Corporation;

1 (B) any records or other information under
2 the control of a person or entity acting on be-
3 half of or under the authority of the Corpora-
4 tion, to the extent that such records or other in-
5 formation are relevant to an audit required
6 under this subsection; and

7 (C) the officers, directors, employees, fi-
8 nancial advisors, staff, working groups, and
9 agents and representatives of the Corporation
10 (relating to the activities on behalf of the Cor-
11 poration of such agent or representative).

12 (5) RULE OF CONSTRUCTION.—All records,
13 books, accounts, documents, reports, files, papers,
14 property, or other information referred to in para-
15 graph (4) shall remain in the possession and custody
16 of the Corporation.

17 (6) COPIES.—The Comptroller General may, as
18 the Comptroller General considers appropriate, make
19 and retain copies of the records, books, accounts,
20 documents, reports, files, papers, property, or other
21 information to which the Comptroller General is
22 granted access to under paragraph (3).

23 (7) REPORT.—

24 (A) SUBMISSION TO CONGRESS.—The
25 Comptroller General shall submit to Congress a

1 report of each annual audit conducted under
2 this subsection not later than six and one-half
3 months following the close of the year covered
4 by such audit.

5 (B) REQUIRED CONTENT.—The report re-
6 quired under subparagraph (A) shall—

7 (i) set forth the scope of the audit;

8 and

9 (ii) include—

10 (I) the statement of assets and li-
11 abilities, as well as any surplus or def-
12 icit;

13 (II) the statement of income and
14 expenses;

15 (III) the statement of sources
16 and application of funds;

17 (IV) such comments and infor-
18 mation as the Comptroller General
19 may deem necessary to inform Con-
20 gress of the financial operations and
21 condition of the Corporation, together
22 with such recommendations with re-
23 spect thereto as the Comptroller Gen-
24 eral may deem advisable; and

1 (V) a description of any program,
2 expenditure, or other financial trans-
3 action or undertaking observed in the
4 course of the audit, which, in the
5 opinion of the Comptroller General,
6 has been carried on or made without
7 authority of law.

8 (C) COPIES.—A copy of each report re-
9 quired under subparagraph (A) shall be fur-
10 nished to the President and to the Chairperson
11 at the time such report is submitted to Con-
12 gress.

13 (8) ASSISTANCE AND COSTS.—

14 (A) PERMITTED USE OF OUTSIDE ASSIST-
15 ANCE.—For the purpose of conducting an audit
16 under this subsection, the Comptroller General
17 may employ by contract, without regard to sec-
18 tion 3709 of the Revised Statutes of the United
19 States (41 U.S.C. 5), professional services of
20 firms and organizations of certified public ac-
21 countants for temporary periods or for special
22 purposes.

23 (B) COST OF AUDIT COVERED BY COR-
24 PORATION.—

1 (i) IN GENERAL.—Upon the request
2 of the Comptroller General, the Chair-
3 person shall transfer to the Comptroller
4 General from funds available the amount
5 requested by the Comptroller General to
6 cover the reasonable costs of any audit and
7 report conducted by the Comptroller Gen-
8 eral pursuant to this subsection.

9 (ii) CREDIT OF FUNDS.—The Comp-
10 troller General shall credit funds trans-
11 ferred under clause (i) to the account at
12 the United States Treasury established for
13 salaries and expenses of the Government
14 Accountability Office, and such amounts
15 shall be available upon receipt and without
16 fiscal year limitation to cover the full costs
17 of the audit and report.

18 **SEC. 207. SPECIFIC OFFICES.**

19 (a) ESTABLISHMENT.—

20 (1) GENERAL AUTHORITY.—The Corporation—
21 (A) shall establish within the Corporation
22 any office required to be established by this
23 Act; and

1 (B) may establish such other offices or
2 suboffices as are necessary and proper for the
3 functioning of the Corporation.

4 (2) APPOINTMENTS.—Except as may otherwise
5 be specifically provided, the head of any office estab-
6 lished pursuant to paragraph (1) shall be appointed
7 by the Board of Directors.

8 (b) UNDERWRITING.—The Corporation shall estab-
9 lish an Office of Underwriting in the Corporation, whose
10 functions shall include ensuring that eligible single-family
11 mortgage loans that collateralize a single-family covered
12 security insured under this Act comply with the require-
13 ments of this Act and minimize risk to the Mortgage In-
14 surance Fund.

15 (c) SECURITIZATION.—The Corporation shall estab-
16 lish an Office of Securitization in the Corporation, whose
17 functions shall include—

18 (1) overseeing and supervising the
19 Securitization Platform established under part I of
20 subtitle C of title III; and

21 (2) ensuring that small mortgage lenders have
22 equitable access to—

23 (A) the Securitization Platform, including
24 through the development and facilitation of op-
25 tions such as multi-guarantor pools and multi-

1 lender pools of eligible single-family mortgage
2 loans to be securitized and issued as single-fam-
3 ily covered securities through such Platform;
4 and

5 (B) any small lender mutual established or
6 approved under section 315.

7 (d) FEDERAL HOME LOAN BANKS.—

8 (1) IN GENERAL.—Upon the system certifi-
9 cation date, the Corporation shall establish an Office
10 of Federal Home Loan Bank Supervision in the Cor-
11 poration, whose functions shall include—

12 (A) overseeing, coordinating, and super-
13 vising the Federal Home Loan Banks and the
14 Federal Home Loan Bank System; and

15 (B) supervising any authorized subsidiary
16 of 1 or more Federal Home Loan Banks that
17 is an approved aggregator pursuant to section
18 312(m), including with respect to the initial
19 capitalization of any such subsidiary.

20 (2) TRANSFER OF FUNCTIONS.—Effective on
21 the system certification date, there are transferred
22 to the Office of Federal Home Loan Bank Super-
23 vision in the Corporation all functions of the Federal
24 Housing Finance Agency of the Corporation relating
25 to—

1 (A) the supervision of the Federal Home
2 Loan Banks and the Federal Home Loan Bank
3 System; and

4 (B) all rulemaking authority of the Federal
5 Housing Finance Agency of the Corporation re-
6 lating to the Federal Home Loan Banks and
7 the Federal Home Loan Bank System.

8 **SEC. 208. OFFICE OF CONSUMER AND MARKET ACCESS.**

9 (a) ESTABLISHMENT.—The Corporation shall estab-
10 lish an Office of Consumer and Market Access in the Cor-
11 poration, whose functions shall include the responsibilities
12 set forth under subsection (b).

13 (b) RESPONSIBILITIES.—

14 (1) ADMINISTERING THE MARKET ACCESS
15 FUND.—The Office of Consumer and Market Access
16 shall administer the Market Access Fund established
17 under section 504.

18 (2) MONITORING, COORDINATING, AND FACILI-
19 TATING THE NEEDS OF UNDERSERVED MARKETS.—

20 (A) IN GENERAL.—The Office of Con-
21 sumer and Market Access shall—

22 (i) monitor, on a macro level, the na-
23 tional, regional, and area single-family and
24 multifamily housing finance markets to
25 identify underserved markets, commu-

1 nities, and consumers in accordance with
2 the market segments identified and defined
3 under section 210;

4 (ii) coordinate with Federal agencies
5 regarding existing policies and initiatives
6 that address—

7 (I) the housing needs of under-
8 served markets, communities, and
9 consumers; and

10 (II) the affordable housing needs
11 of markets, communities, and con-
12 sumers; and

13 (iii) provide information on business
14 practices and technical assistance to mar-
15 ket participants regarding communities
16 identified as underserved with regards to
17 addressing the housing needs of consumers
18 in that community.

19 (B) ANNUAL STATE OF COVERED SECURI-
20 TIES MARKET REPORT.—

21 (i) IN GENERAL.—The Office of Con-
22 sumer and Market Access shall, on an an-
23 nual basis, submit a report to Congress on
24 the state of the covered securities market,

1 and make such report available to the pub-
2 lie.

3 (ii) REQUIRED CONTENT.—The report
4 required under clause (i) shall include—

5 (I) an assessment of the extent
6 to which the covered securities market
7 is providing liquidity to eligible bor-
8 rowers in all segments of the mort-
9 gage origination primary market, in-
10 cluding underserved segments identi-
11 fied and defined by the Corporation
12 under section 210; and

13 (II) provide recommendations for
14 such legislative, regulatory, or admin-
15 istrative actions as may be necessary
16 to address any deficiencies in the
17 availability of mortgage credit in any
18 market or region identified pursuant
19 to clause (i) via existing Federal pro-
20 grams or the covered securities mar-
21 ket.

22 (iii) RELIANCE ON PUBLIC DATA.—In
23 preparing each report required under this
24 subparagraph, the Office of Consumer and
25 Market Access—

1 (I) shall use, to the maximum ex-
2 tent practicable, publicly available
3 data and data otherwise collected
4 under this Act; and

5 (II) shall not include or review
6 any confidential information or infor-
7 mation collected by the Corporation as
8 part of its supervisory or examination
9 authorities that is confidential.

10 (C) INCENTIVE STUDY.—The Office of
11 Consumer and Market Access shall, on a bien-
12 nial basis, conduct a study on incentives to en-
13 courage mortgage lenders and mortgage origi-
14 nators to address the housing needs of under-
15 served markets and communities.

16 (D) INCLUSION IN ANNUAL REPORT.—The
17 Corporation shall include the report required in
18 subparagraph (B) and the study required in
19 subparagraph (C) in the annual report required
20 under section 206.

21 (E) CONSULTATION.—The Office of Con-
22 sumer and Market Access shall consult with the
23 Federal Home Loan Banks and any small lend-
24 er mutual established or approved under section
25 315 on approaches, methods, and practices de-

1 signed to address the housing needs of under-
2 served markets and communities.

3 **SEC. 209. OFFICE OF MULTIFAMILY HOUSING.**

4 The Corporation shall establish an Office of Multi-
5 family Housing in the Corporation, whose functions shall
6 include—

7 (1) developing, adopting, and publishing specific
8 eligibility criteria to ensure that eligible multifamily
9 mortgage loans that collateralize multifamily covered
10 securities insured under this Act comply with the re-
11 quirements of this Act; and

12 (2) performing any other activity relating to the
13 multifamily housing finance system that the Cor-
14 poration may determine appropriate to fulfill the re-
15 quirements of this Act.

16 **SEC. 210. EQUITABLE ACCESS FOR LENDERS AND BOR-**
17 **ROWERS.**

18 (a) EQUITABLE ACCESS IN UNDERSERVED MARKET
19 SEGMENTS.—

20 (1) IN GENERAL.—Subject to subsection (b),
21 the Corporation shall seek to support the primary
22 mortgage market for eligible mortgage loans on an
23 equitable and non-exclusionary basis to help ensure
24 that all eligible borrowers have access to mortgage
25 credit, including underserved segments of the pri-

1 mary mortgage market as identified and defined by
2 the Corporation under paragraph (2).

3 (2) UNDERSERVED MARKET SEGMENTS.—The
4 Corporation shall, by regulation, identify and define
5 not more than 8 segments of the primary mortgage
6 market in which lenders and eligible borrowers have
7 been determined to lack equitable access to the hous-
8 ing finance system facilitated by the Corporation.
9 The regulation required under this paragraph shall
10 set forth the criteria by which the Corporation iden-
11 tified such underserved market segments. The iden-
12 tified underserved market segments required to be
13 identified and defined under this paragraph may in-
14 clude the following:

15 (A) Traditionally underserved areas, in-
16 cluding rural and urban areas.

17 (B) Manufactured housing.

18 (C) Small balance loans.

19 (D) Low- and moderate-income credit-
20 worthy borrowers.

21 (E) Preservation of existing housing stock
22 created by state or Federal laws.

23 (F) Affordable rental housing.

24 (3) REPORTS ON SERVING UNDERSERVED MAR-
25 KET SEGMENTS.—

1 (A) ANNUAL REPORTS.—The Corporation
2 shall require that each approved guarantor and
3 approved aggregator engaged in a covered guar-
4 antee transaction or in a covered market-based
5 risk-sharing transaction submit on annual basis
6 a public report describing the actions taken by
7 such approved guarantor or approved
8 aggregator during the year, consistent with its
9 business judgment, to provide credit to the un-
10 derserved market segments identified and de-
11 fined by the Corporation pursuant to this sub-
12 section, including corporate practices designed
13 to serve such identified market segments. The
14 annual report required under this subparagraph
15 shall be approved by the board of directors and
16 signed by the chief executive officer of the ap-
17 proved guarantor or approved aggregator sub-
18 mitting the report.

19 (B) REPORT TEMPLATE.—The Corporation
20 may establish an optional template for the an-
21 nual report required under subparagraph (A).

22 (C) REPORT NOT SUBJECT TO PRIOR RE-
23 VIEW OR APPROVAL.—An annual report re-
24 quired under subparagraph (A) shall not be

1 subject to prior review or approval by the Cor-
2 poration.

3 (D) COORDINATION WITH OTHER FEDERAL
4 AGENCIES.—The Corporation shall, in estab-
5 lishing the requirements for the annual report
6 required under subparagraph (A), coordinate
7 with other Federal agencies, as necessary, to re-
8 duce duplicative reporting requirements.

9 (b) LIMITATIONS.—

10 (1) LIMITATION ON USE OF AUTHORITIES AND
11 INFORMATION.—In carrying out this title, the Cor-
12 poration shall not interfere with the exercise of busi-
13 ness judgment of an approved aggregator or ap-
14 proved guarantor in determining which specific
15 mortgage loans to include in a covered guarantee
16 transaction or a covered market-based risk-sharing
17 transaction, including through the Corporation's use
18 of—

19 (A) the approval process for a guarantor
20 or an aggregator established under subtitle B of
21 title III;

22 (B) its general supervisory and examina-
23 tion authorities under subtitle B of title III; or

24 (C) information collected under this sec-
25 tion, section 501, or section 208.

1 (2) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall prevent the imposition of the vari-
3 able incentive-based fees authorized in section 501.

4 (3) CONSISTENCY WITH SAFETY AND SOUND-
5 NESS.—The Corporation shall take appropriate
6 measures designed to ensure that the requirements
7 under this section are implemented in a manner con-
8 sistent with safety and soundness principles.

9 **TITLE III—DUTIES AND**
10 **RESPONSIBILITIES OF THE FMIC**
11 **Subtitle A—Duties and Authorities**

12 **SEC. 301. DUTIES AND RESPONSIBILITIES.**

13 (a) DUTIES.—The principal duties of the Corporation
14 shall be to—

15 (1) carry out this Act in a manner that fulfills
16 the purposes of the Corporation as described in sec-
17 tion 201(b);

18 (2) minimize any potential long-term cost to the
19 taxpayer, including through the use of the Mortgage
20 Insurance Fund, the assessment of insurance fees,
21 and the approval of approved entities and credit
22 risk-sharing mechanisms;

23 (3) facilitate fair access to the secondary mort-
24 gage market for small mortgage lenders originating
25 eligible single-family and multifamily mortgage

1 loans, including through the establishment, approval,
2 and oversight of small lender mutuals;

3 (4) ensure integrity and discipline in the mort-
4 gage market, particularly by monitoring the safety
5 and soundness of regulated entities and approved
6 entities;

7 (5) ensure that approved entities maintain the
8 capacity to further the requirements of the Corpora-
9 tion pursuant to section 201(b)(5) and that ap-
10 proved guarantors, approved multifamily guarantors,
11 and approved aggregators are in compliance with
12 section 210(a)(3);

13 (6) promote the standardization of the sec-
14 ondary mortgage market through the use of uniform
15 securitization agreements, servicing agreements, and
16 the Securitization Platform; and

17 (7) increase transparency in single-family and
18 multifamily mortgage markets, including through
19 the national mortgage loan database.

20 (b) SCOPE OF AUTHORITY.—The authority of the
21 Corporation shall include the authority to exercise such
22 incidental powers as may be necessary or appropriate to
23 fulfill the duties and responsibilities of the Corporation set
24 forth in this Act.

1 (c) DELEGATION OF AUTHORITY.—The Board of Di-
2 rectors may delegate to any duly authorized employee, rep-
3 resentative, or agent any power vested in the Corporation
4 by law.

5 **SEC. 302. STANDARDS FOR CREDIT RISK-SHARING MECHA-**
6 **NISMS.**

7 (a) APPROVAL.—

8 (1) AUTHORITY.—The Corporation shall de-
9 velop, adopt, and publish standards for the consider-
10 ation and, as appropriate, the approval of credit
11 risk-sharing mechanisms that shall require that the
12 first loss position of private market holders on sin-
13 gle-family covered securities is—

14 (A) adequate to cover losses that might be
15 incurred in a period of economic stress, includ-
16 ing national and regional home price declines,
17 such as those observed during moderate to se-
18 vere recessions in the United States; and

19 (B) not less than 10 percent of the prin-
20 cipal or face value of the single-family covered
21 security at the time of issuance.

22 (2) FRAUD PROHIBITION.—

23 (A) PROHIBITION.—It shall be unlawful
24 for any person to intentionally create and issue
25 any instrument or security as a first loss posi-

1 tion on a single-family covered security that
2 such person knows does not satisfy the require-
3 ments of this section.

4 (B) PENALTY.—Violations of subpara-
5 graph (A) shall be punishable in accordance
6 with section 1343 of title 18, United States
7 Code.

8 (b) APPROVAL OF CREDIT RISK-SHARING MECHA-
9 NISMS.—

10 (1) CONSIDERATIONS FOR APPROVAL OF VAR-
11 IOUS MECHANISMS.—In approving credit risk-shar-
12 ing mechanisms under subsection (a), the Corpora-
13 tion shall—

14 (A) consider proposals that include credit-
15 linked structures or other instruments that are
16 designed to absorb credit losses on single-family
17 covered securities;

18 (B) consider any credit risk-sharing mech-
19 anisms undertaken by the enterprises;

20 (C) ensure that the first loss position is
21 fully funded to meet the requirements of sub-
22 section (a)(1)(B);

23 (D) ensure that each type of proposed
24 mechanism—

1 (i) enables the Corporation to verify
2 that the first loss position is fully funded;

3 (ii) minimizes any potential long-term
4 cost to the taxpayer;

5 (iii) accommodates the availability of
6 mortgage credit on equal and transparent
7 terms in the secondary mortgage market
8 for—

9 (I) small mortgage lenders; and

10 (II) lenders from all geographic
11 locations, including rural locations;

12 (iv) allows for broad availability of
13 mortgage credit and secondary mortgage
14 market financing through fluctuations in
15 the business cycle for eligible single-family
16 lending across all—

17 (I) regions;

18 (II) localities;

19 (III) institutions;

20 (IV) property types, including
21 housing serving renters; and

22 (V) eligible borrowers;

23 (v) fulfills the requirements under sec-
24 tion 314 with respect to loan modifications
25 and foreclosure prevention;

1 (vi) does not prevent the securitization
2 of refinanced or modified single-family eli-
3 gible mortgage loans within single-family
4 covered securities during a period when the
5 authority under section 305(i) is exercised;

6 (vii) does not diminish market liquid-
7 ity and resiliency;

8 (viii) does not prevent the refinancing
9 of underwater eligible single-family mort-
10 gage loans; and

11 (ix) does not present an unnecessary
12 risk to the Mortgage Insurance Fund; and

13 (E) consider whether the approval of any
14 credit risk-sharing mechanism will impair the
15 operation and liquidity of forward market exe-
16 cutions for single-family eligible mortgage loans
17 and single-family covered securities, such as the
18 To-Be-Announced market, taking into consider-
19 ation other risk-sharing options available to
20 market participants.

21 (2) NOTICE AND PUBLICATION.—The Corpora-
22 tion shall—

23 (A) provide prompt notice to any person
24 seeking approval for a credit risk-sharing mech-

1 anism of the approval or denial of that credit
2 risk-sharing mechanism; and

3 (B) make available on the website of the
4 Corporation information regarding approved
5 mechanisms.

6 (3) REVIEW OF APPROVED CREDIT RISK-SHAR-
7 ING MECHANISMS.—

8 (A) AUTHORITY TO SUSPEND.—The Cor-
9 poration may, from time to time and in its dis-
10 cretion—

11 (i) conduct reviews of approved credit
12 risk-sharing mechanisms to determine
13 whether such credit risk-sharing mecha-
14 nisms continue to satisfy the consider-
15 ations for approval under paragraph (1);

16 (ii) assess the functioning of the for-
17 ward market for eligible single-family
18 mortgage loans and single-family covered
19 securities, including the To-Be-Announced
20 market, to determine whether any ap-
21 proved credit risk-sharing mechanism has
22 adversely affected the liquidity or resilience
23 of such market; and

24 (iii) suspend the approval of—

1 (I) any credit risk-sharing mech-
2 anism that it determines does not sat-
3 isfy the considerations for approval
4 under paragraph (1); or

5 (II) any credit risk-sharing mech-
6 anism that it determines has adversely
7 affected the liquidity or resilience of
8 the forward market for eligible single-
9 family mortgage loans and single-fam-
10 ily covered securities, or the To-Be-
11 Announced market.

12 (B) RECONSIDERATION.—

13 (i) DEVELOPMENT OF EXPEDITED
14 PROCESS.—The Corporation shall develop
15 an expedited process for the reinstatement
16 of the approval of any credit risk-sharing
17 mechanism that is suspended under sub-
18 paragraph (A)(iii).

19 (ii) REVISION OF MECHANISM.—If a
20 credit risk-sharing mechanism is suspended
21 under subparagraph (A)(iii), the credit
22 risk-sharing mechanism may be adapted or
23 revised, as necessary, for reconsideration
24 for reinstatement of the approval of the
25 credit risk-sharing mechanism under the

1 expedited process developed under clause
2 (i).

3 (C) NO EFFECT ON EXISTING MECHA-
4 NISMS.—The suspension of the approval of any
5 credit risk-sharing mechanism under subpara-
6 graph (A)(iii) shall have no effect on the status
7 of single-family covered securities and related
8 instruments using the credit risk-sharing mech-
9 anism that were issued prior to the suspension.

10 (4) ADDITIONAL CREDIT RISK-SHARING MECHA-
11 NISMS.—

12 (A) APPROVAL.—In addition to credit risk-
13 sharing mechanisms approved by the Corpora-
14 tion under subsection (a), the Corporation shall
15 consider and may approve additional credit
16 risk-sharing mechanisms that—

17 (i) may be employed by an approved
18 guarantor to manage the credit risk relat-
19 ing to guarantees provided for single-fam-
20 ily covered securities; and

21 (ii) do not represent the first loss po-
22 sition with respect to single-family covered
23 securities.

24 (B) RULE OF CONSTRUCTION.—Nothing in
25 this paragraph shall be construed to limit an

1 approved guarantor from engaging in other
2 forms of risk-sharing or risk mitigation using
3 mechanisms that have not been considered or
4 approved by the Corporation.

5 (5) REPORTS.—

6 (A) IN GENERAL.—Not later than 1 year
7 after the agency transfer date, and annually
8 thereafter until the system certification date,
9 the Corporation shall submit a report to the
10 Committee on Banking, Housing, and Urban
11 Affairs of the Senate and the Committee on Fi-
12 nancial Services of the House of Representa-
13 tives that—

14 (i) discusses each credit risk-sharing
15 mechanism that the Chairperson consid-
16 ered in carrying out the requirements of
17 this section;

18 (ii) describes how the operation and
19 execution of each approved credit risk-
20 sharing mechanism fulfills the require-
21 ments of this section; and

22 (iii) explains how the Corporation ar-
23 rived at the determinations made under
24 clause (ii), including a discussion of the
25 data considered.

1 (B) SUBSEQUENT REPORTS.—On the sys-
2 tem certification date and annually thereafter,
3 the Corporation shall publish in the Federal
4 Register a list of the credit risk-sharing mecha-
5 nisms that the Corporation approved or sus-
6 pended, addressing the identical concerns set
7 forth under clauses (i) through (iii) of subpara-
8 graph (A) and, with respect to any suspension,
9 the considerations under paragraph (1) that are
10 no longer satisfied.

11 (C) MULTIFAMILY REPORTS.—The Cor-
12 poration shall include in the reports prepared
13 under subparagraphs (A) and (B) a description
14 of the credit risk-sharing mechanisms approved
15 by the Corporation for multifamily guarantors
16 pursuant to section 703.

17 (c) COLLATERAL DIVERSIFICATION STANDARDS.—
18 The Corporation shall establish standards for the appro-
19 priate minimum level of diversification for eligible single-
20 family mortgage loans that collateralize single-family cov-
21 ered securities that are issued subject to an approved cred-
22 it risk-sharing mechanism in order to reduce the credit
23 risk such single-family covered securities could pose to the
24 Mortgage Insurance Fund.

1 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to require the Corporation to ap-
3 prove any credit risk-sharing mechanism.

4 (e) APPLICABILITY OF THE COMMODITY EXCHANGE
5 ACT AND SECURITIES ACT OF 1933.—

6 (1) EXEMPTION FROM THE COMMODITY EX-
7 CHANGE ACT; PRIOR CONSULTATION REQUIRED.—

8 (A) EXEMPTION.—No counterparty that
9 enters into a swap, as that term is defined by
10 section 1a of the Commodity Exchange Act (7
11 U.S.C. 1a), for purposes of structuring any
12 credit risk-sharing mechanism that is approved
13 by the Corporation pursuant to this section,
14 which credit risk-sharing mechanism is intended
15 to be used or is used by a private market holder
16 to assume losses associated with any single-
17 family covered security insured in accordance
18 with section 303 or section 305, shall be
19 deemed, by reason of such swap transaction, to
20 be a commodity pool, as that term is defined in
21 section 1a of the Commodity Exchange Act (7
22 U.S.C. 1a).

23 (B) PRIOR CONSULTATION REQUIRED.—
24 Before approving any credit risk-sharing mech-
25 anism that would be exempt from the Com-

1 modity Exchange Act pursuant to subparagraph
2 (A), the Corporation shall consult with the
3 Commodity Futures Trading Commission.

4 (2) EXEMPTION FROM SECTION 27B OF THE SE-
5 CURITIES ACT OF 1933; PRIOR CONSULTATION RE-
6 QUIRED.—

7 (A) EXEMPTION.—Any credit risk-sharing
8 mechanism that is approved by the Corporation
9 pursuant to this section, which credit risk-shar-
10 ing mechanism is intended to be used or is used
11 by a private market holder to assume losses as-
12 sociated with any single-family covered security
13 insured in accordance with section 303 or sec-
14 tion 305, shall be exempt from section 27B of
15 the Securities Act of 1933 (15 U.S.C. 77z-2a).

16 (B) PRIOR CONSULTATION REQUIRED.—
17 Before approving any credit risk-sharing mech-
18 anism that would be exempt from section 27B
19 of the Securities Act of 1933 pursuant to sub-
20 paragraph (A), the Corporation shall consult
21 with the Securities and Exchange Commission.

22 **SEC. 303. INSURANCE; MORTGAGE INSURANCE FUND.**

23 (a) AUTHORITY.—The Corporation shall, in exchange
24 for a fee in accordance with subsection (d)(8), insure the
25 payment of principal and interest on a covered security

1 with respect to losses that may be incurred on such cov-
2 ered security subject to the requirements of this section.

3 (b) TERMS AND CONDITIONS.—

4 (1) IN GENERAL.—The Corporation shall, by
5 regulation, establish terms and conditions for the
6 provision of insurance under this Act.

7 (2) SINGLE-FAMILY.—The terms and conditions
8 required to be established under paragraph (1) shall,
9 for single-family covered securities, include terms
10 and conditions that ensure—

11 (A) eligible single-family mortgage loans
12 collateralizing single-family covered securities
13 have been delivered to the Platform; and

14 (B) with respect to each single-family cov-
15 ered security, either—

16 (i) private market holders have taken
17 a first loss position that satisfies the re-
18 quirements of section 302; or

19 (ii) an approved guarantor has pro-
20 vided a guarantee in satisfaction of the re-
21 quirements of section 311.

22 (3) MULTIFAMILY.—The terms and conditions
23 required to be established under paragraph (1) shall,
24 for multifamily covered securities, include terms and
25 conditions that ensure, with respect to each multi-

1 family covered security, that an approved multi-
2 family guarantor has provided a guarantee in satis-
3 faction of the requirements of section 703.

4 (c) CASH PAYMENTS; CONTINUED OPERATIONS.—

5 (1) CORPORATION TO FACILITATE TIMELY PAY-
6 MENT.—The Corporation shall facilitate the timely
7 payment of principal and interest on covered securi-
8 ties insured under this Act in the event of any losses
9 that may be incurred as a result of any of the condi-
10 tions in paragraph (2) by—

11 (A) paying, in cash when due, any short-
12 falls in payment of principal and interest due
13 on the covered security; and

14 (B) continuing to charge and collect any
15 fees for the provision of insurance (in accord-
16 ance with subsection (d)(8)) relating to the cov-
17 ered security.

18 (2) CONDITIONS.—The conditions referred to in
19 paragraph (1) are—

20 (A) a payment default on the covered secu-
21 rity exceeds the first loss position assumed by
22 a private market holder;

23 (B) in the case of a covered security that
24 is guaranteed by an approved guarantor or ap-

1 proved multifamily guarantor of the covered se-
2 curity, the guarantor has become insolvent; or

3 (C) the servicer or guarantor fails to trans-
4 fer to the bond administrator for the covered
5 security funds in amounts necessary to make
6 timely payment of principal and interest due on
7 the covered security.

8 (d) MORTGAGE INSURANCE FUND.—

9 (1) ESTABLISHMENT.—On the agency transfer
10 date, there shall be established the Mortgage Insur-
11 ance Fund, which the Corporation shall—

12 (A) maintain and administer;

13 (B) use to carry out the insurance func-
14 tions authorized under this Act, including any
15 function or action authorized under section 305;
16 and

17 (C) invest in accordance with the require-
18 ments of paragraph (10).

19 (2) DEPOSITS.—The Mortgage Insurance Fund
20 shall be credited with any—

21 (A) fee amounts required to be deposited
22 in the Fund under this section;

23 (B) amounts earned on investments pursu-
24 ant to paragraph (10);

1 (C) assessment amounts authorized to be
2 deposited into the Fund under section 405(b);
3 and

4 (D) assessment amounts required to be de-
5 posited into the Fund under section 608(c).

6 (3) FEES FOR SINGLE-FAMILY AND MULTI-
7 FAMILY COVERED SECURITIES.—In determining the
8 amount of any fee to be charged by the Corporation
9 under this section, the Corporation shall charge a
10 separate fee for single-family covered securities and
11 multifamily covered securities, as appropriate for
12 each asset class.

13 (4) SEPARATE ACCOUNTING REQUIRED.—The
14 Corporation shall keep and maintain separate ac-
15 counting for deposits in the Mortgage Insurance
16 Fund related to fee amounts charged and collected
17 for the insurance of single-family covered securities
18 and multifamily covered securities.

19 (5) FIDUCIARY RESPONSIBILITY.—The Cor-
20 poration has the responsibility to ensure that the
21 Mortgage Insurance Fund remains financially sound.

22 (6) USE AND TREATMENT OF AMOUNTS IN THE
23 FUND.—

24 (A) IN GENERAL.—The Mortgage Insur-
25 ance Fund shall be solely available to the Cor-

1 poration for use by the Corporation to carry out
2 the functions authorized by this Act and for the
3 expenses of the Corporation and for—

4 (i) compensation of the employees of
5 the Corporation;

6 (ii) purposes of—

7 (I) funding the CSP; and

8 (II) establishing the

9 Securitization Platform under section

10 321, multifamily subsidiaries under

11 section 701, the initial Small Lender

12 Mutual under section 315, and any

13 other entity authorized by this Act

14 that facilitates an orderly transition to

15 the new housing finance system; and

16 (iii) all other expenses of the Corpora-

17 tion.

18 (B) PROHIBITION.—The Mortgage Insur-
19 ance Fund may not be used or otherwise di-
20 verted to cover any other expense of the Fed-
21 eral Government.

22 (C) NOT GOVERNMENT FUNDS.—Notwith-
23 standing any other provision of law, amounts in
24 the Mortgage Insurance Fund shall not be sub-
25 ject to apportionment for the purposes of chap-

1 ter 15 of title 31, United States Code, or under
2 any other authority.

3 (D) RULE OF CONSTRUCTION.—Amounts
4 in the Mortgage Insurance Fund shall not be
5 construed to be Government or public funds or
6 appropriated money.

7 (7) RESERVE RATIO GOALS FOR MORTGAGE IN-
8 SURANCE FUND.—The Corporation shall—

9 (A) endeavor to ensure that the Mortgage
10 Insurance Fund attains a reserve ratio—

11 (i) of 1.25 percent of the sum of the
12 outstanding principal balance of the cov-
13 ered securities for which insurance is being
14 provided under this title within 5 years of
15 the system certification date; and

16 (ii) of 2.50 percent of the sum of the
17 outstanding principal balance of the cov-
18 ered securities for which insurance is being
19 provided under this title within 10 years of
20 the system certification date; and

21 (B) after the expiration of the period re-
22 ferred to in subparagraph (A)(ii), endeavor to
23 ensure that the Mortgage Insurance Fund
24 maintains a reserve ratio of not less than 2.50
25 percent of the sum of the outstanding principal

1 balance of the covered securities for which in-
2 surance is being provided under this title.

3 (8) MAINTENANCE OF RESERVE RATIO; ESTAB-
4 LISHMENT OF FEES.—

5 (A) ESTABLISHMENT OF FEES.—The Cor-
6 poration shall charge and collect a fee, and may
7 in its discretion increase or decrease such fee,
8 in connection with any insurance provided
9 under this title to—

10 (i) achieve and maintain the reserve
11 ratio goals established under paragraph
12 (7); and

13 (ii) fund the operations of the Cor-
14 poration.

15 (B) FEE CONSIDERATIONS.—In estab-
16 lishing fees under subparagraph (A), the Cor-
17 poration shall consider—

18 (i) the expected operating expenses of
19 the Mortgage Insurance Fund;

20 (ii) the risk of loss to the Mortgage
21 Insurance Fund in carrying out the re-
22 quirements under this Act;

23 (iii) the risk presented by, and the
24 loss absorption capacity of, the credit risk-
25 sharing mechanism or guarantee that is

1 provided on the pool of eligible mortgage
2 loans collateralizing the covered security to
3 be insured under this title;

4 (iv) economic conditions generally af-
5 fecting the mortgage markets;

6 (v) the extent to which the reserve
7 ratio of the Mortgage Insurance Fund
8 met—

9 (I) the reserve ratio set for the
10 preceding 12-month period; or

11 (II) the reserve ratio goals estab-
12 lished in paragraph (7); and

13 (vi) any other factors that the Cor-
14 poration determines appropriate.

15 (C) FEE UNIFORMITY.—The fee required
16 under subparagraph (A)—

17 (i) except as provided in subparagraph
18 (D), shall be set at a uniform amount ap-
19 plicable to all institutions purchasing in-
20 surance under this title;

21 (ii) may not vary—

22 (I) by geographic location; or

23 (II) by the size of the institution
24 to which the fee is charged; and

1 (iii) may not be based on the volume
2 of insurance to be purchased.

3 (D) SEPARATE AND DISTINCT FEES BASED
4 ON CREDIT RISK-SHARING MECHANISMS.—
5 Nothing in subparagraph (C) shall prohibit or
6 be construed to prohibit the Corporation from
7 charging separate and distinct fees under this
8 paragraph based on the type or form of credit
9 risk-sharing mechanism applicable to the cov-
10 ered security to be insured under this title.

11 (E) DEPOSIT INTO MORTGAGE INSURANCE
12 FUND.—Any fee amounts collected under this
13 paragraph shall be deposited in the Mortgage
14 Insurance Fund.

15 (9) FULL FAITH AND CREDIT.—The full faith
16 and credit of the United States is pledged to the
17 payment of all amounts from the Mortgage Insur-
18 ance Fund which may be required to be paid under
19 any insurance provided under this title.

20 (10) INVESTMENTS.—

21 (A) IN GENERAL.—The Board of Directors
22 may request the Secretary of the Treasury to
23 invest such portion of amounts in the Mortgage
24 Insurance Fund that, in the judgment of the

1 Board, is not required to meet the current--sug-
2 gested deletion needs of the Corporation.

3 (B) ELIGIBLE INVESTMENTS.—Pursuant
4 to a request under subparagraph (A), the Sec-
5 retary of the Treasury shall invest such por-
6 tions in obligations of the United States bearing
7 interest at a rate determined by the Secretary
8 of the Treasury, taking into consideration, at
9 the time of the investment, market yields on
10 outstanding marketable obligations of the
11 United States of comparable maturity.

12 (C) PROHIBITED INVESTMENTS.—Amounts
13 in the Mortgage Insurance Fund may not be in-
14 vested in any—

15 (i) covered security insured under this
16 title; or

17 (ii) mortgage-backed security issued
18 by the enterprises.

19 (e) MANDATORY LOSS REVIEW BY FMIC IG.—

20 (1) IN GENERAL.—If the Mortgage Insurance
21 Fund is required to make any payment of principal
22 or interest, or both, on a covered security with re-
23 spect to losses incurred on such covered security to
24 any holder of such covered security, the Inspector

1 General of the Federal Mortgage Insurance Corpora-
2 tion shall—

3 (A) review and make a written report to
4 the Corporation regarding the decision of the
5 Corporation to insure such covered security and
6 the supervision by the Corporation of all market
7 participants involved in the creation, issuance,
8 servicing, guarantee of, or insurance of such
9 covered security, which shall—

10 (i) ascertain why the covered security
11 resulted in a loss to the Mortgage Insur-
12 ance Fund; and

13 (ii) make recommendations for pre-
14 venting any such loss in the future; and

15 (B) provide a copy of the report required
16 under subparagraph (A) to—

17 (i) the Comptroller General of the
18 United States;

19 (ii) the appropriate Federal banking
20 agency or State insurance authority, as ap-
21 propriate, of any market participant in-
22 volved in the creation, issuance, servicing,
23 guarantee of, or insurance of such covered
24 security; and

1 (iii) the Committee on Banking,
2 Housing, and Urban Affairs of the Senate
3 and the Committee on Financial Services
4 of the House of Representatives.

5 (2) DEADLINE FOR REPORT.—The Inspector
6 General of the Federal Mortgage Insurance Corpora-
7 tion shall comply with paragraph (1) as expedi-
8 tiously as possible, but in no event shall the report
9 required under paragraph (1) be submitted later
10 than 6 months after the date on which the loss was
11 incurred.

12 (3) PUBLIC DISCLOSURE REQUIRED.—

13 (A) IN GENERAL.—The Corporation shall
14 disclose any report on losses required under this
15 subsection, upon request under section 552 of
16 title 5, United States Code, without excising—

17 (i) any portion under section
18 552(b)(5) of that title; or

19 (ii) any information under paragraph
20 (4) (other than trade secrets) or paragraph
21 (8) of section 552(b) of that title.

22 (B) EXCEPTION.—Subparagraph (A) does
23 not require the Corporation to disclose the
24 name of any holder of the covered security, or

1 information from which the identity of such a
2 person could reasonably be ascertained.

3 (4) GAO REVIEW.—The Comptroller General of
4 the United States shall, under such conditions as the
5 Comptroller General determines to be appropriate,
6 review any report made under paragraph (1) and
7 recommend to the Corporation improvements in the
8 supervision of market participants.

9 **SEC. 304. LOAN LIMITS; HOUSING PRICE INDEX.**

10 (a) ESTABLISHMENT.—The Corporation shall estab-
11 lish limitations governing the maximum original principal
12 obligation of eligible single-family mortgage loans that
13 may collateralize a covered security to be insured by the
14 Corporation under this title.

15 (b) CALCULATION OF AMOUNT.—The limitation set
16 forth under subsection (a) shall be calculated with respect
17 to the total original principal obligation of the eligible sin-
18 gle-family mortgage loan and not merely with respect to
19 the amount insured by the Corporation.

20 (c) MAXIMUM LIMITS.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the maximum limitation amount under
23 this subsection shall not exceed \$417,000 for a
24 mortgage loan secured by a 1-family residence, for
25 a mortgage loan secured by a 2-family residence the

1 limit shall equal 128 percent of the limit for a mort-
2 gage loan secured by a 1-family residence, for a
3 mortgage loan secured by a 3-family residence the
4 limit shall equal 155 percent of the limit for a mort-
5 gage loan secured by a 1-family residence, and for
6 a mortgage loan secured by a 4-family residence the
7 limit shall equal 192 percent of the limit for a mort-
8 gage loan secured by a 1-family residence, except
9 that such maximum limitations shall be adjusted ef-
10 fective January 1 of each year beginning after the
11 effective date of this Act, subject to the limitations
12 in this paragraph. Each adjustment shall be made
13 by adding to each such amount (as it may have been
14 previously adjusted) a percentage thereof equal to
15 the percentage increase, during the most recent 12-
16 month or 4-quarter period ending before the time of
17 determining such annual adjustment, in the housing
18 price index maintained by the Chairperson pursuant
19 to subsection (d). If the change in such house price
20 index during the most recent 12-month or 4-quarter
21 period ending before the time of determining such
22 annual adjustment is a decrease, then no adjustment
23 shall be made for the next year, and the next up-
24 ward adjustment shall take into account prior de-
25 clines in the house price index, so that any adjust-

1 ment shall reflect the net change in the house price
2 index since the last adjustment. Declines in the
3 house price index shall be accumulated and then re-
4 duce increases until subsequent increases exceed
5 prior declines.

6 (2) HIGH-COST AREA LIMITS.—The limitations
7 set forth in paragraph (1) may be increased by not
8 more than 50 percent with respect to properties lo-
9 cated in Alaska, Guam, Hawaii, and the Virgin Is-
10 lands. Such foregoing limitations shall also be in-
11 creased, with respect to properties of a particular
12 size located in any area for which 115 percent of the
13 median house price for such size residence exceeds
14 the limitation for such size residence set forth under
15 paragraph (1), to the lesser of 150 percent of such
16 limitation for such size residence or the amount that
17 is equal to 115 percent of the median house price in
18 such area for such size residence.

19 (d) HOUSING PRICE INDEX.—

20 (1) NATIONAL INDEX.—The Corporation shall
21 establish and maintain a method of assessing a na-
22 tional average single-family house price for use in
23 calculating the loan limits for eligible single-family
24 mortgage loans under subsection (c), and other aver-

1 ages as the Corporation considers appropriate, in-
2 cluding—

3 (A) averages based on different geographic
4 regions; and

5 (B) an average for houses whose mortgage
6 collateralized single-family covered securities.

7 (2) CONSIDERATIONS.—In establishing the
8 method described under subsection (a), the Corpora-
9 tion may take into consideration the data collected
10 in carrying out the functions described under section
11 333, and such other data, existing house price in-
12 dexes, and other measures as the Corporation con-
13 siders appropriate.

14 **SEC. 305. AUTHORITY TO PROTECT TAXPAYERS IN UN-**
15 **USUAL AND EXIGENT MARKET CONDITIONS.**

16 (a) IN GENERAL.—If the Corporation, upon the writ-
17 ten agreement of the Chairman of the Board of Governors
18 of the Federal Reserve System and the Secretary of the
19 Treasury, and in consultation with the Secretary of Hous-
20 ing and Urban Development, determines that unusual and
21 exigent circumstances have created or threaten to create
22 an anomalous lack of mortgage credit availability within
23 the single-family housing market, multifamily housing
24 market, or entire United States housing market that could
25 materially and severely disrupt the functioning of the

1 housing finance system of the United States, the Corpora-
2 tion may, for a period of 6 months—

3 (1) provide insurance in accordance with section
4 303 to any single-family covered security regardless
5 of whether such security has satisfied the require-
6 ments of section 302; and

7 (2) establish provisional standards for approved
8 entities, notwithstanding any standard required
9 under subtitle B or section 703, pursuant to section
10 607.

11 (b) **CONSIDERATIONS.**—In exercising the authority
12 granted under subsection (a), the Corporation shall con-
13 sider the severity of the conditions present in the housing
14 markets and the risks presented to the Mortgage Insur-
15 ance Fund in exercising such authority.

16 (c) **TERMS AND CONDITIONS.**—Insurance provided
17 under subsection (a) shall be subject to such additional
18 or different limitations, restrictions, and regulations as the
19 Corporation may prescribe.

20 (d) **BAILOUT STRICTLY PROHIBITED.**—In exercising
21 the authority granted under subsection (a), the Corpora-
22 tion may not—

23 (1) provide aid to an approved entity or an af-
24 filiate of the approved entity, if such approved entity

1 is in bankruptcy or any other Federal or State insol-
2 vency proceeding; or

3 (2) provide aid for the purpose of assisting a
4 single and specific company avoid bankruptcy or any
5 other Federal or State insolvency proceeding.

6 (e) NOTICE.—Not later than 7 days after authorizing
7 insurance or establishing provisional standards under sub-
8 section (a), the Corporation shall submit to the Committee
9 on Banking, Housing, and Urban Affairs of the Senate
10 and the Committee on Financial Services of the House of
11 Representatives a report that includes—

12 (1) the justification for the exercise of authority
13 to provide such insurance or establish such provi-
14 sional standards;

15 (2) evidence that unusual and exigent cir-
16 cumstances have created or threatened to create an
17 anomalous lack of mortgage credit availability within
18 the single-family housing market, multifamily hous-
19 ing market, or entire United States housing market
20 that could materially and severely disrupt the func-
21 tioning of the housing finance system of the United
22 States; and

23 (3) evidence that failure to exercise such au-
24 thority would have undermined the safety and
25 soundness of the housing finance system.

1 (f) ADDITIONAL EXERCISE OF AUTHORITY.—

2 (1) IN GENERAL.—Subject to the limitation
3 under subsection (g), the authority granted to the
4 Corporation under subsection (a) may be exercised
5 for 2 additional 9-month periods within any given 3-
6 year period, provided that the Corporation, upon the
7 written agreement of the Chairman of the Board of
8 Governors of the Federal Reserve System and the
9 Secretary of the Treasury, and in consultation with
10 the Secretary of Housing and Urban Development—

11 (A) determines—

12 (i) for a second exercise of authority
13 under subsection (a), by an affirmative
14 vote of $\frac{2}{3}$ or more of the Board of Direc-
15 tors then serving, that a second exercise of
16 authority under subsection (a) is nec-
17 essary; or

18 (ii) for a third exercise of authority
19 under subsection (a), by an affirmative
20 vote of $\frac{2}{3}$ or more of the Board of Direc-
21 tors then serving, and an affirmative vote
22 of $\frac{2}{3}$ or more of the Board of Governors
23 of the Federal Reserve System then serv-
24 ing, that a third exercise of authority
25 under this section is necessary; and

1 (B) provides notice to Congress, as pro-
2 vided under subsection (e).

3 (2) ORDER OF EXERCISE OF AUTHORITY.—Any
4 additional exercise of authority under this subsection
5 may occur consecutively or non-consecutively.

6 (g) LIMITATION.—The authority granted to the Cor-
7 poration under this section may not be exercised more
8 than 3 times in any given 3-year period, which 3-year pe-
9 riod shall commence upon the initial exercise of authority
10 under subsection (a).

11 (h) NORMALIZATION AND REDUCTION OF RISK.—
12 Following any exercise of authority under this section, the
13 Corporation shall—

14 (1) establish a timeline for approved entities to
15 meet the approval standards set forth in this Act;
16 and

17 (2) in a manner and pursuant to a timeline
18 that will minimize losses to the Mortgage Insurance
19 Fund, establish a program to either—

20 (A) sell, in whole or in part, the first loss
21 position on covered securities issued pursuant
22 to this section to private market holders; or

23 (B) transfer for value to approved entities,
24 or work with approved entities to sell, in whole

1 or in part, the first lost position on covered se-
2 curities issued pursuant to this section.

3 (i) **AUTHORITY TO RESPOND TO SUSTAINED NA-**
4 **TIONAL HOME PRICE DECLINE.—**

5 (1) **AUTHORITY.**—In the event of a significant
6 decline of national home prices, in at least 2 con-
7 secutive calendar quarters, the Corporation, by an
8 affirmative vote of $\frac{2}{3}$ or more of the Board of Di-
9 rectors then serving, may for a period of 6 months
10 permit the transfer of guarantees of eligible mort-
11 gage loans that secure covered securities if such eli-
12 gible mortgage loans are refinanced, regardless of
13 the value of the underlying collateral securing such
14 eligible mortgage loans.

15 (2) **ADDITIONAL EXERCISE OF AUTHORITY.**—
16 The authority granted to the Corporation under
17 paragraph (1) may be exercised for additional 6-
18 month periods, if upon each additional extension of
19 such authority there is an affirmative vote of $\frac{2}{3}$ or
20 more of the Board of Directors then serving.

21 (3) **LIMITATION.**—The Corporation shall not
22 provide insurance under this section to any covered
23 security that includes mortgage loans that do not
24 meet the definition of an eligible mortgage loan, as
25 defined by this Act, except for mortgage loans refi-

1 nanced from eligible mortgage loans in covered secu-
2 rities.

3 (4) **RULE OF CONSTRUCTION.**—No provision in
4 this section shall be construed as permitting the
5 Corporation to lower any other requirement related
6 to the requirements set forth under the definition of
7 an eligible mortgage loan.

8 **SEC. 306. GENERAL POWERS.**

9 (a) **CORPORATE POWERS.**—The Federal Mortgage
10 Insurance Corporation shall have the power—

11 (1) to adopt, alter, and use a corporate seal,
12 which shall be judicially noticed;

13 (2) to enter into, execute, and perform con-
14 tracts, leases, cooperative agreements, or other
15 transactions, on such terms as it may deem appro-
16 priate, with any agency or instrumentality of the
17 United States, or with any political subdivision
18 thereof, or with any person, firm, association, or cor-
19 poration;

20 (3) to execute, in accordance with its bylaws, all
21 instruments necessary or appropriate in the exercise
22 of any of its powers;

23 (4) in its corporate name, to sue and to be
24 sued, and to complain and to defend, in any court
25 or tribunal of competent jurisdiction, Federal or

1 State, but no attachment, injunction, or other simi-
2 lar process, mesne or final, shall be issued against
3 the property of the Corporation;

4 (5) to conduct its business without regard to
5 any qualification or similar statute in any State of
6 the United States;

7 (6) to lease, purchase, or acquire any property,
8 real, personal, or mixed, or any interest therein, to
9 hold, rent, maintain, modernize, renovate, improve,
10 use, and operate such property, and to sell, for cash
11 or credit, lease, or otherwise dispose of the same, at
12 such time and in such manner as and to the extent
13 that it may deem necessary or appropriate;

14 (7) to prescribe, repeal, and amend or modify,
15 rules, regulations, or requirements governing the
16 manner in which its general business may be con-
17 ducted;

18 (8) to accept gifts or donations of services, or
19 of property, real, personal, or mixed, tangible, or in-
20 tangible, in aid of any of its purposes;

21 (9) to appoint and supervise personnel em-
22 ployed by the Corporation;

23 (10) to establish and maintain divisions, units,
24 or other offices within the Corporation, including
25 those established in sections 207, 208, and 209, in

1 order to carry out the responsibilities of this Act,
2 and to satisfy the requirements of other applicable
3 law; and

4 (11) to manage the affairs of the Corporation
5 and conduct the business of the Corporation, as nec-
6 essary.

7 (b) LITIGATION AUTHORITY.—

8 (1) IN GENERAL.—In enforcing any provision of
9 this Act, any regulation or order prescribed under
10 this Act, or any other provision of law, rule, regula-
11 tion, or order, or in any other action, suit, or pro-
12 ceeding to which the Corporation is a party or in
13 which the Corporation is interested, and in the ad-
14 ministration of conservatorships and receiverships,
15 the Corporation may act in the Corporation's own
16 name and through attorneys or other agents acting
17 on behalf of the Corporation.

18 (2) SUBJECT TO SUIT.—Except as otherwise
19 provided by law, the Corporation shall be subject to
20 suit (other than suits for claims for money damages)
21 by a regulated entity or market participant with re-
22 spect to any matter under this Act or any other ap-
23 plicable provision of law, rule, order, or regulation
24 under this Act, in the United States district court
25 for the judicial district in which the regulated entity

1 or market participant has its principal place of busi-
2 ness, or in the United States District Court for the
3 District of Columbia, and the Corporation may be
4 served with process in the manner prescribed by the
5 Federal Rules of Civil Procedure.

6 (c) EXPENDITURES.—Except as may be otherwise
7 provided in this title, the Corporation shall determine the
8 necessity for, and the character and amount of its obliga-
9 tions and expenditures, and the manner in which they
10 shall be incurred, allowed, paid, and accounted for.

11 (d) EXEMPTION FROM CERTAIN TAXES.—The Cor-
12 poration, including its franchise, capital, reserves, surplus,
13 mortgage loans or other security holdings, and income
14 shall be exempt from all taxation now or hereafter imposed
15 by the United States, by any territory, dependency, or pos-
16 session thereof, or by any State, county, municipality, or
17 local taxing authority, except that any real property of the
18 Corporation shall be subject to State, county, municipal,
19 or local taxation to the same extent according to its value
20 as other real property is taxed.

21 (e) EXCLUSIVE USE OF NAME.—No individual, asso-
22 ciation, partnership, or corporation, except the body cor-
23 porate named under section 201, shall hereafter use the
24 words “Federal Mortgage Insurance Corporation” or any
25 combination of such words, as the name or a part thereof

1 under which such individual, association, partnership, or
2 corporation shall do business. Violations of the foregoing
3 sentence may be enjoined by any court of general jurisdic-
4 tion at the suit of the proper body corporate named under
5 section 201. In any such suit, the plaintiff may recover
6 any actual damages flowing from such violation, and, in
7 addition, shall be entitled to punitive damages (regardless
8 of the existence or nonexistence of actual damages) of not
9 exceeding \$1,000 for each day during which such violation
10 is committed or repeated.

11 (f) FISCAL AGENTS.—The Federal Reserve banks are
12 authorized and directed to act as depositories, custodians,
13 and fiscal agents for the Corporation, for its own account
14 or as fiduciary, and such banks shall be reimbursed for
15 such services in such manner as may be agreed upon, and
16 the Corporation may itself act in such capacities, for its
17 own account or as fiduciary, and for the account of others.

18 (g) OTHER POWERS.—The Corporation is authorized
19 to assess and collect fees on regulated entities and ap-
20 proved entities, including for applications, examinations,
21 and other purposes, as authorized by this Act.

22 **SEC. 307. EXEMPTIONS.**

23 (a) SECURITIES EXEMPT FROM SECURITIES AND
24 EXCHANGE COMMISSION REGULATION.—

25 (1) COVERED SECURITIES.—

1 (A) IN GENERAL.—All securities insured
2 or guaranteed by the Corporation shall, to the
3 same extent as securities that are direct obliga-
4 tions of or obligations guaranteed as to prin-
5 cipal or interest by the United States, be
6 deemed to be exempt securities within the
7 meaning of the laws administered by the Secu-
8 rities and Exchange Commission.

9 (B) CONFORMING AMENDMENT.—The first
10 sentence of section 3(a)(2) of the Securities Act
11 of 1933 (15 U.S.C. 77c(a)(2)) is amended by
12 inserting “or any security insured or guaran-
13 teed by the Federal Mortgage Insurance Cor-
14 poration;” after “Federal Reserve bank;”.

15 (2) CREDIT RISK-SHARING MECHANISMS.—Sec-
16 tion 27B(c) of the Securities Act of 1933 (15 U.S.C.
17 77z-2a(c)) is amended—

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

20 (B) in paragraph (2), by striking the pe-
21 riod at the end and inserting “; or”; and

22 (C) by adding at the end the following:

23 “(3) purchases or sales of any asset-backed se-
24 curity that is a credit risk-sharing mechanism ap-
25 proved by the Federal Mortgage Insurance Corpora-

1 tion in accordance with section 302 or section 703(c)
2 of the Housing Finance Reform and Taxpayer Pro-
3 tection Act of 2014, which credit risk-sharing mech-
4 anism is intended to be used or is used, as deter-
5 mined by the Federal Mortgage Insurance Corpora-
6 tion, by a private market holder or holders to as-
7 sume losses associated with any pool of eligible
8 mortgage loans that collateralizes a covered security
9 insured in accordance with section 303 or 305 of
10 that Act.”.

11 (b) QRM EXEMPTION.—Section 15G(e) of the Secu-
12 rities Exchange Act of 1934 (15 U.S.C. 78o–11(e)) is
13 amended—

14 (1) in paragraph (3)(B)—

15 (A) by striking “Association, the” and in-
16 serting “Association and the”; and

17 (B) by striking “and the Federal home
18 loan banks”; and

19 (2) by adding at the end the following:

20 “(7) COVERED SECURITIES INSURED BY THE
21 FEDERAL MORTGAGE INSURANCE CORPORATION.—

22 Notwithstanding any other provision of this section,
23 the requirements of this section shall not apply to
24 any covered security, as such term is defined under
25 section 2 of the Housing Finance Reform and Tax-

1 payer Protection Act of 2014, insured or guaranteed
2 by the Federal Mortgage Insurance Corporation or
3 any institution that is subject to the supervision of
4 the Federal Mortgage Insurance Corporation.”.

5 (c) COUNTERPARTIES EXEMPT FROM THE COM-
6 MODITY EXCHANGE ACT.—Section 1a(10) of the Com-
7 modity Exchange Act (7 U.S.C. 1a(10)) is amended by
8 adding at the end the following:

9 “(C) EXEMPTION.—The term ‘commodity
10 pool’ does not include any counterparty that en-
11 ters into any swap for purposes of structuring
12 a credit risk-sharing mechanism that is ap-
13 proved by the Federal Mortgage Insurance Cor-
14 poration in accordance with section 302 or sec-
15 tion 703(c) of the Housing Finance Reform and
16 Taxpayer Protection Act of 2014, which credit
17 risk-sharing mechanism is intended to be used
18 or is used, as determined by the Federal Mort-
19 gage Insurance Corporation, by a private mar-
20 ket holder or holders to assume losses associ-
21 ated with any pool of eligible mortgage loans
22 that collateralizes a covered security insured in
23 accordance with section 303 or 305 of that
24 Act.”.

1 **SEC. 308. REGULATORY CONSULTATION AND COORDINA-**
2 **TION.**

3 (a) **CONSULTATION PERMITTED.**—The Corporation
4 may, in carrying out any duty, responsibility, requirement,
5 or action authorized under this Act, consult with the Fed-
6 eral regulatory agencies, any individual Federal regulatory
7 agency, the Secretary of the Treasury, any State banking
8 regulator, any State insurance regulator, and any other
9 State agency, as the Corporation determines necessary
10 and appropriate.

11 (b) **COORDINATION REQUIRED.**—The Corporation
12 shall, as appropriate, in carrying out any duty, responsi-
13 bility, requirement, or action authorized under this Act,
14 coordinate with the Federal regulatory agencies, any indi-
15 vidual Federal regulatory agency, the Secretary of the
16 Treasury, any State banking regulator, any State insur-
17 ance regulator, any other State agency.

18 (c) **AVOIDANCE OF DUPLICATION.**—To the fullest ex-
19 tent possible, the Corporation shall—

20 (1) avoid duplication of examination activities,
21 reporting requirements, and requests for informa-
22 tion;

23 (2) rely on examination reports made by other
24 Federal or State regulatory agencies relating to an
25 approved entity and its subsidiaries, if any; and

1 (3) ensure that approved entities are not sub-
2 ject to conflicting supervisory demands by the Cor-
3 poration and other Federal regulatory agencies.

4 (d) PROTECTION OF PRIVILEGES.—

5 (1) IN GENERAL.—Pursuant to the authorities
6 provided under subsections (a) and (b), to facilitate
7 the consultative process and coordination, the Cor-
8 poration may share information with the Federal
9 regulatory agencies, any individual Federal regu-
10 latory agency, the Secretary of the Treasury, any
11 State bank supervisor, any State insurance regu-
12 lator, any other State agency, or any foreign bank-
13 ing authority, on a one-time, regular, or periodic
14 basis, as determined by the Corporation, regarding
15 the capital assets and liabilities, financial condition,
16 risk management practices, or any other practice of
17 any market participant.

18 (2) PRIVILEGE PRESERVED.—Information
19 shared by the Corporation pursuant to paragraph
20 (1) shall not be construed as waiving, destroying, or
21 otherwise affecting any privilege or confidential sta-
22 tus that any market participant or any other person
23 may claim with respect to such information under
24 Federal or State law as to any person or entity other
25 than such agencies, agency, supervisor, or authority.

1 (3) RULE OF CONSTRUCTION.—No provision of
2 this subsection may be construed as implying or es-
3 tablishing that—

4 (A) any person waives any privilege appli-
5 cable to information that is shared or trans-
6 ferred under any circumstance to which this
7 subsection does not apply; or

8 (B) any person would waive any privilege
9 applicable to any information by submitting the
10 information directly to the Federal regulatory
11 agencies, any individual Federal regulatory
12 agency, any State bank supervisor, any State
13 insurance regulator, any other State agency, or
14 any foreign banking authority, but for this sub-
15 section.

16 (e) FEDERAL AGENCY AUTHORITY PRESERVED.—
17 Unless otherwise expressly provided by this section, no
18 provision of this section shall limit or be construed to
19 limit, in any way, the existing authority of any Federal
20 agency.

21 **SEC. 309. AUTHORITY TO ISSUE REGULATIONS.**

22 (a) GENERAL AUTHORITY.—The Corporation may
23 prescribe such regulations and issue such guidelines, or-
24 ders, requirements, or standards, as necessary to—

1 (1) carry out this Act, or any amendment made
2 by this Act; and

3 (2) ensure—

4 (A) competition among approved entities in
5 the secondary mortgage market;

6 (B) liquidity in the secondary mortgage
7 market; and

8 (C) mitigation of systemic risk in the sec-
9 ondary mortgage market.

10 (b) CAPITAL STANDARDS.—

11 (1) IN GENERAL.—For each type of covered en-
12 tity the Corporation shall establish, by regulation,
13 capital standards and related solvency standards
14 necessary to implement the provisions of this Act.

15 (2) DEFINITIONS.—

16 (A) IN GENERAL.—The regulations re-
17 quired under this subsection shall define all
18 such terms as are necessary to carry out the
19 purposes of this subsection.

20 (B) CONSIDERATIONS IN DEFINING IN-
21 STRUMENTS AND CONTRACTS THAT QUALIFY AS
22 CAPITAL.—In defining instruments and con-
23 tracts that qualify as capital pursuant to sub-
24 paragraph (A), the Corporation—

1 (i) shall include such instruments and
2 contracts that will absorb losses before the
3 Mortgage Insurance Fund; and

4 (ii) may assign significance to those
5 instruments and contracts based on the
6 nature and risks of such instruments and
7 contracts.

8 (C) CONSIDERATIONS IN DEFINING CAP-
9 ITAL RATIOS.—Solely for the purposes of calcu-
10 lating a capital ratio appropriate to the busi-
11 ness model of the applicable entity pursuant to
12 subparagraph (A), the Corporation shall con-
13 sider for the denominator—

14 (i) total assets;

15 (ii) total liabilities;

16 (iii) risk in force; or

17 (iv) unpaid principal balance.

18 (3) DESIGNED TO ENSURE SAFETY AND SOUND-
19 NESS.—The capital and related solvency standards
20 established under this subsection shall be designed
21 to—

22 (A) ensure the safety and soundness of a
23 covered entity;

24 (B) minimize the risk of loss to the Mort-
25 gage Insurance Fund;

1 (C) in consultation and coordination with
2 the Board of Governors of the Federal Reserve
3 System, the Federal Deposit Insurance Cor-
4 poration, and the Office of the Comptroller of
5 the Currency, reduce the potential for regu-
6 latory arbitrage between capital standards for
7 covered entities and capital standards promul-
8 gated by Federal regulatory agencies for in-
9 sured depository institutions and their affiliates;
10 and

11 (D) be specifically tailored to accommodate
12 a diverse range of business models that may be
13 employed by covered entities.

14 (4) SUPPLEMENTAL CAPITAL REQUIRE-
15 MENTS.—In order to prevent or mitigate risks to the
16 secondary mortgage market of the United States
17 that could arise from the material financial distress
18 or failure, or ongoing activities, of large approved
19 aggregators and approved guarantors that engage in
20 covered guarantee transactions, the Corporation, by
21 regulation—

22 (A) shall establish supplemental capital re-
23 quirements for large approved aggregators and
24 approved guarantors; and

1 (B) may establish such other standards
2 that the Corporation determines necessary or
3 appropriate.

4 (c) MARKET SHARE LIMITATION FOR CERTAIN
5 LARGE ENTITIES.—The Corporation shall establish, by
6 regulation, market share limitations for large approved
7 aggregators and approved guarantors that would take ef-
8 fect only in the event the Corporation has reason to believe
9 the supplemental standards established under subsection
10 (b)(4) are insufficient to prevent or mitigate risks to the
11 secondary mortgage market of the United States that
12 could arise from the material financial distress or failure,
13 or ongoing activities, of such approved aggregators and
14 approved guarantors.

15 (d) RECOGNITION OF DISTINCTIONS BETWEEN THE
16 ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.—
17 Prior to promulgating any regulation or taking any other
18 formal or informal action of general applicability and fu-
19 ture effect relating to the Federal Home Loan Banks, in-
20 cluding the issuance of an advisory document or examina-
21 tion guidance, the Chairperson shall consider the dif-
22 ferences between the Federal Home Loan Banks and the
23 other regulated entities with respect to—

24 (1) the Banks’—

25 (A) cooperative ownership structure;

1 (B) mission of providing liquidity to its
2 members;

3 (C) affordable housing and community de-
4 velopment mission;

5 (D) capital structure; and

6 (E) joint and several liability; and

7 (2) any other differences that the Corporation
8 considers appropriate.

9 (e) REGULATIONS RELATING TO FORCE-PLACED IN-
10 SURANCE.—The Corporation shall, by regulation, set
11 standards for the purchase of force-placed insurance by
12 market participants.

13 (f) USE AND PROTECTION OF PERSONALLY IDENTIFI-
14 FIABLE INFORMATION.—

15 (1) PRIVACY CONSIDERATIONS.—In collecting
16 information from any person, in publicly releasing
17 information held by the Corporation, or in requiring
18 approved entities to publicly report information, the
19 Corporation shall take steps to ensure that propri-
20 etary, personal, or confidential consumer information
21 that is protected from public disclosure under sec-
22 tion 552(b) or 552a of title 5, United States Code,
23 or any other provision of law, is not made public.

24 (2) TREATMENT OF APPROVED ENTITIES.—
25 With respect to the application of any provision of

1 the Right to Financial Privacy Act of 1978 to a dis-
2 closure by an approved entity subject to this sub-
3 section, the approved entity shall be treated as if it
4 were a “financial institution”, as defined in section
5 1101 of that Act (12 U.S.C. 3401).

6 (3) NON DISCLOSURE.—

7 (A) IN GENERAL.—Unless otherwise speci-
8 fied by this Act, any personally identifiable in-
9 formation obtained or maintained by the Cor-
10 poration in connection with any supervision or
11 enforcement authority or function, including the
12 Office of General Counsel and Office of the In-
13 spector General of the Federal Mortgage Insur-
14 ance Corporation, may not be disclosed to any
15 non supervisory or non enforcement office, divi-
16 sion, or employee of the Corporation, or to any
17 other Federal or State agency unless—

18 (i) the information is necessary and
19 appropriate for such office, division, or em-
20 ployee of the Corporation to comply with
21 this Act, and the office, division, or em-
22 ployee cannot reasonably obtain the infor-
23 mation through the normal course of busi-
24 ness of such office, division, or employee;

1 (ii) the other Federal or State agency
2 has satisfied any conditions of information
3 sharing that the Corporation may estab-
4 lish, including treatment of personally
5 identifiable information and sharing of in-
6 formation that shall conform to the stand-
7 ards for protection of the confidentiality of
8 personally identifiable information and for
9 data integrity and security that are appli-
10 cable to Federal agencies; or

11 (iii) the records are relevant to a le-
12 gitimate law enforcement inquiry, or intel-
13 ligence or counterintelligence activity, in-
14 vestigation or analysis related to inter-
15 national terrorism within the jurisdiction
16 of the receiving entity.

17 (B) PROTECTION OF PERSONALLY IDENTIFI-
18 FIABLE INFORMATION BY SPECIFIC OFFICES.—
19 Any office created under section 207(a)(1)(B)
20 shall—

21 (i) develop standards regarding treat-
22 ment and confidentiality of personally iden-
23 tifiable information and the collection and
24 sharing of information that are tailored to
25 the purpose or mission of the office; and

1 (ii) obtain approval from the Chair-
2 person of the standards developed under
3 clause (i) prior to the operation of the of-
4 fice.

5 (4) FINANCIAL RECORDS.—The Corporation
6 shall not obtain from an approved entity any person-
7 ally identifiable information about a consumer from
8 the financial records of an approved entity, except—

9 (A) if the financial records are reasonably
10 described in a request by the Corporation and
11 the consumer provides written permission for
12 the disclosure of such information by an ap-
13 proved entity to the Corporation; or

14 (B) as may be specifically permitted or re-
15 quired under other applicable provisions of law
16 and in accordance with the Right to Financial
17 Privacy Act of 1978 (12 U.S.C. 3401 et seq.).

18 (g) CONSUMER PRIVACY.—

19 (1) IN GENERAL.—The Corporation shall not
20 obtain from an approved entity any personally iden-
21 tifiable financial information about a consumer from
22 the financial records of the approved entity, ex-
23 cept—

24 (A) if the financial records are reasonably
25 described in a request by the Corporation and

1 the consumer provides written permission for
2 the disclosure of such information by an ap-
3 proved entity to the Corporation; or

4 (B) as may be specifically permitted or re-
5 quired under other applicable provisions of law
6 and in accordance with the Right to Financial
7 Privacy Act of 1978 (12 U.S.C. 3401 et seq.).

8 **SEC. 310. EQUIVALENCY IN PROTECTION OF THE MORT-**
9 **GAGE INSURANCE FUND.**

10 In order to protect the Mortgage Insurance Fund and
11 promote multiple sources of first loss positions, the Cor-
12 poration shall seek to ensure equivalent loss absorption ca-
13 pacity between approved credit risk-sharing mechanisms
14 pursuant to section 302 and capital standards for ap-
15 proved guarantors pursuant to section 311.

16 **Subtitle B—Approval and Super-**
17 **vision of Approved Entities for**
18 **Single-family Activities**

19 **SEC. 311. APPROVAL AND SUPERVISION OF GUARANTORS.**

20 (a) STANDARDS FOR APPROVAL OF GUARANTORS.—

21 (1) IN GENERAL.—The Corporation shall de-
22 velop, adopt, and publish standards for the approval
23 by the Corporation of guarantors to guarantee the
24 timely payment of principal and interest on securi-

1 ties collateralized by eligible single-family mortgage
2 loans and insured by the Corporation.

3 (2) REQUIRED STANDARDS.—The standards re-
4 quired under paragraph (1) shall include—

5 (A) the financial history and condition of
6 the guarantor;

7 (B) a requirement that the guarantor
8 maintain capital levels as defined by the Cor-
9 poration, pursuant to subsection (g);

10 (C) the general character and fitness of
11 the management of the guarantor, including
12 compliance history with Federal and State laws;

13 (D) the risk presented by the guarantor to
14 the Mortgage Insurance Fund;

15 (E) the adequacy of insurance and fidelity
16 coverage of the guarantor;

17 (F) the ability of the guarantor to—

18 (i) at the discretion of the guarantor,
19 transfer investment risk and credit risk to
20 private market holders in the single-family
21 market in accordance with the credit risk-
22 sharing mechanisms approved by the Cor-
23 poration under section 302;

24 (ii) create mechanisms to guarantee
25 multi-lender pools; and

1 (iii) ensure that eligible single-family
2 mortgage loans that collateralize a single-
3 family covered security insured under this
4 title are originated in compliance with the
5 requirements of this Act;

6 (G) the capacity of the guarantor to take
7 the first loss position;

8 (H) that the guarantor has the capacity to
9 guarantee eligible single-family mortgage loans
10 in a manner that furthers the purposes of the
11 Corporation described in section 201(b)(5);

12 (I) a requirement that the guarantor sub-
13 mit audited financial statements to the Cor-
14 poration;

15 (J) that the guarantor is in compliance
16 with section 210(a)(3);

17 (K) that the guarantor has substantial an-
18 alytical capabilities to effectively manage credit
19 risk; and

20 (L) any other standard the Corporation de-
21 termines necessary to protect the Mortgage In-
22 surance Fund.

23 (3) RULE OF CONSTRUCTION.—Nothing in sub-
24 paragraph (H) shall be construed to prevent the
25 Corporation from approving a small or specialty

1 guarantor, provided that the guarantor has the ca-
2 pacity to adequately diversify its risk to meet appro-
3 priate safety and soundness concerns.

4 (4) CONSULTATION AND COORDINATION.—To
5 promote consistency and minimize regulatory con-
6 flict, the Corporation shall consult and coordinate
7 with appropriate Federal and State regulators and
8 officials when developing standards pursuant to this
9 subsection.

10 (b) APPLICATION AND APPROVAL.—

11 (1) APPLICATION PROCESS.—

12 (A) IN GENERAL.—The Corporation shall
13 establish an application process, in such form
14 and manner and requiring such information as
15 the Corporation may require, for the approval
16 of guarantors under this section.

17 (B) APPLICATION REVIEW.—The Corpora-
18 tion shall establish internal timelines for its
19 processing of applications under this section, in-
20 cluding timelines for any action to approve or
21 to deny an application under this section.

22 (C) APPLICATION PROCESS BY INSURED
23 DEPOSITORY INSTITUTIONS.—

24 (i) IN GENERAL.—Only a separately
25 capitalized affiliate of an insured depository

1 tory institution may be eligible to apply to
2 become an approved guarantor.

3 (ii) RULE OF CONSTRUCTION.—Noth-
4 ing in clause (i) prohibits or shall be con-
5 strued to prohibit or otherwise restrict an
6 entity that is not an insured depository in-
7 stitution from seeking to become an ap-
8 proved guarantor.

9 (2) APPROVAL.—The Corporation may approve
10 any application made pursuant to paragraph (1),
11 provided the guarantor meets the standards estab-
12 lished under subsection (a).

13 (3) NOTICE AND PUBLICATION.—The Corpora-
14 tion shall—

15 (A) provide prompt notice to a guarantor
16 of the approval or denial of any application of
17 the guarantor to become an approved guarantor
18 under this section;

19 (B) publish a notice in the Federal Reg-
20 ister upon approval of any guarantor; and

21 (C) maintain an updated list of approved
22 guarantors on the website of the Corporation.

23 (c) REQUIREMENT TO MAINTAIN APPROVAL STA-
24 TUS.—

1 (1) **AUTHORITY TO ISSUE ORDER.**—If the Cor-
2 poration determines that an approved guarantor ap-
3 proved under this section no longer meets the stand-
4 ards for such approval or violates the requirements
5 under this Act, including any standards, regulations,
6 or orders promulgated in accordance with this Act,
7 the Corporation may—

8 (A) suspend or revoke the approved status
9 of the approved guarantor; or

10 (B) take any other action with respect to
11 such approved guarantor as may be authorized
12 under this Act.

13 (2) **RULE OF CONSTRUCTION.**—The suspension
14 or revocation of the approved status of an approved
15 guarantor under this section shall have no effect on
16 the status as a covered security of any covered secu-
17 rity collateralized by eligible mortgage loans with
18 which the approved guarantor contracted prior to
19 the suspension or revocation.

20 (3) **PUBLICATION.**—The Corporation shall—

21 (A) promptly publish a notice in the Fed-
22 eral Register upon suspension or revocation of
23 the approval of any approved guarantor; and

1 (B) maintain an updated list of such ap-
2 proved guarantors on the website of the Cor-
3 poration.

4 (4) DEFINITION.—In this subsection, the term
5 “violate” includes any action, taken alone or with
6 others, for or toward causing, bringing about, par-
7 ticipating in, counseling, or aiding or abetting, a vio-
8 lation of the requirements under this Act.

9 (d) PRUDENTIAL STANDARDS FOR SUPERVISION.—
10 The Corporation shall prescribe prudential standards for
11 approved guarantors in order to—

12 (1) ensure—

13 (A) the safety and soundness of approved
14 guarantors; and

15 (B) the maintenance of approval standards
16 by approved guarantors; and

17 (2) minimize the risk presented to the Mortgage
18 Insurance Fund.

19 (e) REPORTS AND EXAMINATIONS.—For purposes of
20 determining whether an approved guarantor is fulfilling
21 the requirements under this Act, the Corporation shall
22 have the authority to require reports from and examine
23 approved guarantors, in the same manner and to the same
24 extent as the Federal Deposit Insurance Corporation has
25 with respect to insured depository institutions under the

1 provisions of subsection (a) of section 9 of the Federal
2 Deposit Insurance Act (12 U.S.C. 1819).

3 (f) ENFORCEMENT.—The Corporation shall have the
4 authority to enforce the provisions of this Act with respect
5 to approved guarantors, in the same manner and to the
6 same extent as the Federal Deposit Insurance Corporation
7 has with respect to insured depository institutions under
8 the provisions of subsections (b) through (n) of section
9 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

10 (g) CAPITAL STANDARDS.—

11 (1) IN GENERAL.—Pursuant to the requirement
12 to establish capital and related solvency standards
13 under section 309(b), the Corporation shall establish
14 standards for approved guarantors that require an
15 approved guarantor—

16 (A) to hold 10 percent capital; and

17 (B) to maintain solvency levels adequate
18 for the approved guarantor to withstand losses
19 that might be incurred by the approved guar-
20 antor in a period of economic stress, including
21 national and regional home price declines, such
22 as those observed during moderate to severe re-
23 cessions in the United States.

24 (2) RISK-SHARING CONSIDERATIONS.—For pur-
25 poses of paragraph (1), the Corporation shall con-

1 sider the extent, amount, and form of risk-sharing
2 and risk mitigation through the use by approved
3 guarantors of credit risk-sharing mechanisms ap-
4 proved pursuant to section 302(b)(4). The Corpora-
5 tion shall allow such risk-sharing and risk mitigation
6 to fulfill required amounts of capital to be held
7 under paragraph (1)(A) such that it ensures an
8 equivalent amount of loss absorption capacity as re-
9 quired under section 302(a)(1)(B) while maintaining
10 an appropriate structure of capital as determined by
11 the Corporation.

12 (3) STRESS TESTS.—The Corporation shall con-
13 duct appropriate stress tests of approved guarantors
14 that have total assets of more than
15 \$10,000,000,000, provided that such stress tests
16 shall be—

17 (A) specifically tailored to the business
18 model of the approved guarantor; and

19 (B) utilized to—

20 (i) ensure the safety and soundness of
21 the approved guarantor; and

22 (ii) minimize the risk the approved
23 guarantor may present to the Mortgage In-
24 surance Fund.

25 (h) RESOLUTION AUTHORITY.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of Federal law, the law of any State, or the
3 constitution of any State, the Corporation shall—

4 (A) have the authority to act, in the same
5 manner and to the same extent, with respect to
6 an approved guarantor that is classified as
7 critically undercapitalized pursuant to section
8 316, as the Federal Deposit Insurance Corpora-
9 tion has with respect to insured depository in-
10 stitutions under subsections (c) through (s) of
11 section 11 of the Federal Deposit Insurance Act
12 (12 U.S.C. 1821), section 12 of the Federal De-
13 posit Insurance Act (12 U.S.C. 1822), and sec-
14 tion 13 of the Federal Deposit Insurance Act
15 (12 U.S.C. 1823), while tailoring such actions
16 to the specific business model of the approved
17 guarantor, as may be necessary to properly ex-
18 ercise such authority under this subsection;

19 (B) in carrying out any authority provided
20 in subparagraph (A), act, in the same manner
21 and to the same extent, with respect to the
22 Mortgage Insurance Fund as the Federal De-
23 posit Insurance Corporation may act with re-
24 spect to the Deposit Insurance Fund under the
25 provisions of the Federal Deposit Insurance Act

1 set forth in clauses (i) through (iii) of subpara-
2 graph (A); and

3 (C) consistent with the authorities pro-
4 vided in subparagraph (A), immediately place
5 an insolvent approved guarantor into receiver-
6 ship.

7 (2) LEAST-COST RESOLUTION REQUIRED.—The
8 Corporation may not exercise any authority under
9 paragraph (1) with respect to any approved guar-
10 antor unless—

11 (A) the Corporation determines that the
12 exercise of such authority is necessary to ensure
13 the timely payment of principal and interest on
14 single-family covered securities guaranteed by
15 an approved guarantor for which the Corpora-
16 tion has been appointed according to this sub-
17 section; and

18 (B) the total amount of the expenditures
19 by the Corporation and obligations incurred by
20 the Corporation in connection with the exercise
21 of any such authority with respect to such ap-
22 proved guarantor is the least costly to the Mort-
23 gage Insurance Fund, consistent with the least
24 cost approach specified in the Federal Deposit
25 Insurance Act (12 U.S.C. 1811 et seq.), of all

1 possible methods for meeting the Corporation's
2 obligations under this Act and expeditiously
3 concluding its resolution activities.

4 (3) TAXPAYER PROTECTION.—The Corporation,
5 in carrying out any authority provided in this sub-
6 section, shall ensure that any amounts owed to the
7 United States, unless the United States agrees or
8 consents otherwise, shall have priority following ad-
9 ministrative expenses of the receiver when satisfying
10 unsecured claims against an approved guarantor, or
11 the receiver therefor, that are proven to the satisfac-
12 tion of the receiver.

13 (i) HEARING.—Upon notice of denial of an applica-
14 tion for approval under subsection (b) or upon a notice
15 of suspension or revocation of the approved status of an
16 approved guarantor under subsection (c), the applicant or
17 approved guarantor shall be afforded a hearing under sub-
18 section (h) of section 8 of the Federal Deposit Insurance
19 Act (12 U.S.C. 1818(h)), in the same manner and to the
20 same extent as if the Corporation were the appropriate
21 Federal banking agency, provided that the approved guar-
22 antor submits a request to the Corporation for a hearing
23 not later than 10 days after the date on which the notice
24 is published under subsection (b)(3) or (c)(3).

1 (j) PERMISSION TO CARRY OUT OTHER ACTIVI-
2 TIES.—Nothing in this Act prohibits an approved guar-
3 antor from being an affiliate of an approved aggregator,
4 provided that each aggregator and each guarantor, inde-
5 pendent of each other, meets the approval standards es-
6 tablished by the Corporation under this title.

7 (k) PROVISION OF POOL LEVEL INSURANCE.—Sub-
8 ject to such standards as the Corporation may provide,
9 an approved guarantor may provide insurance or other
10 credit enhancement on a pool of eligible single-family
11 mortgage loans collateralizing a single-family covered se-
12 curity insured under this title.

13 **SEC. 312. APPROVAL AND SUPERVISION OF AGGREGATORS.**

14 (a) STANDARDS FOR APPROVAL OF MORTGAGE
15 AGGREGATORS.—

16 (1) IN GENERAL.—The Corporation shall de-
17 velop, adopt, and publish standards for the approval
18 by the Corporation of mortgage aggregators to de-
19 liver eligible single-family mortgage loans to the
20 Securitization Platform for securitization as a sin-
21 gle-family covered security.

22 (2) REQUIRED STANDARDS.—The standards re-
23 quired under paragraph (1) shall include standards
24 with respect to the ability of mortgage aggregator
25 to—

1 (A) aggregate eligible single-family mort-
2 gage loans into pools, including multi-lender
3 pools, as appropriate;

4 (B) transfer investment risk and credit
5 risk to private market participants in accord-
6 ance with the credit risk-sharing mechanisms
7 approved by the Corporation under section 302;

8 (C) ensure equitable access to the sec-
9 ondary mortgage market for single-family cov-
10 ered securities for all institutions regardless of
11 size or geographic location; and

12 (D) ensure that eligible single-family mort-
13 gage loans that collateralize a single-family cov-
14 ered security insured under this title are origi-
15 nated in compliance with the requirements of
16 this Act.

17 (3) **ADDITIONAL REQUIRED STANDARDS.**—The
18 standards required under paragraph (1) shall also
19 include—

20 (A) the financial history and condition of
21 the mortgage aggregator;

22 (B) the adequacy of the capital structure
23 of the mortgage aggregator;

24 (C) the general character and fitness of
25 the management of the mortgage aggregator,

1 including compliance history with Federal and
2 State laws;

3 (D) the risk presented by the mortgage
4 aggregator to the Mortgage Insurance Fund;

5 (E) the adequacy of insurance and fidelity
6 coverage of the mortgage aggregator;

7 (F) a requirement that the mortgage
8 aggregator submit audited financial statements
9 to the Corporation;

10 (G) that the mortgage aggregator has the
11 capacity to aggregate mortgage loans in a man-
12 ner that furthers purposes of the Corporation
13 described in section 201(b)(5);

14 (H) that the mortgage aggregator is in
15 compliance with section 210(a)(3); and

16 (I) any other standard the Corporation de-
17 termines necessary to protect the Mortgage In-
18 surance Fund.

19 (4) RULE OF CONSTRUCTION.—Nothing in sub-
20 paragraph (G) shall be construed to prevent the Cor-
21 poration from approving a small or specialty mort-
22 gage aggregator, provided that the mortgage
23 aggregator has the capacity to adequately diversify
24 its risk to meet appropriate safety and soundness
25 concerns.

1 (5) CONSULTATION AND COORDINATION.—To
2 promote consistency and minimize regulatory con-
3 flict, the Corporation shall consult and coordinate
4 with appropriate Federal and State regulators and
5 officials when developing standards pursuant to this
6 subsection.

7 (b) APPLICATION AND APPROVAL.—

8 (1) APPLICATION PROCESS.—

9 (A) IN GENERAL.—The Corporation shall
10 establish an application process, in such form
11 and manner and requiring such information as
12 the Corporation may require, for the approval
13 of mortgage aggregators under this section.

14 (B) APPLICATION REVIEW.—The Corpora-
15 tion shall establish internal timelines for its
16 processing of applications under this section, in-
17 cluding timelines for any action to approve or
18 to deny an application under this section.

19 (2) APPROVAL.—The Corporation may approve
20 any application made pursuant to paragraph (1),
21 provided the mortgage aggregator meets the stand-
22 ards established under subsection (a).

23 (3) NOTICE AND PUBLICATION.—The Corpora-
24 tion shall—

1 (A) provide prompt notice to a mortgage
2 aggregator of the approval or denial of any ap-
3 plication of the mortgage aggregator to become
4 an approved aggregator under this section;

5 (B) publish a notice in the Federal Reg-
6 ister upon approval of any mortgage
7 aggregator; and

8 (C) maintain an updated list of approved
9 aggregators on the website of the Corporation.

10 (c) REQUIREMENT TO MAINTAIN APPROVAL STA-
11 TUS.—

12 (1) AUTHORITY TO ISSUE ORDER.—If the Cor-
13 poration determines that an approved aggregator ap-
14 proved under this section no longer meets the stand-
15 ards for such approval or violates the requirements
16 under this Act, including any standards, regulations,
17 or orders promulgated in accordance with this Act,
18 the Corporation may—

19 (A) suspend or revoke the approved status
20 of the approved aggregator; or

21 (B) take any other action with respect to
22 such approved aggregator as may be authorized
23 under this Act.

24 (2) RULE OF CONSTRUCTION.—The suspension
25 or revocation of the approved status of an approved

1 aggregator under this section shall have no effect on
2 the status as a covered security of any covered secu-
3 rity collateralized by eligible mortgage loans with
4 which the approved aggregator contracted prior to
5 the suspension or revocation.

6 (3) PUBLICATION.—The Corporation shall—

7 (A) promptly publish a notice in the Fed-
8 eral Register upon suspension or revocation of
9 the approval of any approved aggregator; and

10 (B) maintain an updated list of such ap-
11 proved aggregators on the website of the Cor-
12 poration.

13 (4) DEFINITION.—In this subsection, the term
14 “violate” includes any action, taken alone or with
15 others, for or toward causing, bringing about, par-
16 ticipating in, counseling, or aiding or abetting, a vio-
17 lation of the requirements under this Act.

18 (d) PRUDENTIAL STANDARDS FOR SUPERVISION.—

19 (1) IN GENERAL.—Subject to subsection (k)(1),
20 the Corporation shall prescribe prudential standards
21 for approved aggregators in order to—

22 (A) ensure—

23 (i) the safety and soundness of ap-
24 proved aggregators; and

1 (ii) the maintenance of approval
2 standards by approved aggregators; and

3 (B) minimize the risk presented to the
4 Mortgage Insurance Fund.

5 (2) RECOGNITION OF DISTINCTIONS BETWEEN
6 AGGREGATORS THAT ARE INSURED DEPOSITORY IN-
7 STITUTIONS AND THOSE THAT ARE NOT.—In car-
8 rying out the requirements under paragraph (1), the
9 Corporation shall—

10 (A) distinguish between prudential stand-
11 ards for approved aggregators that are insured
12 depository institutions, approved aggregators
13 that are affiliates of insured depository institu-
14 tions, and approved aggregators that are nei-
15 ther insured depository institutions nor affili-
16 ates of insured depository institutions; and

17 (B) take into consideration whether the
18 prudential standards to be prescribed under
19 paragraph (1) are duplicative of, or conflicting
20 with, the prudential standards set by the appro-
21 priate Federal banking agency of insured depos-
22 itory institutions or the affiliates of insured de-
23 pository institutions.

24 (e) REPORTS AND EXAMINATIONS.—For purposes of
25 gathering information to determine whether an approved

1 aggregator is fulfilling the requirements under this Act,
2 the Corporation shall have the authority to require reports
3 from and examine approved aggregators as follows:

4 (1) NOT INSURED DEPOSITORY INSTITU-
5 TIONS.—For approved aggregators that are neither
6 an insured depository institution nor an affiliate of
7 an insured depository institution, the Corporation
8 shall have the authority to require reports from and
9 examine approved aggregators, in the same manner
10 and to the same extent as the Federal Deposit In-
11 surance Corporation has with respect to insured de-
12 pository institutions under the provisions of sub-
13 section (a) of section 9 of the Federal Deposit Insur-
14 ance Act (12 U.S.C. 1819).

15 (2) INSURED DEPOSITORY INSTITUTIONS AND
16 AFFILIATE.—For approved aggregators that are an
17 insured depository institution or an affiliate of an in-
18 sured depository institutions:

19 (A) USE OF EXISTING REPORTS TO RE-
20 DUCE EXAMINATIONS.—To the fullest extent
21 possible, the Corporation shall—

22 (i) rely on the examinations, inspec-
23 tions, and reports of the appropriate Fed-
24 eral banking agency;

1 (ii) avoid duplication of examination
2 activities, reporting requirements, and re-
3 quests for information; and

4 (iii) ensure that the depository institu-
5 tion holding company and the subsidiaries
6 of the depository institution holding com-
7 pany are not subject to conflicting super-
8 visory demands by the Corporation and ap-
9 propriate Federal banking agencies.

10 (B) EXAMINATION AUTHORITY.—If the
11 Corporation determines that the examinations,
12 inspections, and reports obtained from other
13 regulators pursuant to subparagraph (A) are
14 insufficient for the Corporation to adequately
15 supervise approved aggregators, the Corpora-
16 tion shall have the authority to require reports
17 from and examine approved aggregators, in the
18 same manner and to the same extent as the
19 Board of Governors of the Federal Reserve Sys-
20 tem has with respect to subsidiaries of bank
21 holding companies institutions under the provi-
22 sions of paragraphs (1) and (2) of subsection
23 (c) of section 5 of the Bank Holding Company
24 Act (12 U.S.C. 1844).

1 (C) REGULATORY NOTICE.—Before com-
2 mencing an examination of an approved
3 aggregator under this paragraph, the Corpora-
4 tion shall provide reasonable notice to, and con-
5 sult with, the appropriate Federal banking
6 agency or State regulatory agency.

7 (D) RULE OF CONSTRUCTION.—Nothing in
8 this Act shall limit the authority of the Cor-
9 poration to require reports of and examine an
10 approved aggregator—

11 (i) to verify the sale of, and funds re-
12 ceived, from the first loss position; and

13 (ii) when the Corporation becomes
14 aware—

15 (I) of a material threat to the
16 safety and soundness of the approved
17 aggregator;

18 (II) that the approved aggregator
19 has violated applicable Federal law; or

20 (III) that the activities of the ap-
21 proved aggregator threaten the finan-
22 cial stability of the housing finance
23 system or the Mortgage Insurance
24 Fund.

1 (f) ENFORCEMENT.—The Corporation shall have the
2 authority to enforce the provisions of this Act with respect
3 to approved aggregators, in the same manner and to the
4 same extent as the Federal Deposit Insurance Corporation
5 has with respect to insured depository institutions under
6 the provisions of subsections (b) through (n) of section
7 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

8 (g) CAPITAL STANDARDS.—For approved
9 aggregators that are neither an insured depository institu-
10 tion nor an affiliate of an insured depository institution:

11 (1) IN GENERAL.—Pursuant to the requirement
12 to establish capital and related solvency standards
13 under section 309(b), the Corporation shall establish
14 standards for approved aggregators that require an
15 approved aggregator—

16 (A) to hold capital in an amount com-
17 parable to that which is required to be held by
18 insured depository institutions and their affili-
19 ates with respect to their applicable aggregating
20 activities; and

21 (B) to maintain solvency levels adequate
22 for the approved aggregator to withstand losses
23 that might be incurred by the approved
24 aggregator in a period of economic stress, in-
25 cluding national and regional home price de-

1 clines, such as those observed during moderate
2 to severe recessions in the United States.

3 (2) STRESS TESTS.—The Corporation shall con-
4 duct appropriate stress tests of such approved
5 aggregators that have total assets of more than
6 \$10,000,000,000, provided that such stress tests
7 shall be—

8 (A) specifically tailored to the business
9 model of the approved aggregator; and

10 (B) utilized to—

11 (i) ensure the safety and soundness of
12 the approved aggregator; and

13 (ii) minimize the risk the approved
14 aggregator may present to the Mortgage
15 Insurance Fund.

16 (h) RESOLUTION AUTHORITY.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of Federal law, the law of any State, or the
19 constitution of any State, the Corporation shall—

20 (A) have the authority to act, in the same
21 manner and to the same extent, with respect to
22 an approved aggregator that is not an insured
23 depository institution that is classified as criti-
24 cally undercapitalized pursuant to section 316,
25 as the Federal Deposit Insurance Corporation

1 has with respect to insured depository institu-
2 tions under subsections (e) through (s) of sec-
3 tion 11 of the Federal Deposit Insurance Act
4 (12 U.S.C. 1821), section 12 of the Federal De-
5 posit Insurance Act (12 U.S.C. 1822), and sec-
6 tion 13 of the Federal Deposit Insurance Act
7 (12 U.S.C. 1823), while tailoring such actions
8 to the specific business model of the approved
9 aggregator, as may be necessary to properly ex-
10 ercise such authority under this subsection;

11 (B) in carrying out any authority provided
12 under subparagraph (A), act, in the same man-
13 ner and to the same extent, with respect to the
14 Mortgage Insurance Fund as the Federal De-
15 posit Insurance Corporation may act with re-
16 spect to the Deposit Insurance Fund under the
17 provisions of the Federal Deposit Insurance Act
18 set forth in clauses (i) through (iii) of subpara-
19 graph A; and

20 (C) consistent with the authorities pro-
21 vided in subparagraph (A), immediately place
22 an insolvent approved aggregator that is not an
23 insured depository institution into receivership.

24 (2) RULE OF CONSTRUCTION.—If an insolvent
25 approved aggregator is an insured depository institu-

1 tion or an affiliate of an insured depository institu-
2 tion, the Corporation shall recommend, in writing, to
3 such approved aggregator's appropriate Federal
4 banking agency or State banking regulator to resolve
5 such approved aggregator pursuant to section 11(e)
6 of the Federal Deposit Insurance Act (12 U.S.C.
7 1821(e)) and other appropriate sections of the Fed-
8 eral Deposit Insurance Act (12 U.S.C. 1811 et seq.)
9 or appropriate Federal or State law, as applicable.

10 (3) LEAST-COST RESOLUTION REQUIRED.—The
11 Corporation may not exercise any authority under
12 paragraph (1) with respect to any approved
13 aggregator that is not an insured depository institu-
14 tion or an affiliate of an insured depository institu-
15 tion unless—

16 (A) the Corporation determines that the
17 exercise of such authority is necessary to ensure
18 proper and continued functioning of the sec-
19 ondary mortgage market; and

20 (B) the total amount of the expenditures
21 by the Corporation and obligations incurred by
22 the Corporation in connection with the exercise
23 of any such authority with respect to such ap-
24 proved aggregator is the least costly to the
25 Mortgage Insurance Fund, consistent with the

1 least cost approach specified in the Federal De-
2 posit Insurance Act (12 U.S.C. 1811 et seq.),
3 of all possible methods for meeting the Corpora-
4 tion's obligations under this Act and expedi-
5 tiously concluding its resolution activities.

6 (4) TAXPAYER PROTECTION.—The Corporation,
7 in carrying out any authority provided in this sub-
8 section, shall ensure that any amounts owed to the
9 United States, unless the United States agrees or
10 consents otherwise, shall have priority following ad-
11 ministrative expenses of the receiver when satisfying
12 unsecured claims against an approved aggregator, or
13 the receiver therefor, that are proven to the satisfac-
14 tion of the receiver.

15 (i) HEARING.—Upon notice of denial of an applica-
16 tion for approval under subsection (b) or upon a notice
17 of suspension or revocation of the approved status of an
18 approved aggregator under subsection (c), the applicant
19 or approved aggregator shall be afforded a hearing under
20 subsection (h) of section 8 of the Federal Deposit Insur-
21 ance Act (12 U.S.C. 1818(h)), in the same manner and
22 to the same extent as if the Corporation were the appro-
23 priate Federal banking agency, provided that the approved
24 aggregator submits a request to the Corporation for a

1 hearing not later than 10 days after the date on which
2 the notice is published under subsection (b)(3) or (c)(3).

3 (j) PERMISSION TO CARRY OUT OTHER ACTIVI-
4 TIES.—Nothing in this Act prohibits an approved
5 aggregator from being an affiliate of an approved guar-
6 antor, provided that each aggregator and each guarantor,
7 independent of each other, meets the approval standards
8 established by the Corporation under this title.

9 (k) AFFILIATES OF INSURED DEPOSITORY INSTITU-
10 TIONS.—

11 (1) ESTABLISHMENT OF PRUDENTIAL STAND-
12 ARDS.—The Corporation shall consult and coordi-
13 nate with Federal banking agencies when estab-
14 lishing prudential standards for approved
15 aggregators that are insured depository institutions
16 and approved aggregators that are affiliates of in-
17 sured depository institutions.

18 (2) INFORMATION SHARING.—To the extent an-
19 other appropriate Federal banking agency has rel-
20 evant information indicating that an approved
21 aggregator that is an insured depository institution
22 or an affiliate of an insured depository institution
23 (A) may have insufficient capital, (B) faces a mate-
24 rial threat to its safety and soundness, (C) may have
25 violated applicable Federal law, or (D) may threaten

1 the financial stability of the housing finance system
2 or the Mortgage Insurance Fund, such appropriate
3 Federal banking agency shall notify the Corporation
4 that such conditions exist.

5 (3) PRIMARY ENFORCEMENT AUTHORITY.—To
6 the extent that the Corporation and another appro-
7 priate Federal banking agency are each authorized
8 to enforce prudential standards with respect to an
9 approved aggregator that is an insured depository
10 institution or an affiliate of an insured depository in-
11 stitution, the appropriate Federal banking agency
12 shall have primary authority to enforce such stand-
13 ards.

14 (l) RULE OF CONSTRUCTION REGARDING PRESERVA-
15 TION OF CORPORATION AUTHORITY.—Nothing in this sec-
16 tion limits, or shall be construed to limit, the authority
17 of the Corporation to provide exemptions to, or adjust-
18 ments for, the provisions of this section based on the asset
19 size of approved aggregators, or other criteria, as the Cor-
20 poration deems appropriate, in order to reduce regulatory
21 burdens while appropriately balancing protection of the
22 Mortgage Insurance Fund.

23 (m) FEDERAL HOME LOAN BANKS AS
24 AGGREGATORS.—

25 (1) FEDERAL HOME LOAN BANK ACT.—

1 (A) ESTABLISHMENT OF SUBSIDIARIES.—

2 (i) AMENDMENT.—Section 12 of the
3 Federal Home Loan Bank Act (12 U.S.C.
4 1432) is amended by adding at the end the
5 following:

6 “(c) Subject to such regulations as may be prescribed
7 by the Agency, in coordination with the Federal Mortgage
8 Insurance Corporation, 1 or more Federal Home Loan
9 Banks may establish a subsidiary. Any subsidiary estab-
10 lished under this subsection shall be restricted to engaging
11 in activities related to being an approved aggregator, as
12 that term is defined under section 2 of Housing Finance
13 Reform and Taxpayer Protection Act of 2014.

14 “(d) Subject to such regulations as may be prescribed
15 by the Agency, in coordination with the Federal Mortgage
16 Insurance Corporation, 1 or more Federal Home Loan
17 Banks or any subsidiary of a Federal Home Loan Bank
18 established under subsection (c) may apply to become, and
19 may become, an approved aggregator, as that term is de-
20 fined under section 2 of the Housing Finance Reform and
21 Taxpayer Protection Act of 2014.”.

22 (ii) EFFECTIVE DATE.—The amend-
23 ments made by clause (i) shall take effect
24 on the system certification date.

25 (B) CDFIS.—

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1 (i) AMENDMENT.—Section 10(a) of
2 the Federal Home Loan Bank Act (12
3 U.S.C. 1430(a)) is amended—

4 (I) in paragraph (2)(B), by in-
5 serring “or community development fi-
6 nancial institution (as defined in sec-
7 tion 103 of the Riegle Community De-
8 velopment and Regulatory Improve-
9 ment Act of 1994 (12 U.S.C. 4702))”
10 after “community financial institu-
11 tion”; and

12 (II) in paragraph (3)(E), by in-
13 serring “or community development fi-
14 nancial institution (as defined in sec-
15 tion 103 of the Riegle Community De-
16 velopment and Regulatory Improve-
17 ment Act of 1994 (12 U.S.C. 4702))”
18 after “community financial institu-
19 tion”.

20 (ii) EFFECTIVE DATE.—The amend-
21 ment made by clause (i) shall take effect
22 on the agency transfer date.

23 (2) DEVELOPMENT OF OPT-OUT PROCESS.—If
24 the Federal Home Loan Bank System is approved
25 by the Corporation to become an approved

1 aggregator under this section, the Corporation
2 shall—

3 (A) develop a process by which each indi-
4 vidual Federal Home Loan Bank may elect not
5 to engage or otherwise contribute to any activ-
6 ity practiced by the Federal Home Loan Bank
7 System as an approved aggregator;

8 (B) ensure that, notwithstanding section
9 11 of the Federal Home Loan Bank Act (12
10 U.S.C. 1431), any eligible single-family mort-
11 gage loans pooled by the Federal Home Loan
12 Bank System as an approved aggregator are
13 not issued as consolidated Federal Home Loan
14 Bank debentures or other obligations and are
15 explicitly designated or otherwise treated as not
16 being the joint and several obligations of any
17 individual Federal Home Loan Bank that has
18 made an election under subparagraph (A); and

19 (C) ensure that in establishing the capital
20 standards set forth under subsection (a)(3)(B)
21 with respect to the Federal Home Loan Bank
22 System, that such standards shall—

23 (i) not be applicable to any individual
24 Federal Home Loan Bank that has made
25 an election under subparagraph (A);

1 (ii) be based on the volume of eligible
2 single-family mortgage loan originations
3 made by the Federal Home Loan Banks
4 that have not made an election under sub-
5 paragraph (A); and

6 (iii) not adversely impact the tradi-
7 tional liquidity and advance business of the
8 Federal Home Loan Banks or the Federal
9 Home Loan Bank System.

10 **SEC. 313. APPROVAL OF PRIVATE MORTGAGE INSURERS.**

11 (a) STANDARDS FOR APPROVAL OF PRIVATE MORT-
12 GAGE INSURERS.—

13 (1) IN GENERAL.—The Corporation shall de-
14 velop, adopt, and publish standards for the approval
15 by the Corporation of private mortgage insurers to
16 provide private mortgage loan insurance on eligible
17 single-family mortgage loans that collateralize single-
18 family covered securities.

19 (2) REQUIRED STANDARDS.—The standards re-
20 quired under paragraph (1) shall include—

21 (A) the financial history and condition of
22 the private mortgage insurer;

23 (B) the adequacy of the capital structure
24 of the private mortgage insurer, including
25 whether the insurer has sufficient capital to

1 protect its policyholders from loss under para-
2 graph (1);

3 (C) the establishment and maintenance of
4 adequate loss reserves for the estimated total li-
5 ability for claims;

6 (D) the general character and fitness of
7 the management of the private mortgage in-
8 surer, including compliance history with Fed-
9 eral and State laws;

10 (E) that the private mortgage insurer has
11 the capacity to insure eligible single-family
12 mortgage loans in a manner that furthers the
13 purposes of the Corporation as described in sec-
14 tion 201(b)(5);

15 (F) the risk presented by the private mort-
16 gage insurer to the Mortgage Insurance Fund;

17 (G) the adequacy of insurance and fidelity
18 coverage of the private mortgage insurer;

19 (H) a requirement that the private mort-
20 gage insurer submit audited financial state-
21 ments to the Corporation; and

22 (I) any other standard the Corporation de-
23 termines necessary to protect the Mortgage In-
24 surance Fund.

1 (3) RULE OF CONSTRUCTION.—Nothing in sub-
2 paragraph (E) shall be construed to prevent the Cor-
3 poration from approving a small or specialty private
4 mortgage insurer, provided that the private mort-
5 gage insurer has the capacity to adequately diversify
6 its risk to meet appropriate safety and soundness
7 concerns.

8 (4) CONSULTATION AND COORDINATION.—To
9 promote consistency and minimize regulatory con-
10 flict, the Corporation shall consult and coordinate
11 with appropriate Federal and State regulators and
12 officials when developing standards pursuant to this
13 subsection.

14 (b) APPLICATION AND APPROVAL.—

15 (1) APPLICATION PROCESS.—

16 (A) IN GENERAL.—The Corporation shall
17 establish an application process, in such form
18 and manner and requiring such information as
19 the Corporation may require, for the approval
20 of private mortgage insurers under this section.

21 (B) APPLICATION REVIEW.—The Corpora-
22 tion shall establish internal timelines for its
23 processing of applications under this section, in-
24 cluding timelines for any action to approve or
25 to deny an application under this section.

1 (C) NOTIFICATION.—The Corporation
2 shall notify the appropriate State insurance reg-
3 ulator upon receipt of any application of by a
4 private mortgage insurer to become an ap-
5 proved private mortgage insurer under this sec-
6 tion.

7 (2) APPROVAL.—The Corporation may approve
8 any application made pursuant to paragraph (1),
9 provided the private mortgage insurer meets the
10 standards established under subsection (a).

11 (3) NOTICE AND PUBLICATION.—The Corpora-
12 tion shall—

13 (A) provide prompt notice to a private
14 mortgage insurer of the approval or denial of
15 any application of the private mortgage insurer
16 to become an approved private mortgage in-
17 surer under this section;

18 (B) publish a notice in the Federal Reg-
19 ister upon approval of any private mortgage in-
20 surer;

21 (C) maintain an updated list of approved
22 private mortgage insurers on the website of the
23 Corporation; and

24 (D) provide prompt notice to the appro-
25 priate State insurance regulator upon the ap-

1 proval or denial of any application of a private
2 mortgage insurer to become an approved pri-
3 vate mortgage insurer under this section.

4 (c) REQUIREMENT TO MAINTAIN APPROVAL STA-
5 TUS.—

6 (1) AUTHORITY TO ISSUE ORDER.—If the Cor-
7 poration determines that an approved private mort-
8 gage insurer approved under this section no longer
9 meets the standards for such approval or violates the
10 requirements under this Act, including any stand-
11 ards, regulations, or orders promulgated in accord-
12 ance with this Act, the Corporation may—

13 (A) suspend or revoke the approved status
14 of the approved private mortgage insurer; or

15 (B) take any other action with respect to
16 such approved private mortgage insurer as may
17 be authorized under this Act.

18 (2) RULE OF CONSTRUCTION.—The suspension
19 or revocation of the approved status of an approved
20 private mortgage insurer under this section shall
21 have no effect on the status as a covered security of
22 any covered security collateralized by eligible mort-
23 gage loans with which the approved private mort-
24 gage insurer contracted prior to the suspension or
25 revocation.

1 (3) PUBLICATION.—The Corporation shall—

2 (A) promptly publish a notice in the Fed-
3 eral Register upon suspension or revocation of
4 the approval of any approved private mortgage
5 insurer; and

6 (B) maintain an updated list of such ap-
7 proved private mortgage insurers on the website
8 of the Corporation.

9 (4) DEFINITION.—In this subsection, the term
10 “violate” includes any action, taken alone or with
11 others, for or toward causing, bringing about, par-
12 ticipating in, counseling, or aiding or abetting, a vio-
13 lation of the requirements under this Act.

14 (d) STATE REGULATION.—The appropriate State in-
15 surance regulator of an approved private mortgage insurer
16 has primary authority to examine and supervise the ap-
17 proved private mortgage insurer.

18 (e) REPORTS AND EXAMINATIONS.—

19 (1) IN GENERAL.—For purposes of determining
20 whether an approved private mortgage insurer is ful-
21 filling the requirements under this Act, the Corpora-
22 tion may examine or review any approved private
23 mortgage insurer if the Corporation has substantial
24 reason to believe—

1 (A) that an approved private mortgage in-
2 surer has engaged in a material violation or
3 pattern of violations of this Act or the rules
4 promulgated pursuant to this Act; or

5 (B) that the activities of an approved pri-
6 vate mortgage insurer may threaten the finan-
7 cial stability of the housing finance system or
8 the Mortgage Insurance Fund.

9 (2) 2-YEAR COMPLIANCE EXAMINATION.—In
10 addition to the authority under paragraph (1), the
11 Corporation shall conduct an examination of an ap-
12 proved private mortgage insurer once, but not more
13 than once, every 2 years, provided the approved pri-
14 vate mortgage insurer has not been examined by an
15 appropriate State insurance regulator.

16 (3) COORDINATION.—In conducting an exam or
17 review authorized pursuant to paragraph (1) or
18 paragraph (2), the Corporation shall—

19 (A) provide reasonable notice to, and con-
20 sult with, the appropriate Federal banking
21 agency or State insurance regulator, as appro-
22 priate, for an approved private mortgage in-
23 surer that is regulated by such Federal banking
24 agency or State insurance regulator before com-

1 mencing an examination of the approved private
2 mortgage insurer under this section;

3 (B) to the fullest extent possible, avoid du-
4 plication of examination activities, reporting re-
5 quirements, and requests for information, in-
6 cluding by relying on existing examinations, in-
7 spections, and reports of the appropriate State
8 insurance regulator; and

9 (C) ensure that the approved private mort-
10 gage insurer is not subject to conflicting super-
11 visory demands by the Corporation, appropriate
12 Federal banking agencies, or State insurance
13 regulators, as appropriate.

14 (4) NOTICE OF DETERMINATION.—The State
15 insurance regulator of an approved private mortgage
16 insurer shall notify the Corporation if there has been
17 a final determination that the approved private
18 mortgage insurer is in a troubled condition.

19 (f) ENFORCEMENT.—

20 (1) IN GENERAL.—The Corporation shall have
21 the authority to enforce the provisions of this Act
22 with respect to private mortgage insurers, in the
23 same manner and to the same extent as the Federal
24 Deposit Insurance Corporation has with respect to
25 insured depository institutions under the provisions

1 of subsections (b) through (n) of section 8 of the
2 Federal Deposit Insurance Act (12 U.S.C. 1818).

3 (2) NOTIFICATION.—If the Corporation takes
4 any enforcement action against an approved private
5 mortgage insurer, the Corporation shall promptly
6 notify the appropriate State insurance regulator.

7 (g) RESOLUTION AUTHORITY.—

8 (1) IN GENERAL.—For any approved private
9 mortgage insurer that is failing to meet the standard
10 required under paragraph (a)(2)(B), the Corporation
11 shall recommend, in writing, that the State insur-
12 ance regulator for such private mortgage insurer
13 take such actions as are necessary and authorized
14 under applicable State law to resolve such private
15 mortgage insurer.

16 (2) BACKUP AUTHORITY.—Notwithstanding the
17 requirement under paragraph (1), if, after the end
18 of the 60-day period beginning on the date on which
19 the Corporation provides its written recommendation
20 pursuant to paragraph (1), the appropriate State in-
21 surance regulator has not filed the appropriate judi-
22 cial action in the appropriate State court to place
23 such private mortgage insurer into orderly liquida-
24 tion under the laws and requirements of the State,
25 the Corporation shall have the authority to stand in

1 the place of the appropriate regulatory agency and
2 file the appropriate judicial action in the appropriate
3 State court to place such a private mortgage insurer
4 into orderly liquidation under the laws and require-
5 ments of the State.

6 (h) HEARING.—Upon notice of denial of an applica-
7 tion for approval under subsection (b) or upon a notice
8 of suspension or revocation of the approved status of an
9 approved private mortgage insurer under subsection (c),
10 the applicant or approved private mortgage insurer shall
11 be afforded a hearing under subsection (h) of section 8
12 of the Federal Deposit Insurance Act (12 U.S.C.
13 1818(h)), in the same manner and to the same extent as
14 if the Corporation were the appropriate Federal banking
15 agency, provided that the approved private mortgage in-
16 surer submits a request to the Corporation for a hearing
17 not later than 10 days after the date on which the notice
18 is published under subsection (b)(3) or (c)(3).

19 (i) RULE OF CONSTRUCTION REGARDING PRESERVA-
20 TION OF CORPORATION AUTHORITY.—Nothing in this sec-
21 tion limits, or shall be construed to limit, the authority
22 of the Corporation to provide exemptions to, or adjust-
23 ments for, the provisions of this section based on the asset
24 size of approved private mortgage insurers, or other cri-
25 teria, as the Corporation deems appropriate, in order to

1 reduce regulatory burdens while appropriately balancing
2 the protection of the Mortgage Insurance Fund.

3 **SEC. 314. APPROVAL OF SERVICERS.**

4 (a) STANDARDS FOR APPROVAL OF SERVICERS.—

5 (1) IN GENERAL.—The Corporation shall, by
6 regulation, establish standards for the approval by
7 the Corporation of servicers to administer eligible
8 single-family mortgage loans, including standards
9 with respect to—

10 (A) the collection and forwarding of prin-
11 cipal and interest payments;

12 (B) the maintenance of escrow accounts;

13 (C) the collection and payment of taxes
14 and bona fide insurance premiums;

15 (D) the maintenance of records on eligible
16 single-family mortgage loans;

17 (E) the establishment of loss mitigation
18 options that seek to enhance value and prevent,
19 to greatest extent possible, the need to trigger
20 a claim on insurance offered by the Corporation
21 pursuant to this title, including by—

22 (i) establishing, by rule, a consistent
23 process through which borrowers will be
24 evaluated by servicers and the

1 securitization trust for an affordable loan
2 modification; and

3 (ii) providing clear guidance regarding
4 the treatment of second lien holders;

5 (F) the advancement of principal and in-
6 terest payments to investors in the case of a de-
7 linquency by a borrower until such time as the
8 borrower has made all payments in arrears, a
9 regulated entity has purchased the loan, or the
10 property securing the eligible single-family
11 mortgage loan has been liquidated;

12 (G) the establishment of procedures under
13 which the servicer may initiate or continue a
14 foreclosure, in accordance with applicable Fed-
15 eral and State laws and regulations that—

16 (i) take into account—

17 (I) the servicer's evaluation of,
18 and agreements with, borrowers for
19 loss mitigation options pursuant to
20 subparagraph (E);

21 (II) potential losses caused by
22 delays in collateral recovery; and

23 (III) the need to minimize risks
24 to the Mortgage Insurance Fund; and

1 (ii) provide the borrower, upon re-
2 quest, documentation establishing the right
3 of the mortgagee to foreclose;

4 (H) the provision of eligible single-family
5 mortgage loan information to borrowers, upon
6 request, including a copy of the pooling and
7 servicing agreement and securitization trust re-
8 quirements that may restrict the ability of the
9 servicer to offer loss mitigation options; and

10 (I) implementing the terms of any loss
11 mitigation and foreclosure prevention as re-
12 quired by any uniform securitization agreement
13 developed under section 326.

14 (2) **ADDITIONAL REQUIRED STANDARDS.**—The
15 standards required under paragraph (1) shall also
16 include—

17 (A) the financial history and condition of
18 the servicer;

19 (B) the general character and fitness of
20 the management of the servicer, including com-
21 pliance history with Federal and State laws;

22 (C) the risk presented by such servicer to
23 the Mortgage Insurance Fund; and

1 (D) minimum operational and management
2 standards for the servicer, including with re-
3 spect to—

4 (i) internal controls;

5 (ii) recordkeeping;

6 (iii) internal audit systems;

7 (iv) the maintenance of adequate li-
8 quidity and reserves; and

9 (v) reporting standards to the Cor-
10 poration and investors, including audited
11 financial statements.

12 (3) COORDINATION, CONSISTENCY, AND COM-
13 PARABILITY.—To promote consistency and minimize
14 regulatory conflict, the Comptroller of the Currency,
15 the Board of Governors of the Federal Reserve Sys-
16 tem, the Federal Deposit Insurance Corporation, the
17 Bureau of Consumer Financial Protection, and the
18 Corporation shall—

19 (A) consult and coordinate with each other
20 in developing and issuing regulations with re-
21 spect to the rules and standards for the serv-
22 icing of eligible single-family mortgage loans;
23 and

24 (B) review existing regulations with respect
25 to mortgage loan servicing rules and standards.

1 (4) CONSULTATION AND COORDINATION WITH
2 STATE REGULATORS.—To promote consistency and
3 minimize regulatory conflict, the Corporation shall
4 consult and coordinate with appropriate State regu-
5 lators when developing and issuing regulations with
6 respect to the rules and standards for the servicing
7 of eligible single-family mortgage loans.

8 (b) APPLICATION AND APPROVAL.—

9 (1) APPLICATION PROCESS.—The Corporation
10 shall establish an application process—

11 (A) in such form and manner and requir-
12 ing such information as the Corporation may
13 require, for the approval of servicers under this
14 section; and

15 (B) that does not discriminate against or
16 otherwise disadvantage small servicers.

17 (2) APPROVAL.—

18 (A) IN GENERAL.—The Corporation may
19 approve any application made pursuant to para-
20 graph (1) provided the servicer meets the
21 standards adopted under subsection (a).

22 (B) PROMPT NOTICE.—The Corporation
23 shall notify any applicant seeking to become an
24 approved servicer under this section of the deci-

1 sion of the Corporation with respect to such ap-
2 proval as promptly as practicable.

3 (3) GRANDFATHERED SERVICERS OF THE EN-
4 TERPRISES.—Any servicer who was approved to
5 service mortgage loans for an enterprise on the date
6 that is 1 day before the date of enactment of this
7 Act, and was in good standing as of such date, shall
8 be deemed to be an approved servicer for purposes
9 of this Act and subject to the requirements of this
10 section as an approved servicer.

11 (4) SMALL SERVICER EXEMPTION.—The Cor-
12 poration shall, by regulation, provide exemptions to,
13 or adjustments for, the provisions of this section for
14 approved servicers that service 7,500 or fewer eligi-
15 ble single-family mortgage loans, in order to reduce
16 regulatory burdens while appropriately balancing
17 protection of the Mortgage Insurance Fund.

18 (5) RESPA AMENDMENT.—Section 6 of the
19 Real Estate Settlement Procedures Act of 1974 (12
20 U.S.C. 2605) is amended by adding at the end the
21 following:

22 “(n) SMALL SERVICER EXEMPTION.—The Bureau
23 shall, by regulation, provide exemptions to, or adjustments
24 for, the provisions of this section for servicers that service
25 7,500 or fewer mortgage loans, in order to reduce regu-

1 latory burdens while appropriately balancing consumer
2 protections.”.

3 (6) PUBLICATION.—The Corporation shall—

4 (A) publish a notice in the Federal Reg-
5 ister upon approving any servicer under this
6 section; and

7 (B) maintain an updated list of approved
8 servicers on the website of the Corporation.

9 (c) REVIEW, SUSPENSION, AND REVOCATION OF AP-
10 PROVED STATUS.—

11 (1) REVIEW.—

12 (A) IN GENERAL.—The Corporation may
13 examine or review any approved servicer if the
14 Corporation has substantial reason to believe
15 that a servicer has engaged in a material viola-
16 tion or pattern of violations of this Act or the
17 rules promulgated pursuant to this Act, includ-
18 ing—

19 (i) any failure by an approved servicer
20 to comply with terms set forth in any uni-
21 form securitization agreement developed
22 under section 326; or

23 (ii) through the identification of any
24 information indicating abnormal eligible
25 single-family mortgage loan performance

1 within the loan portfolio of the approved
2 servicer.

3 (B) 2-YEAR COMPLIANCE EXAMINATION.—

4 In addition to the authority under subpara-
5 graph (A), the Corporation shall conduct an ex-
6 amination or review of an approved servicer
7 once, but not more than once, every 2 years.

8 (C) COORDINATION.—In conducting an
9 exam or review authorized pursuant to subpara-
10 graph (A) or subparagraph (B), the Corpora-
11 tion shall—

12 (i) provide reasonable notice to, and
13 coordinate with, the appropriate Federal
14 banking agency or State regulatory agency,
15 as appropriate, for an approved servicer
16 that is regulated by such Federal banking
17 agency or State regulatory agency before
18 commencing an examination of the ap-
19 proved servicer under this section; and

20 (ii) to the fullest extent possible—

21 (I) rely on the examinations, in-
22 spections, and reports of the appro-
23 priate Federal banking agency or
24 State regulatory agency, as appro-
25 priate, for an approved servicer that is

1 regulated by such Federal banking
2 agency or State regulatory agency;

3 (II) avoid duplication of examina-
4 tion activities, reporting requirements,
5 and requests for information; and

6 (III) ensure that approved
7 servicers are not subject to conflicting
8 supervisory demands by the Corpora-
9 tion, appropriate Federal banking
10 agencies, or State regulatory agencies,
11 as appropriate.

12 (D) SELF CERTIFICATION.—

13 (i) IN GENERAL.—To facilitate any
14 exam or review authorized pursuant to
15 subparagraph (A) or subparagraph (B),
16 each approved servicer shall, on an annual
17 basis and in accordance with such require-
18 ments as the Corporation may establish,
19 certify in writing to the Corporation that
20 the approved servicer is in compliance with
21 the standards identified under paragraphs
22 (1) and (2) of subsection (a), all other re-
23 quirements of this Act, and any rules pro-
24 mulgated pursuant to this Act.

1 (ii) PENALTY FOR FALSE OR MIS-
2 LEADING CERTIFICATIONS.—

3 (I) ENFORCEMENT.—The Cor-
4 poration shall have the authority to
5 impose enforcement penalties with re-
6 spect to an approved servicer who
7 submits a certification under clause
8 (i) that contains false or misleading
9 information, in the same manner and
10 to the same extent as the Federal De-
11 posit Insurance Corporation has with
12 respect to insured depository institu-
13 tions under the provisions of sub-
14 sections (b) through (n) of section 8
15 of the Federal Deposit Insurance Act
16 (12 U.S.C. 1818), except that the
17 penalties under subsection (j) of such
18 section 8 shall not apply.

19 (II) NOTIFICATION.—If the Cor-
20 poration takes any enforcement action
21 against an approved servicer, the Cor-
22 poration shall notify the approved
23 servicer's appropriate Federal banking
24 agency, if applicable.

25 (2) SUSPENSION OR REVOCATION.—

1 (A) CORPORATION AUTHORITY.—If the
2 Corporation determines, in any exam or review
3 authorized pursuant to paragraph (1), that an
4 approved servicer no longer meets the standards
5 for approval, the Corporation may suspend or
6 revoke the approved status of such servicer.

7 (B) RULE OF CONSTRUCTION.—The sus-
8 pension or revocation of an approved servicer’s
9 approved status under this paragraph shall
10 have no effect on the status of any covered se-
11 curity.

12 (3) PUBLICATION.—The Corporation shall—

13 (A) publish in the Federal Register a list
14 of any approved servicers who lost their ap-
15 proved status; and

16 (B) maintain an updated list of such
17 servicers on the website of the Corporation.

18 (d) APPEALS.—

19 (1) IN GENERAL.—

20 (A) APPEALS OF DENIALS OF APPLICA-
21 TION.—A servicer who submits an application
22 under subsection (b)(1) to become an approved
23 servicer may appeal a decision of the Corpora-
24 tion denying such application.

1 (B) APPEALS OF DENIALS OF BENEFITS
2 OR SUSPENSIONS OF PARTICIPATION.—An ap-
3 proved servicer may appeal a decision of the
4 Corporation suspending or revoking the ap-
5 proved status of such servicer.

6 (2) FILING OF APPEAL.—Any servicer who files
7 an appeal under paragraph (1) shall file the appeal
8 with the Corporation not later than 90 days after
9 the date on which the person receives notice of the
10 decision of the Corporation being appealed.

11 (3) FINAL DETERMINATION.—The Corporation
12 shall make a final determination with respect to an
13 appeal under paragraph (1) not later than 180 days
14 after the date on which the appeal is filed under
15 paragraph (2).

16 (e) TRANSFER OF MORTGAGE SERVICING DUTIES.—

17 (1) IN GENERAL.—For any eligible single-fam-
18 ily mortgage loan or pool of eligible single-family
19 mortgage loans insured by the Corporation under
20 this title and in accordance with rules promulgated
21 by the Corporation, the Corporation may require the
22 approved servicer of any such eligible single-family
23 mortgage loan or pool of eligible single-family mort-
24 gage loans to enter into a subservicing arrangement

1 with any independent specialty servicer approved by
2 the Corporation.

3 (2) RULES.—The rules required under para-
4 graph (1) shall—

5 (A) set forth with clarity the performance
6 conditions of an approved servicer that would
7 warrant or necessitate the use of the authority
8 granted to the Corporation under this sub-
9 section;

10 (B) require that the performance condition
11 warranting or necessitating the use of such au-
12 thority be of such type or character so as to
13 materially and adversely affect the ability of the
14 Corporation to recover any amounts owed to
15 the Corporation;

16 (C) for purposes of subparagraph (B), de-
17 fine the term “materially and adversely affect”;

18 (D) require that any approved servicer
19 whose servicing duties are subject to this sub-
20 section be provided a reasonable amount of
21 time, provided that such time does not present
22 a risk to the Mortgage Insurance Fund, to
23 rebut, address, or correct any determination of
24 the Corporation regarding a performance condi-
25 tion described under subparagraph (A);

1 (E) only permit the Corporation to carry
2 out the authority granted under this subsection
3 upon expiration of the time-period allowed
4 under subparagraph (D);

5 (F) limit the scope of any such authority
6 to eligible single-family mortgage loans that
7 share similar underwriting, borrower, and per-
8 formance characteristics;

9 (G) ensure that the scope of any such au-
10 thority is not applied broadly and without fur-
11 ther limitation; and

12 (H) notwithstanding subparagraphs (B)
13 through (G), provide that an approved servicer
14 may be subject to more extensive programmatic
15 discipline or correction measures, as determined
16 by the Corporation, if, during any 5-year pe-
17 riod—

18 (i) the servicing duties that are the
19 subject of the current use of the Corpora-
20 tion's authority under this subsection
21 marks the third instance of the use of such
22 authority with respect to the same ap-
23 proved servicer; and

24 (ii) with respect to the prior 2 sepa-
25 rate and individual instances of the use of

1 such authority, the same approved servicer
2 failed to cure any identified performance
3 conditions or implement corrective meas-
4 ures as determined by the Corporation
5 pursuant to subparagraph (D).

6 (3) CESSATION OF COMPENSATION.—If a trans-
7 fer of servicing rights occurs under paragraph (1),
8 the approved servicer from whom such servicing
9 rights are extinguished shall cease to receive com-
10 pensation for any such servicing activities related to
11 those rights.

12 (4) SERVICER SUCCESSION PLANS.—

13 (A) IN GENERAL.—The Corporation may
14 establish a succession plan for each approved
15 servicer, including provisions for—

16 (i) a specialized servicer to replace the
17 approved servicer if the performance of the
18 eligible single-family mortgage loan pool
19 serviced by such approved servicer deterio-
20 rates to specified levels; and

21 (ii) a plan to achieve continuity of
22 contact for borrowers upon the replace-
23 ment of the approved servicer.

24 (B) RULE OF CONSTRUCTION.—Nothing in
25 this paragraph shall be construed as author-

1 izing the Corporation to circumvent, evade, or
2 otherwise disregard the rules established in
3 paragraphs (1) and (2) when facilitating a
4 transfer of servicing rights.

5 (f) PETITIONS FOR CHANGE OF SERVICER BY PRI-
6 VATE MARKET HOLDERS.—

7 (1) DEVELOPMENT OF PROCESS.—The Cor-
8 poration shall develop a process by which private
9 market holders of the first loss position in a single-
10 family covered security may petition the Corporation
11 for a change in approved servicers, including special-
12 ized servicers for individual eligible single-family
13 mortgage loans, if the private market holders can
14 demonstrate that its investment was not appro-
15 priately protected by the current approved servicer,
16 including by failing to meet any standard or require-
17 ment identified under paragraphs (1) and (2) of
18 subsection (a).

19 (2) CESSATION OF COMPENSATION.—If a
20 change in approved servicers is approved under
21 paragraph (1)—

22 (A) the change must occur within 30 days
23 after the petition is approved by the Corpora-
24 tion; and

1 (B) once the change required under sub-
2 paragraph (A) has occurred, the approved
3 servicer from whom such servicing rights are
4 extinguished shall cease to receive compensation
5 for any such servicing activities related to those
6 rights.

7 (g) NOTICE OF TRANSFER OF SERVICING RIGHTS BY
8 CURRENT SERVICER.—

9 (1) NOTICE TO FMIC.—The Corporation shall
10 develop a process by which an approved servicer
11 shall provide notice to the Corporation of any trans-
12 fer of any servicing rights of such approved servicer
13 to another approved servicer.

14 (2) AUTHORITY OF FMIC TO PREVENT, HALT,
15 OR RESCIND A TRANSFER.—The process required to
16 be developed under paragraph (1) shall include the
17 development of procedures to permit the Corporation
18 to prevent, halt, or rescind any transfer of servicing
19 rights from an approved servicer to a servicer that
20 is not approved to service eligible single-family mort-
21 gage loans under this section or to any servicer
22 whose approved status has been suspended or re-
23 voked pursuant to subsection (e)(2).

24 (h) GENERAL AUTHORITY WITH RESPECT TO THE
25 TRANSFER OF SERVICING RIGHTS.—The Corporation

1 may develop such other standards with respect to the
2 transfer of servicing rights by approved servicers as the
3 Corporation determines necessary and appropriate to fa-
4 cilitate an orderly transfer of servicing rights after the
5 suspension or revocation of the approved status of a
6 servicer pursuant to subsection (c)(2).

7 (i) STUDY OF SERVICER COMPENSATION RELATED
8 TO NON-PERFORMING SINGLE-FAMILY MORTGAGE
9 LOANS.—

10 (1) IN GENERAL.—The Corporation shall carry
11 out a study of servicing compensation for non-per-
12 forming single-family mortgage loans, including al-
13 ternatives to existing servicing compensation struc-
14 tures.

15 (2) RECOMMENDATIONS.—The study required
16 under paragraph (1) shall include recommendations
17 for the optimal structure of servicer compensation,
18 in order to—

19 (A) improve service for borrowers;

20 (B) reduce financial risk to servicers; and

21 (C) provide flexibility for guarantors to
22 better manage non-performing single-family
23 mortgage loans while promoting continued li-
24 quidity in the To-Be-Announced mortgage secu-
25 rities market.

1 (3) REPORT.—Not later than 1 year after the
2 date of enactment of this Act, the Chairperson shall
3 issue a report to the Congress containing any find-
4 ings and determinations made in carrying out the
5 study required under paragraph (1).

6 (j) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion shall prohibit a mortgage originator from retaining
8 rights to service the eligible single-family mortgage loans
9 it originated, provided that the mortgage originator—

10 (1) meets the standards to be an approved
11 servicer under subsection (a); or

12 (2) qualifies for an exemption under subsection
13 (b)(4).

14 **SEC. 315. AUTHORITY TO ESTABLISH AND APPROVE SMALL**
15 **LENDER MUTUALS.**

16 (a) ESTABLISHMENT OF SMALL LENDER
17 MUTUALS.—

18 (1) IN GENERAL.—The Corporation shall estab-
19 lish 1 entity known as the “Small Lender Mutual”,
20 which shall be an approved small lender mutual,
21 owned by and operated for the benefit of its mem-
22 bers, for the purposes of subsection (b).

23 (2) APPROVAL OF OTHER SMALL LENDER
24 MUTUALS.—The Corporation shall, by regulation, es-
25 tablish standards for the approval by the Corpora-

1 tion of such other small lender mutuals as may be
2 necessary to facilitate the purposes described in sub-
3 section (b).

4 (b) PURPOSES.—The purpose of the Small Lender
5 Mutual established under subsection (a)(1) and any small
6 lender mutual approved under subsection (a)(2) (in this
7 section collectively referred to as a “small lender mutual”)
8 shall be as follows:

9 (1) To address the needs of small mortgage
10 lenders with respect to covered securities.

11 (2) To purchase eligible mortgage loans to
12 securitize a covered security from its member par-
13 ticipants—

14 (A) for cash, on a single loan basis; or

15 (B) through the sale of a portion of a
16 multi-lender pool or multi-guarantor pool
17 collateralized by eligible mortgage loans
18 securitized in a covered security.

19 (3) To obtain all necessary and appropriate
20 credit enhancements for covered securities to sup-
21 port the lending activities of small mortgage lenders.

22 (4) To implement policies and procedures that
23 ensure that the access rules and fees of any small
24 lender mutual are not prohibitive and do not dis-
25 criminate against originators of eligible mortgage

1 loans or approved aggregators on the basis of size,
2 composition, business line, or loan volume.

3 (5) To appropriately manage the risk of the
4 small lender mutual to ensure the continued safety
5 and soundness of such mutual.

6 (c) PROVISIONS TO ENSURE THE EFFECTIVE OPER-
7 ATIONS OF SMALL LENDER MUTUALS.—

8 (1) REQUIREMENT TO ASSESS NEEDS OF SMALL
9 LENDER MUTUAL.—Not later than 1 year after the
10 date of enactment of this Act, the Federal Housing
11 Finance Agency shall conduct an assessment of the
12 intellectual property, technology, infrastructure, and
13 processes of the enterprises relating to the operation
14 and maintenance of the systems needed to ensure
15 small mortgage lender access to the secondary mort-
16 gage market to determine the needs of the Small
17 Lender Mutual established under subsection (a)(1).
18 The assessment required under this paragraph shall
19 be submitted to the Transition Committee estab-
20 lished under section 404, or the Board if confirmed
21 pursuant to section 404(d), and included in the
22 transition plan required under section 602.

23 (2) AUTHORITY TO MANAGE DISPOSITION OF
24 ENTERPRISE INFRASTRUCTURE.—After the agency
25 transfer date and before the system certification

1 date, the Federal Housing Finance Agency, con-
2 sistent with title VI—

3 (A) shall dispose of the intellectual prop-
4 erty, technology, infrastructure, and processes
5 of the enterprises relating to the operation and
6 maintenance of the systems needed for small
7 mortgage lenders to access the secondary mort-
8 gage market; and

9 (B) may manage such disposition through
10 the sale, transfer, licensing, or leasing of such
11 intellectual property, technology, infrastructure,
12 and processes of an enterprise to the Small
13 Lender Mutual established under subsection
14 (a)(1) to ensure that the Small Lender Mutual
15 can access the secondary mortgage market and
16 fulfill the purposes of the section.

17 (3) TRANSFER OF NECESSARY TECHNOLOGY.—

18 After the agency transfer date and before the system
19 certification date, the Federal Housing Finance
20 Agency, consistent with section 604(h), may transfer
21 to a subsidiary or subsidiaries of the enterprises any
22 function, activity, infrastructure, property, including
23 intellectual property, technology, or any other object
24 or service of an enterprise that the Corporation de-
25 termines is necessary and available for the Small

1 Lender Mutual established under subsection (a)(1)
2 to carry out its activities and operations.

3 (4) INITIAL CAPITALIZATION.—

4 (A) IN GENERAL.—The initial capital nec-
5 essary for the Small Lender Mutual to be es-
6 tablished under subsection (a)(1) to purchase a
7 subsidiary established under paragraph (3) or
8 to purchase, lease, or license the systems under
9 paragraph (2)(B), and to perform all other ac-
10 tivities and functions of the Small Lender Mu-
11 tual, including the ability of the Small Lender
12 Mutual to operate a cash window for the pur-
13 chase of individual eligible mortgage loans, shall
14 be provided by the enterprises.

15 (B) DETERMINATION OF AMOUNT.—The
16 amount of any initial capital required to be pro-
17 vided by the enterprises under subparagraph
18 (A) shall be determined by the Corporation
19 based on the needs of the Small Lender Mutual
20 to carry out its activities and functions, as well
21 as by the current volume of business from the
22 enterprise-approved sellers that are eligible to
23 participate, pursuant to subsection (e), as a
24 member of the Small Lender Mutual.

25 (C) REPAYMENT.—

1 (i) IN GENERAL.—The amount of any
2 initial capital required to be provided by
3 the enterprises under subparagraph (A)
4 shall be repaid by the Small Lender Mu-
5 tual established under subsection (a)(1) on
6 a schedule jointly agreed to by the Small
7 Lender Mutual and the Corporation.

8 (ii) REPAYMENT PERIOD.—

9 (I) IN GENERAL.—The repay-
10 ment of any amounts required under
11 clause (i) shall be completed within 7
12 years from the system certification
13 date.

14 (II) AUTHORITY TO EXTEND RE-
15 PAYMENT PERIOD.—The Corporation,
16 after consultation with the mutual
17 board of the Small Lender Mutual es-
18 tablished under subsection (a)(1), may
19 extend the repayment period set forth
20 under subclause (I) for an additional
21 3 years, if, in the sole discretion of
22 the Corporation, the Corporation
23 deems such extension necessary.

24 (d) ENSURING FAIR COMPETITION.—The Federal
25 Housing Finance Agency may, consistent with the public

1 interest, for the maintenance of fair competition among
2 all small lender mutuals, and the purposes set forth in
3 this section, provide, through a licensing agreement or
4 other agreement, access to any technology or platform
5 transferred pursuant to subsection (c)(3).

6 (e) ELIGIBILITY.—

7 (1) IN GENERAL.—Eligibility to participate as a
8 member in any small lender mutual shall be limited
9 to any—

10 (A) insured depository institution having
11 less than \$500,000,000,000 in total consoli-
12 dated assets at the time of the initial participa-
13 tion of the institution in the small lender mu-
14 tual;

15 (B) non-depository mortgage originator
16 that—

17 (i) has a minimum net worth of
18 \$2,500,000;

19 (ii) has annual eligible mortgage loan
20 production of less than \$100,000,000,000;
21 and

22 (iii)(I) prior to the system certifi-
23 cation date, was approved to sell mortgage
24 loans to an enterprise on the date that is
25 1 day prior to the establishment or ap-

1 proval of the small lender mutual, provided
2 that such originator was in good standing
3 as of such date; or

4 (II) meets the standards established
5 by the small lender mutual pursuant to
6 subsection (j);

7 (C) Community Development Financial In-
8 stitution that meets the standards established
9 by the small lender mutual pursuant to sub-
10 section (j);

11 (D) mission-based non-profit lender that
12 meets the standards established by the small
13 lender mutual pursuant to subsection (j);

14 (E) housing finance agency that meets the
15 standards established by the small lender mu-
16 tual pursuant to subsection (j); and

17 (F) Federal Home Loan Bank or the Fed-
18 eral Home Loan Bank System.

19 (2) **RULE OF CONSTRUCTION.**—Each entity eli-
20 gible to participate as a member of a small lender
21 mutual under this section shall meet all applicable
22 standards and requirements under this Act.

23 (f) **ELIGIBILITY THRESHOLDS.**—The Corporation
24 may adjust the eligibility thresholds established in sub-
25 paragraphs (A) and (B) of subsection (e)(1) if the Cor-

1 poration, in consultation with the mutual board of a small
2 lender mutual, determines that—

3 (1) the thresholds do not facilitate the purposes
4 of the small lender mutual as described in subsection
5 (b); or

6 (2) the eligibility thresholds pose a risk to the
7 Mortgage Insurance Fund.

8 (g) PLATFORM MEMBERSHIP.—Each small lender
9 mutual shall be a member of the Securitization Platform.

10 (h) FUNDING AUTHORITY.—

11 (1) AUTHORITY TO ESTABLISH MEMBERSHIP
12 FEES.—The mutual board of each small lender mu-
13 tual shall charge and collect fees from its member
14 participants—

15 (A) for membership in the small lender
16 mutual; and

17 (B) to cover the costs of—

18 (i) in the case of the Small Lender
19 Mutual established under subsection
20 (a)(1)—

21 (I) the purchase of any function,
22 activity, infrastructure, property, in-
23 cluding intellectual property, tech-
24 nology, or any other object or service

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1 from an enterprise pursuant to sub-
2 section (c);

3 (II) any initial capital for the es-
4 tablishment of a cash window; and

5 (III) the repayment of amounts
6 required under subsection (c)(4)(C),
7 provided that any fee charged to cover
8 such repayment amounts is applicable
9 only to those member participants
10 identified and approved after the es-
11 tablishment date of the Small Lender
12 Mutual and before the repayment date
13 established under subsection
14 (c)(4)(C)(ii); and

15 (ii) the continued operation of the
16 small lender mutual, including to build
17 capital reserves and to manage risks.

18 (2) **EQUITABLE COMPENSATION OF CERTAIN**
19 **MEMBER PARTICIPANTS OF SMALL LENDER MU-**
20 **TUAL.**—The mutual board of the Small Lender Mu-
21 tual established under subsection (a)(1) may, in ad-
22 dition to any fee required under paragraph (1),
23 charge and collect a fee from member participants
24 identified and approved after the repayment date es-
25 tablished under subsection (c)(4)(C)(ii) to com-

1 pensate member participants identified and approved
2 prior to such repayment date for the share of the
3 fees paid by such member participants to cover the
4 cost of repayment amounts pursuant to paragraph
5 (1)(B)(i)(III).

6 (3) AUTHORITY TO INCREASE OR DECREASE
7 FEES.—The mutual board of each small lender mu-
8 tual may, in its discretion and upon consultation
9 with the Corporation, increase or decrease any fee
10 authorized under paragraph (1).

11 (4) PROVISION OF FEE SCHEDULE TO FMIC.—
12 The mutual board of each small lender mutual shall,
13 on an annual basis and upon any increase or de-
14 crease of any fee authorized under paragraph (1),
15 provide the Corporation with a schedule of the fees
16 charged by the small lender mutual to its member
17 participants.

18 (5) LIMITATION.—The fees authorized under
19 paragraph (1)—

20 (A) shall be equitably assessed; and

21 (B) shall not discriminate against origina-
22 tors of eligible mortgage loans or approved
23 aggregators on the basis of size, composition,
24 business line, or loan volume.

25 (6) AUTHORITY TO REDUCE FEES.—

1 (A) IN GENERAL.—If a small lender mu-
2 tual, in consultation with the Corporation, de-
3 termines that any fee or fees authorized this
4 subsection are prohibitive or discriminatory, the
5 small lender mutual may, in the interest of
6 building the membership of the small lender
7 mutual, lower any such fee or fees.

8 (B) REASONABLENESS AND CONSIDER-
9 ATIONS.—Each small lender mutual shall, in
10 consultation with the Corporation, set reason-
11 able criteria for any determination authorized
12 under subparagraph (A). The criteria required
13 to be set forth under this subparagraph shall
14 consider the potential impact on the financial
15 safety and soundness of the small lender mu-
16 tual.

17 (i) GOVERNANCE.—

18 (1) RECOGNITION OF IMPORTANT ROLE OF
19 SMALLER INSTITUTIONS.—The mutual board of each
20 small lender mutual, in consultation with the Cor-
21 poration, shall take all reasonable steps necessary to
22 establish governance provisions that reflect the im-
23 portant role in the mortgage market played by the
24 member participants of small lender mutuals.

25 (2) MUTUAL BOARD.—

1 (A) IN GENERAL.—The management of
2 each small lender mutual shall be vested in a
3 board of 14 directors (in this section referred to
4 as the “mutual board”), which shall include
5 representatives of approved member partici-
6 pants of the small lender mutual.

7 (B) APPOINTMENT OF MUTUAL BOARD OF
8 SMALL LENDER MUTUAL.—

9 (i) INITIAL APPOINTMENT.—The Cor-
10 poration shall make initial appointments of
11 the members of the mutual board for the
12 Small Lender Mutual established under
13 subsection (a)(1). Each such initial ap-
14 pointment shall be for a term of 1 year.

15 (ii) APPOINTMENTS.—Upon expiration
16 of the 1-year period set forth under clause
17 (i), the member participants of the Small
18 Lender Mutual established under sub-
19 section (a)(1) shall elect the members of
20 the mutual board of the Small Lender Mu-
21 tual from within the membership of the
22 Small Lender Mutual.

23 (C) INDEPENDENT DIRECTORS.—The mu-
24 tual board of each small lender mutual shall
25 have at least 1 independent director to serve

1 the public interest. The independent director re-
2 quired under this subparagraph shall have a
3 history of representing consumer or community
4 interests on banking services, credit needs,
5 housing, or financial consumer protections.

6 (3) NO PREFERENCES FOR SIZE.—Member par-
7 ticipants of each small lender mutual shall have
8 equal voting rights on any matters before the small
9 lender mutual of which it is a member, regardless of
10 the size of the individual member participant.

11 (j) APPROVAL OF MEMBER PARTICIPANTS.—

12 (1) IN GENERAL.—Each mutual board estab-
13 lished under subsection (h) shall develop standards
14 and procedures to approve the application of mem-
15 ber participants in the small lender mutual.

16 (2) CONTENT OF STANDARDS.—The standards
17 required under paragraph (1) shall include stand-
18 ards relating to the—

19 (A) prospective members' compliance his-
20 tory with Federal and State law;

21 (B) safety and soundness of prospective
22 member participants; and

23 (C) mortgage underwriting practices of the
24 prospective member.

1 (3) COORDINATION WITH OTHER REGU-
2 LATORS.—

3 (A) CONSULTATION.—In approving any
4 prospective member to become a member par-
5 ticipant in a small lender mutual, the mutual
6 board of that small lender mutual may consult
7 and share information with the appropriate
8 Federal banking agency of the prospective
9 member.

10 (B) PRIVILEGE PRESERVED.—Information
11 shared pursuant to subparagraph (A) shall not
12 be construed as waiving, destroying, or other-
13 wise affecting any privilege or confidential sta-
14 tus that a prospective member may claim with
15 respect to such information under Federal or
16 State law as to any person or entity other than
17 the board of directors or its appropriate Fed-
18 eral banking agency.

19 (C) RULE OF CONSTRUCTION.—No provi-
20 sion of this subsection may be construed as im-
21 plying or establishing that—

22 (i) any prospective member waives any
23 privilege applicable to information that is
24 shared or transferred under any cir-

1 cumstance to which this subsection does
2 not apply; or

3 (ii) any prospective would waive any
4 privilege applicable to any information by
5 submitting the information directly to its
6 primary prudential regulator, but for this
7 subsection.

8 (k) AUTHORITY TO BECOME AN APPROVED
9 AGGREGATOR.—Each small lender mutual may apply to
10 the Corporation for approval to become an approved
11 aggregator pursuant to section 312.

12 (l) CASH WINDOW.—

13 (1) REQUIREMENT FOR SMALL LENDER
14 MUTUALS.—

15 (A) IN GENERAL.—Each small lender mu-
16 tual shall have the ability to operate a cash win-
17 dow for the purchase of individual eligible sin-
18 gle-family mortgage loans.

19 (B) STANDARDS TO ENSURE SAFETY AND
20 SOUNDNESS.—To ensure the safety and sound-
21 ness of each small lender mutual, the Corpora-
22 tion shall establish standards for the regulation,
23 supervision, and operation of each cash window
24 required under paragraph (1).

1 (2) OPTION FOR APPROVED GUARANTORS AND
2 APPROVED AGGREGATORS.—

3 (A) ESTABLISHMENT OF PROCESS FOR AP-
4 PROVAL.—The Corporation may, if it deter-
5 mines necessary or appropriate, establish a
6 process and criteria for approved guarantors
7 and approved aggregators to apply to the Cor-
8 poration for approval to operate a cash window
9 for the purchase of individual eligible single-
10 family mortgage loans.

11 (B) REQUIREMENTS.—If the Corporation
12 establishes a process and criteria under sub-
13 paragraph (A), the Corporation—

14 (i) may grant approval to an approved
15 guarantor or an approved aggregator that
16 applies to operate a cash window for the
17 purchase of individual eligible single-family
18 mortgage loans only if the Corporation de-
19 termines that—

20 (I) the approved guarantor or ap-
21 proved aggregator meets the criteria
22 established under subparagraph (A);
23 and

1 (II) the operation of the cash
2 window would not pose a risk to the
3 Mortgage Insurance Fund; and

4 (ii) to ensure the safety and sound-
5 ness of each approved guarantor and ap-
6 proved aggregator, shall establish stand-
7 ards for the regulation, supervision, and
8 operation of each cash window that an ap-
9 proved guarantor or approved aggregator
10 is approved to operate under this para-
11 graph.

12 (3) LICENSING OF CASH WINDOW TECH-
13 NOLOGY.—The Federal Housing Finance Agency
14 may, consistent with the public interest and for the
15 maintenance of fair competition among entities pro-
16 viding cash window services, provide, through a li-
17 censing agreement or other agreement, access to any
18 technology or platform relating to a cash window
19 transferred under subsection (c)(3).

20 (m) RECOGNITION OF DISTINCTION BETWEEN
21 SMALL LENDER MUTUAL COMPANIES AND OTHER
22 AGGREGATORS.—Prior to promulgating any regulation or
23 taking any other formal or informal action of general ap-
24 plicability, including the issuance of an advisory document
25 or examination guidance, the Corporation shall consider

1 the differences between small lender mutuals and other
2 approved aggregators with respect to—

3 (1) the cooperative ownership structure of small
4 lender mutuals;

5 (2) the purposes of small lender mutuals as set
6 forth in subsection (b);

7 (3) the capital structure of small lender
8 mutuals; and

9 (4) any other differences that the Corporation
10 considers appropriate.

11 (n) COORDINATION OF SERVICER APPROVAL.—Each
12 mutual board established under subsection (h) may coordi-
13 nate with the Corporation to facilitate the application
14 process for its member participants to become approved
15 servicers of the Corporation pursuant to section 314.

16 (o) MULTIFAMILY STUDY.—Not later than 1 year
17 after the agency transfer date, the Corporation shall con-
18 duct and complete a study to determine—

19 (1) the access needs of small multifamily mort-
20 gage lenders to the secondary multifamily mortgage
21 market; and

22 (2) whether the Small Lender Mutual estab-
23 lished under subsection (a)(1) can meet the access
24 needs of small multifamily mortgage lenders.

1 **SEC. 316. SUPERVISORY ACTIONS RELATED TO CAPITAL**
2 **AND SOLVENCY.**

3 (a) CAPITAL CLASSIFICATIONS.—

4 (1) ESTABLISHMENT.—The Corporation shall
5 establish, by regulation, capital classifications re-
6 garding the levels of capital maintained by each type
7 of covered entity.

8 (2) CLASSES.—In carrying out the requirement
9 under paragraph (1), the Corporation shall classify
10 covered entities according to the following capital
11 classifications:

12 (A) WELL CAPITALIZED.—A covered entity
13 shall be classified as well capitalized if the enti-
14 ty meets or exceeds all of the capital and sol-
15 vency standards required under section 309(b).

16 (B) ADEQUATELY CAPITALIZED.—A cov-
17 ered entity shall be classified as adequately cap-
18 italized if the entity meets or exceeds some, but
19 not all, of the capital and solvency standards
20 required under section 309(b).

21 (C) UNDERCAPITALIZED.—A covered enti-
22 ty shall be classified as undercapitalized if the
23 entity fails to meet any of the capital and sol-
24 vency standards required under section 309(b).

25 (D) SIGNIFICANTLY UNDERCAPITAL-
26 IZED.—A covered entity shall be classified as

1 significantly undercapitalized if the entity is
2 significantly below any of the capital and sol-
3 vency standards required under section 309(b).

4 (E) CRITICALLY UNDERCAPITALIZED.—A
5 covered entity shall be classified as critically
6 undercapitalized if the entity is critically below
7 any of the capital and solvency standards re-
8 quired under section 309(b).

9 (3) DISCRETIONARY CLASSIFICATION.—

10 (A) GROUNDS FOR RECLASSIFICATION.—
11 The Corporation may reclassify the capital clas-
12 sification of a covered entity if—

13 (i) at any time, the Corporation deter-
14 mines, in writing, that the covered entity is
15 engaging in conduct that could result in a
16 rapid depletion of capital held by the cov-
17 ered entity;

18 (ii) after notice and an opportunity
19 for hearing, the Corporation determines
20 that the covered entity is in an unsafe or
21 unsound condition;

22 (iii) pursuant to the requirements of
23 this title, the Corporation deems the cov-
24 ered entity to be engaging in an unsafe or
25 unsound practice;

1 (iv) the covered entity does not submit
2 a capital restoration plan within the appli-
3 cable time period that is substantially in
4 compliance with regulations for such plans
5 adopted by the Corporation;

6 (v) the Corporation does not approve
7 the capital restoration plan submitted by
8 the covered entity; or

9 (vi) the Corporation determines that
10 the covered entity has failed to comply
11 with the capital restoration plan and fulfill
12 the schedule for the plan approved by the
13 Corporation in any material respect.

14 (B) RECLASSIFICATION.—In addition to
15 any other action authorized under this title, in-
16 cluding the reclassification of a covered entity
17 for any reason not specified in this subsection,
18 if the Corporation takes any action described in
19 subparagraph (A), the Corporation may classify
20 a covered entity as appropriate.

21 (4) RESTRICTION ON CAPITAL DISTRIBUTIONS.—
22

23 (A) IN GENERAL.—A covered entity shall
24 make no capital distribution if, after making
25 the distribution, the covered entity would be

1 classified as anything other than well capital-
2 ized or adequately capitalized.

3 (B) EXCEPTION.—Notwithstanding sub-
4 paragraph (A), the Corporation may permit a
5 covered entity, to the extent appropriate or ap-
6 plicable, to repurchase, redeem, retire, or other-
7 wise acquire shares or ownership interests if the
8 repurchase, redemption, retirement, or other ac-
9 quisition—

10 (i) is made in connection with the
11 issuance of additional shares or obligations
12 of the covered entity in at least an equiva-
13 lent amount;

14 (ii) will reduce the financial obliga-
15 tions of the covered entity or otherwise im-
16 prove the financial condition of the covered
17 entity;

18 (iii) will enhance the ability of the
19 covered entity to promptly meet the min-
20 imum capital level for the covered entity;

21 (iv) contributes to the long-term fi-
22 nancial safety and soundness of the cov-
23 ered entity; or

24 (v) furthers the public interest.

1 (b) ADEQUATELY CAPITALIZED.—If a covered entity
2 is classified as adequately capitalized:

3 (1) MANDATORY CAPITAL RESTORATION
4 PLAN.—The Corporation shall require a covered en-
5 tity that is classified as adequately capitalized to—

6 (A) submit to the Corporation a capital
7 restoration plan; and

8 (B) implement the plan after approval.

9 (2) DISCRETIONARY SAFEGUARDS.—The Cor-
10 poration may take, with respect to an adequately
11 capitalized covered entity, any of the actions author-
12 ized to be taken under subsection (c) with respect to
13 an undercapitalized covered entity, if the Corpora-
14 tion determines that such actions are necessary to
15 carry out the purposes of this subtitle.

16 (c) UNDERCAPITALIZED.—If a covered entity is clas-
17 sified as undercapitalized:

18 (1) MANDATORY CAPITAL RESTORATION
19 PLAN.—The Corporation shall require a covered en-
20 tity that is classified as undercapitalized to—

21 (A) submit to the Corporation a capital
22 restoration plan; and

23 (B) implement the plan after approval.

24 (2) RESTRICTION ON ASSET GROWTH.—An
25 undercapitalized covered entity shall not permit its

1 average total assets during any calendar quarter to
2 exceed its average total assets during the preceding
3 calendar quarter, unless—

4 (A) the Corporation has accepted the cap-
5 ital restoration plan of the covered entity;

6 (B) any increase in total assets is con-
7 sistent with the capital restoration plan; and

8 (C) the ratio of capital to total assets of
9 the covered entity increases during the calendar
10 quarter at a rate sufficient to enable the cov-
11 ered entity to become adequately capitalized
12 within a reasonable time.

13 (3) PRIOR APPROVAL OF ACQUISITIONS AND
14 NEW ACTIVITIES.—An undercapitalized covered enti-
15 ty shall not, directly or indirectly, acquire any inter-
16 est in any entity or engage in a new activity, un-
17 less—

18 (A) the Corporation has accepted the cap-
19 ital restoration plan of the covered entity, the
20 covered entity is implementing the plan, and
21 the Corporation determines that the proposed
22 action is consistent with and will further the
23 achievement of the plan; or

1 (B) the Corporation determines that the
2 proposed action will further the purpose of this
3 section.

4 (4) REQUIRED MONITORING.—The Corporation
5 shall—

6 (A) closely monitor the condition of any
7 undercapitalized covered entity;

8 (B) closely monitor compliance with the
9 capital restoration plan, restrictions, and re-
10 quirements imposed on an undercapitalized cov-
11 ered entity under this section; and

12 (C) periodically review the capital restora-
13 tion plan, restrictions, and requirements appli-
14 cable to an undercapitalized covered entity to
15 determine whether the plan, restrictions, and
16 requirements are achieving the purpose of this
17 section.

18 (5) DISCRETIONARY SAFEGUARDS.—The Cor-
19 poration may take, with respect to an undercapital-
20 ized covered entity, any of the actions authorized to
21 be taken under subsection (d) with respect to a sig-
22 nificantly undercapitalized covered entity, if the Cor-
23 poration determines that such actions are necessary
24 to carry out the purpose of this subtitle.

1 (d) SIGNIFICANTLY UNDERCAPITALIZED.—If a cov-
2 ered entity is classified as significantly undercapitalized:

3 (1) MANDATORY CAPITAL RESTORATION
4 PLAN.—The Corporation shall require a covered en-
5 tity that is classified as significantly undercapital-
6 ized to—

7 (A) submit to the Corporation a capital
8 restoration plan; and

9 (B) implement the plan after approval.

10 (2) DISCRETIONARY SUPERVISORY ACTIONS
11 FOR SIGNIFICANTLY UNDERCAPITALIZED COVERED
12 ENTITIES.—In addition to any other actions taken
13 by the Corporation, the Corporation may, at any
14 time, take any of the following actions with respect
15 to a covered entity that is classified as significantly
16 undercapitalized:

17 (A) LIMITATION ON OBLIGATIONS.—Limit
18 any increase in, or order the reduction of, any
19 obligations of the covered entity, including off-
20 balance sheet obligations.

21 (B) LIMITATION ON GROWTH.—Limit or
22 prohibit the growth of the assets of the covered
23 entity, or require reduction of the assets of the
24 covered entity.

1 (C) ACQUISITION OF NEW CAPITAL.—Re-
2 quire the covered entity to raise new capital in
3 a form and amount determined by the Corpora-
4 tion.

5 (D) RESTRICTION ON ACTIVITIES.—Re-
6 quire the covered entity to terminate, reduce, or
7 modify any activity that creates excessive risk
8 to the covered entity, as determined by the Cor-
9 poration.

10 (E) IMPROVEMENT OF MANAGEMENT.—
11 Take 1 or more of the following actions:

12 (i) NEW ELECTION OF BOARD.—
13 Order or hold a new election for the board
14 of directors of the covered entity.

15 (ii) DISMISSAL OF DIRECTORS OR EX-
16 ECUTIVE OFFICERS.—Require the covered
17 entity to dismiss from office any director
18 or executive officer who had held office for
19 more than 180 days immediately before
20 the date on which the covered entity be-
21 came undercapitalized.

22 (iii) EMPLOY QUALIFIED EXECUTIVE
23 OFFICERS.—Require the covered entity to
24 employ qualified executive officers (who, if

1 the Corporation so specifies, shall be sub-
2 ject to approval by the Corporation).

3 (e) **CRITICALLY UNDERCAPITALIZED.**—If a covered
4 entity is classified as failing or critically undercapitalized:

5 (1) **REGULATED ENTITY.**—The Corporation
6 shall have the authority to resolve a critically under-
7 capitalized covered entity that is a regulated entity
8 pursuant to section 1367 of the Safety and Sound-
9 ness Act (12 U.S.C. 4617), as amended by this Act.

10 (2) **COVERED ENTITY OTHER THAN A REGU-**
11 **LATED ENTITY.**—Notwithstanding paragraph (1),
12 the Corporation shall have the authority to resolve
13 a critically undercapitalized covered entity that is
14 not a regulated entity pursuant to the resolution au-
15 thority granted to the Corporation under section
16 311(h), section 312(h), section 313(g), and section
17 703(i), as applicable.

18 **SEC. 317. ACQUISITIONS AND OPERATIONS OF COVERED**
19 **ENTITIES.**

20 (a) **ACQUISITIONS OF COVERED ENTITIES.**—It shall
21 be unlawful, except with the prior approval of the Corpora-
22 tion, for any person to—

23 (1) directly or indirectly own, control, or have
24 power to vote 10 percent of any class of voting
25 shares of any covered entity;

1 (2) control in any manner the election of a ma-
2 jority of the directors or trustees of any covered en-
3 tity;

4 (3) exercise a controlling influence over the
5 management or policies of any covered entity;

6 (4) merge or consolidate with any covered enti-
7 ty; or

8 (5) divest a covered entity, or any substantial
9 line of business of a covered entity, into any sur-
10 viving entity.

11 (b) APPLICATION AND APPROVAL PROCESS.—

12 (1) IN GENERAL.—The Corporation shall estab-
13 lish, by regulation, an application, in such form and
14 manner and requiring such information as the Cor-
15 poration may require, for the approval of acquisi-
16 tions, mergers, consolidations, or divestitures under
17 subsection (a).

18 (2) APPLICATION REVIEW.—The Corporation
19 shall—

20 (A) establish internal timelines for its
21 processing of applications under this section, in-
22 cluding timelines for any action to approve or
23 to deny an application under this section; and

24 (B) notify any applicant seeking to under-
25 take an action described under subsection (a) of

1 the decision of the Corporation to approve or to
2 deny their application as promptly as prac-
3 ticable.

4 (c) STANDARDS FOR APPROVAL OF APPLICATION.—

5 The Corporation shall establish, by regulation, standards
6 for the approval by the Corporation of acquisitions, merg-
7 ers, consolidations, or divestitures under subsection (a).
8 The standards required under this subsection shall, at a
9 minimum, be based on—

10 (1) the application process established by the
11 Corporation under subsection (b)(1);

12 (2) the financial history and condition of the
13 applicant;

14 (3) the general character and fitness of the
15 management of the applicant, including compliance
16 history with Federal and State laws;

17 (4) the risk presented by such acquisition,
18 merger, consolidation, or divestiture to the Mortgage
19 Insurance Fund;

20 (5) any other standard the Corporation deter-
21 mines necessary to promote competition and miti-
22 gate market dislocations among covered entities in
23 the secondary mortgage market; and

24 (6) any other standard the Corporation deter-
25 mines necessary or appropriate.

1 (d) APPROVAL.—The Corporation—

2 (1) may approve any application made pursuant
3 to this section if the applicant meets the standards
4 established under subsection (c); and

5 (2) may not approve—

6 (A) any application under this section
7 which would result in a monopoly; or

8 (B) any other proposed acquisition or
9 merger or consolidation under this section
10 whose effect in any area of the United States
11 may be substantially to lessen competition, or
12 to tend to create a monopoly, or which in any
13 other manner would be in restraint of trade,
14 unless the Corporation finds that the anti-
15 competitive effects of the proposed transaction
16 are clearly outweighed in the public interest by
17 the probable effect of the transaction in meet-
18 ing the needs of consumers and the commu-
19 nities served.

20 (e) RESTRICTIONS ON ENGAGING IN OTHER LINES
21 OF BUSINESS.—

22 (1) FOR APPROVED GUARANTORS AND AP-
23 PROVED MULTIFAMILY GUARANTORS.—An approved
24 guarantor or approved multifamily guarantor may
25 not engage in any activity relating to the business

1 of insurance, other than any activity carried out by
2 an approved guarantor or approved multifamily
3 guarantor and approved by the Corporation pursu-
4 ant to sections 311 or 703.

5 (2) OTHER ACTIVITIES.—An approved guar-
6 antor or approved multifamily guarantor may en-
7 gage in any business activity unrelated to the busi-
8 ness of insurance, subject to—

9 (A) the prior approval of the Corporation;
10 and

11 (B) any terms and conditions set forth by
12 the Corporation.

13 (3) RULE OF CONSTRUCTION.—Nothing in
14 paragraph (1) or (2) shall be construed to prevent
15 an approved guarantor from being an affiliate of a
16 private mortgage insurer if approved by the Cor-
17 poration.

18 (f) LIMITS ON SUPPORT OR GUARANTEE ARRANGE-
19 MENT.—

20 (1) IN GENERAL.—An approved guarantor or
21 approved multifamily guarantor may not enter into
22 any agreement, covenant, or other arrangement with
23 an affiliate to support, guarantee, or finance any op-
24 eration or activity of that affiliate.

1 (b) REGULATED BY THE CORPORATION.—The Plat-
2 form shall be regulated and supervised by the Corporation.

3 (c) INCORPORATION.—

4 (1) NON FEDERAL STATUS.—The Platform
5 shall not be an agency or instrumentality of the
6 Federal Government.

7 (2) DISCRETION AS TO LEGAL FORM.—The
8 Corporation shall determine the legal form of incor-
9 poration of the Platform.

10 (3) SITUS OF INCORPORATION.—The Corpora-
11 tion shall—

12 (A) determine in which of the several
13 States to incorporate the Platform; and

14 (B) have the authority to amend the State
15 of incorporation to best effectuate the purposes
16 and obligations of this part and other provisions
17 of this Act.

18 (4) TIMING OF INCORPORATION.—Not later
19 than 1 year after the agency transfer date, the Cor-
20 poration shall file and submit the necessary docu-
21 ments to incorporate the Platform in the State de-
22 termined under paragraph (3)(A).

23 (d) FUNDING BY THE CORPORATION AND TRANSFER
24 OF PROPERTY.—

1 (1) TRANSFER OF FUNDS FROM THE CORPORA-
2 TION.—At a time established by the Corporation, the
3 Corporation shall transfer to the Platform such
4 funds as the Corporation, in consultation with the
5 Platform Directors, determines may be reasonably
6 necessary for the Platform to begin carrying out the
7 activities and operations of the Platform.

8 (2) TRANSFER OF PROPERTY.—

9 (A) IN GENERAL.—Consistent with title
10 VI, the Federal Housing Finance Agency, in
11 consultation with the Corporation and, as ap-
12 propriate, the enterprises, may direct the enter-
13 prises to transfer or sell to the Platform any
14 property, including but not limited to, intellec-
15 tual property, technology, systems, and infra-
16 structure (including technology, systems, and
17 infrastructure developed by the enterprises for
18 the CSP), as well as any other legacy systems,
19 infrastructure, and processes that may be nec-
20 essary for the Platform to carry out the func-
21 tions and operations of the Platform.

22 (B) CONTRACTUAL AND OTHER LEGAL OB-
23 LIGATIONS.—As may be necessary for the Cor-
24 poration, the Federal Housing Finance Agency,
25 and the enterprises to comply with legal, con-

1 tractual, or other obligations, the Federal
2 Housing Finance Agency shall have the author-
3 ity to require that any transfer authorized pur-
4 suant to subparagraph (A) occurs as an ex-
5 change for value, including though the provision
6 of appropriate compensation to the enterprises
7 (including as provided in subparagraphs (C)
8 and (D)), or other entities responsible for cre-
9 ating, or contracting with, the CSP.

10 (C) MAXIMUM RETURN TO SENIOR PRE-
11 FERRED SHAREHOLDERS OF THE ENTER-
12 PRISES.—The transfer or sale of property to
13 the Platform under this paragraph shall, as ap-
14 propriate, be managed by the Federal Housing
15 Finance Agency to obtain resolutions that maxi-
16 mize the return for the senior preferred share-
17 holders of the enterprises to the extent that
18 such resolutions—

19 (i) are consistent with facilitating—

20 (I) a deep, liquid, and resilient
21 secondary mortgage market for single-
22 family and multifamily mortgage-
23 backed securities to support access to
24 mortgage credit in the primary mort-
25 gage market; and

1 (II) an orderly transition from
2 housing finance markets facilitated by
3 the enterprises to housing finance
4 markets facilitated by the Corporation
5 with minimum disruption in the avail-
6 ability of loan credit;

7 (ii) are consistent with applicable Fed-
8 eral and State law;

9 (iii) comply with the requirements of
10 this Act and the amendments made by this
11 Act; and

12 (iv) protect the taxpayer from having
13 to absorb losses incurred in the secondary
14 mortgage market.

15 (D) REQUIRED DETERMINATIONS FOR
16 SALE OF ASSETS TO THE PLATFORM.—The
17 Federal Housing Finance Agency may not re-
18 quire the enterprises to make a sale to the Plat-
19 form under subparagraph (A) that involves the
20 disposition of the property or assets of the en-
21 terprises unless the Federal Housing Finance
22 Agency determines that the sale—

23 (i) is consistent with an orderly tran-
24 sition from housing finance markets facili-
25 tated by the enterprises to efficient hous-

1 ing finance markets facilitated by the Cor-
2 poration with minimum disruption in the
3 availability of loan credit;

4 (ii) does not impede or otherwise
5 interfere with the ability of the Federal
6 Housing Finance Agency or the Corpora-
7 tion to carry out the functions and require-
8 ments of this Act;

9 (iii) does not transfer, convey, or au-
10 thorize any guarantee or Federal support,
11 assistance, or backing, implicit or explicit,
12 related to any such property or assets
13 being sold; and

14 (iv) will maximize the return for the
15 senior preferred shareholders as required
16 under subparagraph (C).

17 (e) PLATFORM OPERABILITY.—The Corporation
18 shall establish sufficient redundancies in the Platform so
19 that in the event of operational disruption of the Platform,
20 there is sufficient back-up capacity to—

21 (1) process payments on existing securities
22 issued by or through the Platform; and

23 (2) structure, form, and issue new securities by
24 or through the Platform.

1 (f) USE BY OTHER ENTITIES IN EXIGENT CIR-
2 CUMSTANCE.—

3 (1) IN GENERAL.—On and after the system cer-
4 tification date, if the Corporation determines that
5 operational or other problems with the Platform do
6 not permit the Platform to operate in a manner that
7 allows the Platform to achieve the purposes and obli-
8 gations of the Platform under section 325, the Cor-
9 poration shall have the authority to permit the Plat-
10 form Directors to use entities other than the Plat-
11 form to perform issuance functions required to be
12 performed by the Platform and that are necessary
13 for the proper functioning of the secondary mort-
14 gage market.

15 (2) RULE OF CONSTRUCTION.—Any entity per-
16 mitted to perform issuance functions that would or-
17 dinarily be expected to be performed by the Platform
18 under paragraph (1) shall be regulated and super-
19 vised, as appropriate, by the Corporation as if such
20 entity were the Platform itself.

21 **SEC. 322. MANAGEMENT OF THE PLATFORM.**

22 (a) PLATFORM DIRECTORS.—

23 (1) AUTHORITY OF THE BOARD.—

24 (A) IN GENERAL.—The Platform Directors
25 shall have all the powers necessary to carry out

1 the purposes, powers, and functions of the Plat-
2 form, and in the exercise of such purposes,
3 powers, and functions, and upon approval of
4 the Corporation, shall adopt such rules and
5 guidance and issue such orders as they deem
6 necessary and appropriate.

7 (B) CONFLICTS OF INTEREST.—The Plat-
8 form Directors shall develop policies and proce-
9 dures to monitor and mitigate potential con-
10 flicts of interest in carrying out the purposes,
11 powers, and functions of the Platform.

12 (2) INITIAL BOARD.—

13 (A) COMPOSITION.—The initial Platform
14 Directors shall be comprised of 5 directors,
15 each of whom shall be appointed by the Board
16 of Directors but none of whom shall be a mem-
17 ber of the Board of Directors.

18 (B) TIMING OF APPOINTMENT OF INITIAL
19 PLATFORM DIRECTORS.—The initial Platform
20 Directors shall be appointed pursuant to sub-
21 paragraph (A) not later than 180 days after the
22 later of—

23 (i) the filing of the necessary docu-
24 ments to incorporate the Platform as re-
25 quired under section 321(c); or

1 (ii) the approval of the incorporation
2 of the Platform by the relevant State.

3 (C) TERM.—

4 (i) IN GENERAL.—Each initial Plat-
5 form Director appointed pursuant to sub-
6 paragraph (A) shall serve for a term of 1
7 year.

8 (ii) AUTHORITY TO EXTEND TERM.—
9 The Board of Directors may—

10 (I) in its discretion, extend for an
11 additional year the term of each initial
12 Platform Director appointed pursuant
13 to subparagraph (A); and

14 (II) upon a determination by the
15 Corporation that the Platform mem-
16 bership does not reflect the diversity
17 or variety of market participants re-
18 quired to conduct the election of the
19 Platform Directors under paragraph
20 (3), extend for an additional 2 years
21 the term of each initial Platform Di-
22 rector appointed pursuant to subpara-
23 graph (A).

1 (D) PURPOSE OF THE INITIAL PLATFORM
2 DIRECTORS.—The initial Platform Directors
3 shall—

4 (i) draft and enact initial bylaws and
5 other governance documents for the oper-
6 ation of the Platform, including policies
7 and procedures pursuant to paragraph
8 (1)(B);

9 (ii) establish criteria for membership
10 in the Platform consistent with the re-
11 quirements of section 323;

12 (iii) establish any necessary initial fee
13 structures or usage fee structures under
14 section 324; and

15 (iv) organize and conduct the election
16 of the Platform Directors from the Plat-
17 form members as required by paragraph
18 (3).

19 (3) ELECTED BOARD.—

20 (A) REQUIRED ELECTION; TIMING OF
21 ELECTION.—Upon the expiration of the term of
22 the members of the initial Platform Directors,
23 the members of the Platform shall, in accord-
24 ance with subparagraphs (B) through (F), elect
25 new Platform Directors.

1 (B) COMPOSITION.—

2 (i) DIVERSITY.—The Platform Direc-
3 tors elected pursuant to this paragraph
4 shall reflect the diverse range of Platform
5 members, including large, mid-size, and
6 small business members.

7 (ii) MEMBERS.—

8 (I) IN GENERAL.—The Platform
9 Directors elected pursuant to this
10 paragraph shall be comprised of 9 di-
11 rectors as follows:

12 (aa) 8 member directors,
13 who shall be elected from among
14 representatives of the members in
15 the Platform, at least 1 of whom
16 shall represent the interests of
17 small mortgage lenders.

18 (bb) 1 independent director.

19 (II) INDEPENDENT DIRECTOR.—
20 The independent director elected pur-
21 suant to this paragraph—

22 (aa) shall not be an affili-
23 ated of any member in the Plat-
24 form; and

1 (bb) shall have demonstrated
2 knowledge of, or experience in, fi-
3 nancial management, financial
4 services, risk management, infor-
5 mation technology, or housing fi-
6 nance, which may include afford-
7 able housing finance.

8 (C) CHAIRPERSON.—The Chairperson of
9 the Platform Directors shall be elected from
10 among the Platform Directors elected under
11 this paragraph.

12 (D) TERM.—

13 (i) IN GENERAL.—Each elected Plat-
14 form Director shall serve for a term of 2
15 years.

16 (ii) STAGGERED TERMS.—Notwith-
17 standing clause (i)—

18 (I) the first elected chairperson
19 of the Platform Directors shall be
20 elected to serve for a term of 2 years;
21 and

22 (II) of the first 8 other Platform
23 Directors not elected to serve as
24 chairperson:

1 (aa) 4 shall be elected to
2 serve for a term of 2 years.

3 (bb) 4 shall be elected to
4 serve an initial term of 1 year.

5 (E) EQUAL VOTES.—Platform Directors
6 shall have equal voting rights on any matters
7 before the Platform Directors.

8 (F) NOMINATION AND ELECTION PROCE-
9 DURES.—Procedures for the nomination and
10 election of Platform Directors shall be pre-
11 scribed by the bylaws adopted by the Platform
12 Directors in a manner consistent with the pur-
13 poses and provisions of this part.

14 (G) RESTRUCTURING OF PLATFORM DI-
15 RECTORS.—The Platform Directors elected
16 under this paragraph, with approval from the
17 Corporation, may choose to restructure or reor-
18 ganize the Platform Directors in a manner dif-
19 ferent than what is specified under this para-
20 graph following a determination by the Plat-
21 form Directors and the Corporation that a dif-
22 ferent Platform board structure or Platform
23 board composition would better achieve the pur-
24 poses and obligations of this Act, or better

1 serve the owners of the Platform in a manner
2 consistent with the public interest.

3 (b) EXECUTIVE OFFICERS.—The Platform Directors
4 shall appoint a chief executive officer, chief financial offi-
5 cer, comptroller, chief regulatory officer, and any other of-
6 ficers as the Platform Directors deem necessary to carry
7 out the management and administration of the functions
8 and operations of the Platform.

9 **SEC. 323. MEMBERSHIP IN THE PLATFORM.**

10 (a) APPLICATION.—

11 (1) IN GENERAL.—A person seeking to become
12 a member in the Platform, or to be reinstated as a
13 member in the Platform, shall file an application
14 with the Platform Directors.

15 (2) STANDARDS.—Consistent with achieving a
16 broad membership that includes small mortgage
17 lenders, as well as large, mid-size, and small busi-
18 ness members, the Platform Directors shall develop
19 procedures and standards for—

20 (A) the application of persons seeking to
21 become members in the Platform; and

22 (B) the approval of applicants for member-
23 ship in the Platform.

24 (3) ADDITIONAL STANDARDS FOR APPROVED
25 ENTITIES.—The standards for the approval by the

1 Platform Directors of an approved entity as a mem-
2 ber in the Platform shall be consistent with and sup-
3 plement any standards, requirements, and obliga-
4 tions applicable to the approved entity under subtitle
5 B of this title, or any other provision of this Act.

6 (b) MEMBERS.—The Platform Directors may ap-
7 prove as a member of the Platform any person that applies
8 for membership in the Platform pursuant to subsection
9 (a) that is—

10 (1) a mortgage aggregator;

11 (2) a mortgage guarantor;

12 (3) a mortgage originator;

13 (4) a Federal Home Loan Bank;

14 (5) a small lender mutual established or ap-
15 proved under section 315; or

16 (6) any other market participant, provided that
17 in the sole determination of the Platform Directors,
18 having such market participant as a member of the
19 Platform is necessary or helpful to fulfilling the pur-
20 poses and obligations of the Platform under section
21 325.

22 (c) TERMINATION.—The Platform Directors may ter-
23 minate membership in the Platform of any member for
24 failure to adhere to any standards established by the Plat-
25 form Directors.

1 **SEC. 324. FEES.**

2 (a) IN GENERAL.—The Platform Directors may as-
3 sess and collect fees, and may, in their discretion, increase
4 or decrease such fees, from the members in the Plat-
5 form—

6 (1) for initial membership in the Platform, con-
7 sistent with the requirements of subsection (b);

8 (2) to maintain ongoing membership in the
9 Platform;

10 (3) for use of the Platform, consistent with the
11 requirements of subsection (c); and

12 (4) to cover the ongoing costs of the functions
13 and operations of the Platform, including—

14 (A) the purchase of property, technology,
15 and systems developed by either enterprise or
16 others;

17 (B) to develop and invest in new tech-
18 nology;

19 (C) to build a capital base that would be
20 able to offset, or otherwise mitigate, losses that
21 might occur due to the potential operational
22 failure of the Platform; and

23 (D) to conduct any other activities ap-
24 proved by the Platform Directors.

25 (b) INITIAL FEE.—Upon approval of its application
26 to become a member in the Platform, each new approved

1 member shall pay to the Platform a fee in an amount to
2 be determined by the Platform Directors, provided that
3 such fee amount is consistent with obtaining a broad mem-
4 bership in the Platform that includes small mortgage lend-
5 ers, as well as large, mid-size, and small business mem-
6 bers.

7 (c) USAGE FEES.—

8 (1) ESTABLISHMENT.—Each member in the
9 Platform shall pay usage fees, as such fees are de-
10 termined by the Platform Directors.

11 (2) REVIEW OF FEES.—The Platform Directors
12 shall, not less than annually, review the fee structure
13 established under this subsection and submit any re-
14 sulting recommendations to amend the fee structure
15 to the Corporation.

16 (3) ASSESSMENT AND MEASUREMENT.—

17 (A) IN GENERAL.—Except as otherwise
18 provided under subparagraphs (B) and (C),
19 usage fees charged and collected under this sub-
20 section shall be equitably assessed and based
21 upon the member's use of the services offered
22 by the Platform, as such use is to be measured
23 by the total principal balance of the mortgage
24 loans or mortgage-backed securities securitized
25 for the member through the Platform.

1 (B) TIERED FEE OPTIONS.—If the Plat-
2 form Directors determine that certain entities
3 face a barrier to use the Platform, the Platform
4 Directors may adopt a tiered usage fee struc-
5 ture to promote greater access and a more com-
6 petitive market for the Platform that may in-
7 clude differential fee structures for usage fee
8 charges incurred by housing finance agencies,
9 small mortgage lenders, Commodity Develop-
10 ment Financial Institutions, mission-based non-
11 profit lenders, community land trusts, perma-
12 nently affordable homeownership programs, or
13 other organizations selected by the Corporation.

14 (C) TIERED FEE OPTION FOR COVERED
15 AND NONCOVERED SECURITIES.—The Platform
16 Directors may adopt a tiered usage fee struc-
17 ture under this subsection that may include dif-
18 ferential fee structures for usage fee charges for
19 the issuance of noncovered securities that differ
20 from the usage fees charged for the issuance of
21 covered securities.

22 (4) PAYMENT.—Usage fees charged under this
23 subsection shall be paid by the member at the time
24 the mortgage loans or mortgage-backed securities
25 are delivered by the member to the Platform.

1 (d) CORPORATION REVIEW OF INITIAL FEES AND
2 USAGE FEES.—

3 (1) IN GENERAL.—The Platform Directors shall
4 submit any fee structure proposal for initial fees or
5 usage fees under subsection (b) or (c) to the Cor-
6 poration. The Corporation shall approve any initial
7 fee or usage fee structure proposed by the Platform
8 Directors unless the Corporation determines that the
9 fee structure is not consistent with—

10 (A) facilitating, a deep, liquid, and resilient
11 secondary mortgage market for mortgage-
12 backed securities; and

13 (B) the purposes and obligations of the
14 Platform under section 325.

15 (2) AUTOMATIC ESTABLISHMENT OF FEES AB-
16 SENT CORPORATION DISAPPROVAL.—If the Corpora-
17 tion does not issue an order of disapproval of an ini-
18 tial fee or usage fee structure proposed by the Plat-
19 form Directors within 60 days following the submis-
20 sion of the proposed initial fee or usage fee structure
21 to the Corporation, the proposed initial fee or usage
22 fee structure shall automatically go into effect for
23 the Platform and its members.

24 (3) IMPACT OF CORPORATION DISAPPROVAL.—
25 If the Corporation disapproves an initial fee or

1 usage fee structure proposed by the Platform Direc-
2 tors pursuant to this subsection, the Platform Direc-
3 tors may—

4 (A) submit to the Corporation a revised fee
5 or usage fee structure for approval; or

6 (B) if applicable, use the existing approved
7 fee or usage fee structure.

8 **SEC. 325. PURPOSES AND OBLIGATIONS OF THE PLAT-**
9 **FORM.**

10 (a) PURPOSE.—The purposes of the Platform estab-
11 lished under section 321 are to—

12 (1) purchase and receive from its members eli-
13 gible mortgage loans or securities collateralized by
14 eligible mortgage loans for securitization as covered
15 securities;

16 (2) issue to its members standardized covered
17 securities, or other covered securities, insured by the
18 Corporation pursuant to this Act;

19 (3) purchase and receive from its members non-
20 eligible mortgage loans or securities not
21 collateralized by eligible mortgage loans for
22 securitization as noncovered securities, to the extent
23 desired or requested by its members; and

24 (4) issue to its members standardized non-
25 covered securities, or other noncovered securities,

1 that are not insured by the Corporation pursuant to
2 this Act, to the extent desired or requested by its
3 members.

4 (b) POWERS AND FUNCTIONS.—The powers and
5 functions of the Platform are to—

6 (1) develop the ability to issue, and to issue,
7 standardized covered securities, insured by the Cor-
8 poration pursuant to this Act, in accordance with
9 subsection (e);

10 (2) develop, adopt, and publish standardized
11 securitization documents and agreements (including,
12 but not limited to, uniform pooling, trust, and custo-
13 dial agreements)—

14 (A) required for all covered securities
15 issued by or through the Platform in accord-
16 ance with section 326(a) (and which shall be
17 made optional for all noncovered securities
18 issued by or through the Platform); and

19 (B) which shall be—

20 (i) drafted in consultation with the
21 Corporation, the Bureau of Consumer Fi-
22 nancial Protection, the Department of
23 Housing and Urban Development, and
24 such other Federal regulatory agencies as

1 the Platform Directors determine appro-
2 priate; and

3 (ii) before being issued by or through
4 the Platform, approved by the Corporation
5 as being consistent with—

6 (I) the requirements under sec-
7 tion 326(a); and

8 (II) facilitating a deep, liquid,
9 and resilient secondary mortgage mar-
10 ket for mortgage-backed securities;

11 (3) develop standardized documents approved
12 by the Corporation for servicing and loss mitigation
13 standards pursuant to section 314 for eligible mort-
14 gage loans that collateralize the covered securities
15 issued by or through the Platform to its members,
16 which shall be based on standards set by the Cor-
17 poration;

18 (4) as expressly provided in section
19 326(b)(2)(F), develop, adopt, and publish the re-
20 quired contractual terms for contracts for non-
21 covered securities issued by or through the Platform,
22 which shall be—

23 (A) developed in consultation with the Cor-
24 poration, the Bureau of Consumer Financial
25 Protection, the Department of Housing and

1 Urban Development, and such other Federal
2 regulatory agencies as the Platform Directors
3 determine appropriate; and

4 (B) before being issued by or through the
5 Platform, approved by the Corporation as being
6 consistent with—

7 (i) the requirements under section
8 326(b); and

9 (ii) facilitating a deep, liquid, and re-
10 siliant secondary mortgage market for
11 mortgage-backed securities;

12 (5) develop, adopt, and publish optional stand-
13 ardized securitization documents and agreements
14 (including, but not limited to, uniform pooling, trust,
15 and custodial agreements) tailored for noncovered
16 securities issued by or through the Platform, and
17 which may be used as desired or requested by the
18 members of the Platform, in accordance with section
19 326(c), and which standardized securitization docu-
20 ments and agreements shall be—

21 (A) drafted in consultation with the Cor-
22 poration, the Bureau of Consumer Financial
23 Protection, the Department of Housing and
24 Urban Development, and such other Federal

1 regulatory agencies as the Platform Directors
2 determine appropriate; and

3 (B) before being issued by or through the
4 Platform, approved by the Corporation as being
5 consistent with—

6 (i) the requirements under section
7 326(c); and

8 (ii) facilitating a deep, liquid, and re-
9 siliant secondary mortgage market for
10 mortgage-backed securities;

11 (6) establish a strong business continuity plan
12 that meets industry best practices and establish suf-
13 ficient redundancies so that in the event of an oper-
14 ational failure of the Platform there is sufficient
15 back-up capacity to process payments and issue cov-
16 ered and noncovered securities;

17 (7) verify that the eligible mortgage loans and
18 securities collateralized by eligible mortgage loans
19 purchased and received by the Platform, including
20 from any small lender mutual established or ap-
21 proved under section 315, for securitization as cov-
22 ered securities, meet the requirements for covered
23 securities under this Act and any regulations adopt-
24 ed by the Corporation pursuant thereto;

1 (8) verify that the noneligible mortgage loans
2 and securities not collateralized by eligible mortgage
3 loans purchased and received by the Platform, in-
4 cluding from any small lender mutual established or
5 approved under section 315, for securitization as
6 noncovered securities, meet the requirements for
7 noncovered securities under this Act and any regula-
8 tions adopted by the Corporation pursuant thereto;

9 (9) for the purpose of securitization, purchase
10 or receive from members of the Platform—

11 (A) eligible mortgage loans, pools of eligi-
12 ble mortgage loans, securities collateralized by
13 eligible mortgage loans, or outstanding mort-
14 gage-backed securities issued by the enterprises
15 for securitization as covered securities; and

16 (B) noneligible mortgage loans, pools of
17 noneligible mortgage loans, or securities not
18 collateralized by eligible mortgage loans for
19 securitization as noncovered securities, to the
20 extent desired or requested by members of the
21 Platform;

22 (10) for the purpose of securitization, issue—

23 (A) all covered securities from members of
24 the Platform that are collateralized by eligible

1 mortgage loans, or outstanding mortgage-
2 backed securities issued by the enterprises;

3 (B) all covered securities from members of
4 the Platform that are pooled from—

5 (i) a single mortgage originator, mort-
6 gage aggregator, approved entity, or regu-
7 lated entity; or

8 (ii) multiple mortgage originators,
9 mortgage aggregators, approved entities,
10 or regulated entities;

11 (C) noncovered securities collateralized by
12 noneligible mortgage loans received from mem-
13 bers of the Platform; and

14 (D) noncovered securities purchased and
15 received from members of the Platform that are
16 pooled from—

17 (i) a single mortgage originator, mort-
18 gage aggregator, or regulated entity; or

19 (ii) multiple mortgage originators,
20 mortgage aggregators, or regulated enti-
21 ties;

22 (11) perform bond administration, data valida-
23 tion, and reporting for all covered and noncovered
24 securities issued by or through the Platform, includ-

1 ing those issued on behalf of any small lender mu-
2 tual established or approved under section 315;

3 (12) facilitate systems to lower barriers to entry
4 for new mortgage originators and approved entities
5 or access to membership in the Platform;

6 (13) provide essential functions necessary to
7 issue standardized To-Be-Announced securities, for
8 covered securities and, if appropriate, noncovered se-
9 curities;

10 (14) manage operational and systems related
11 risks associated with delivering covered and non-
12 covered securities and receiving eligible and non-
13 eligible mortgage loans;

14 (15) develop the capability to offer
15 securitization services to private label issuers; and

16 (16) issue securitizations for multifamily loans,
17 establish common documentation, or develop other
18 requirements necessary to permit the Platform, or a
19 subsidiary or affiliate thereof, to be used for multi-
20 family loan securitizations if the Platform Directors
21 issue a determination that it would be desirable and
22 practical for the Platform, or a subsidiary or affil-
23 iate thereof, to be used to issue or otherwise facili-
24 tate multifamily loan securitizations.

1 (c) PROHIBITED ACTIVITIES.—The Platform may
2 not—

3 (1) guarantee any mortgage loans or mortgage-
4 backed securities;

5 (2) assume or hold mortgage loan credit risk;

6 (3) purchase any mortgage loans for cash on a
7 single loan basis for the purpose of securitization;

8 (4) undertake the issuance of any mortgage-
9 backed securities unless the first loss position is al-
10 ready held by a private entity;

11 (5) own or hold any mortgage loans or mort-
12 gage-backed securities for investment purposes;

13 (6) make or be a party to any representation
14 and warranty agreement on any mortgage loans; or

15 (7) take lender representation and warranty
16 risk.

17 (d) INTEROPERABILITY WITH MULTIFAMILY LOAN
18 SECURITIZATION ISSUANCE.—The Platform shall be de-
19 veloped in a manner that may permit, and would not pre-
20 clude, the Platform, or any subsidiary or affiliate thereof,
21 to be used for the issuance of multifamily loan
22 securitizations, provided that the development of this vehi-
23 cle for multifamily loan securitizations does not delay the
24 ability of the Platform to perform its obligations under

1 this section with respect to single-family securities by the
2 system certification date.

3 (e) TIMING OF PLATFORM CAPACITY TO DEVELOP
4 AND TO ISSUE STANDARDIZED SECURITIES FOR THE SIN-
5 GLE-FAMILY COVERED SECURITIES.—Not later than 2
6 years following the election of the elected Platform Direc-
7 tors under section 322(a)(3), the Platform shall develop
8 the Platform’s ability to issue, and issue, standardized se-
9 curities for single-family covered securities, or as other-
10 wise permitted under section 601.

11 (f) DISCRETION FOR PLATFORM DIRECTORS TO
12 ISSUE STANDARDIZED SECURITIES FOR SINGLE-FAMILY
13 NONCOVERED SECURITIES.—The Platform Directors may
14 develop an ability for the Platform to issue standardized
15 securities for single-family noncovered securities, if the
16 Platform Directors determine that sufficient demand ex-
17 ists among the Platform members for the Platform to
18 issue such a product.

19 **SEC. 326. UNIFORM SECURITIZATION AGREEMENTS FOR**
20 **COVERED SECURITIES AND REQUIRED CON-**
21 **TRACTUAL TERMS FOR NONCOVERED SECU-**
22 **RITIES.**

23 (a) REQUIRED UNIFORM SECURITIZATION AGREE-
24 MENTS FOR COVERED SECURITIES ISSUED BY OR
25 THROUGH THE PLATFORM.—

1 (1) IN GENERAL.—The Platform Directors shall
2 develop standard uniform securitization agreements
3 for all covered securities to be issued by or through
4 the Platform, as required pursuant to section
5 325(b)(2).

6 (2) REQUIRED TERMS.—The standard uniform
7 securitization agreements required to be developed
8 under paragraph (1) shall include terms relating
9 to—

10 (A) pooling and servicing, including the de-
11 velopment of uniform standards and practices
12 consistent with the standards specified by the
13 Corporation pursuant to section 314;

14 (B) loss mitigation procedures consistent
15 with those specified by the Corporation pursu-
16 ant to section 314;

17 (C) minimum representations and warran-
18 ties;

19 (D) indemnification and remedies, includ-
20 ing for the restitution or indemnification of the
21 Corporation with respect to early term delin-
22 quencies of eligible mortgage loans that
23 collateralize a covered security;

24 (E) the requirements of the indenture for
25 mortgage-backed securities that are exempt

1 from the Trust Indenture Act of 1939 (15
2 U.S.C. 77aaa et seq.) and the requirements, re-
3 sponsibilities, and duties of trustees, as set
4 forth in the indenture or pooling and servicing
5 agreement;

6 (F) the qualification, responsibilities, and
7 duties of trustees; and

8 (G) any other terms or standards the Plat-
9 form Directors, with approval of the Corpora-
10 tion, determine to be necessary or appropriate.

11 (3) DEFINING REPRESENTATION AND WAR-
12 RANTY VIOLATIONS.—In developing the uniform
13 securitization agreements required under paragraph
14 (1), the Platform Directors shall also develop, adopt,
15 and publish, upon approval by the Corporation, clear
16 and uniform standards that define and illustrate
17 what actions, or omissions to act, comprise a viola-
18 tion of the representations and warranties clauses
19 that are made a part of such agreements.

20 (b) REQUIRED CONTRACTUAL TERMS FOR CON-
21 TRACTS FOR ALL NONCOVERED SECURITIES ISSUED BY
22 OR THROUGH THE PLATFORM.—

23 (1) IN GENERAL.—All contracts for noncovered
24 securities issued by or through the Platform shall in-

1 clude a set of required contractual terms relating to
2 the obligations of the parties to each contract.

3 (2) **REQUIRED CONTRACTUAL TERMS.**—The re-
4 quired contractual terms for agreements for all non-
5 covered securities issued by or through the Platform
6 shall provide the obligations of the parties to a con-
7 tract including the following considerations:

8 (A) Pooling and servicing.

9 (B) Loss mitigation procedures.

10 (C) Representations and warranties.

11 (D) Indemnification and remedies.

12 (E) The qualification, responsibilities, and
13 duties of trustees, including but not limited to,
14 requirements set forth in the indenture or pool-
15 ing and servicing agreement, or any applicable
16 provisions of the Trust Indenture Act of 1939
17 (15 U.S.C. 77aaa et seq.).

18 (F) Other terms or standards the Platform
19 Directors, with approval of the Corporation, de-
20 termine to be necessary or appropriate to pro-
21 tect or facilitate the operation of the Platform.

22 (3) **PERMISSIBLE ADJUSTMENTS.**—Parties to
23 contracts for noncovered securities described under
24 this subsection may supplement the required con-
25 tractual terms identified under paragraph (2) with

1 any additional contractual terms so desired by the
2 parties to contracts for noncovered securities issued
3 by or through the Platform.

4 (c) OPTIONAL UNIFORM SECURITIZATION AGREE-
5 MENTS FOR NONCOVERED SECURITIES ISSUED BY OR
6 THROUGH THE PLATFORM.—The Platform Directors may
7 develop optional uniform securitization agreements for use
8 by noncovered securities that are issued by or through the
9 Platform that include standards and obligations that are
10 different from those included in the uniform securitization
11 agreements for covered securities as set forth in subsection
12 (a), provided that—

13 (1) the agreements include the required con-
14 tractual terms required for noncovered securities
15 that are issued by or through the Platform set forth
16 in subsection (b); and

17 (2) the Platform Directors determine that suffi-
18 cient demand exists among the members of the Plat-
19 form for the Platform to issue such optional uniform
20 securitization agreements for use by noncovered se-
21 curities.

22 (d) AGREEMENTS FOR NONCOVERED SECURITIES
23 ISSUED OFF THE PLATFORM.—Nothing in this section
24 shall preclude, or require, noncovered securities that are

1 not issued by or through the Platform from adopting
2 the—

3 (1) uniform securitization agreements for cov-
4 ered securities issued by or through the Platform de-
5 veloped under subsection (a);

6 (2) optional uniform securitization agreements
7 for noncovered securities issued by or through the
8 Platform developed under subsection (c); or

9 (3) required contractual terms for contracts for
10 noncovered securities issued by or through the Plat-
11 form developed under subsection (b).

12 (e) CONSULTATION WITH INDUSTRY REQUIRED.—
13 The Platform Directors shall consult with industry
14 groups, including servicers, originators, issuers, and mort-
15 gage investors, and community stakeholders and rep-
16 resentatives of homeowners in developing—

17 (1) the uniform securitization agreements pur-
18 suant to subsection (a);

19 (2) the required contractual terms for contracts
20 for noncovered securities issued by or through the
21 Platform pursuant to subsection (b); and

22 (3) the optional uniform securitization agree-
23 ments for noncovered securities issued by or through
24 the Platform pursuant to subsection (c).

1 **SEC. 327. APPROVAL AND STANDARDS FOR COLLATERAL**
2 **RISK MANAGERS.**

3 (a) STANDARDS FOR APPROVAL OF COLLATERAL
4 RISK MANAGERS.—The Corporation shall develop, adopt,
5 and publish standards for the use of collateral risk man-
6 agers who may work with the Platform, as well as trustees
7 and servicers of mortgage-backed securities to manage
8 mortgage loan collateral, including standards with respect
9 to—

- 10 (1) tracking mortgage loan repurchases;
11 (2) compliance with obligations under any ap-
12 plicable securitization documents; and
13 (3) managing—
14 (A) any disputes; and
15 (B) the resolution process.

16 (b) ADDITIONAL REQUIRED STANDARDS.—The
17 standards required under subsection (a) shall include the
18 review of foreclosure loss mitigation programs established
19 under section 314 for approved servicers.

20 **PART II—TRANSPARENCY IN MARKET**
21 **OPERATIONS**

22 **SEC. 331. REVIEW OF LOAN DOCUMENTS; DISCLOSURES.**

23 (a) IN GENERAL.—The Corporation, in consultation
24 with the Securities and Exchange Commission, shall, by
25 rule—

1 (1) require market participants, as appropriate,
2 to make available to private market investors in con-
3 nection with the first loss position on a covered secu-
4 rity, including through use of the Securitization
5 Platform established under section 321, all—

6 (A) documents relating to eligible mort-
7 gage loans collateralizing that covered security;
8 and

9 (B) servicing reports of the approved
10 servicer relating to such eligible mortgage loans;

11 (2) require market participants, as appropriate,
12 to disclose any other material information that a
13 reasonable investor would need as the basis of an in-
14 vestment decision, and make no material omission of
15 such information, relating to eligible mortgage loans
16 collateralizing a covered security; and

17 (3) establish the timing, frequency, and manner
18 in which such access and disclosures are made.

19 (b) **ACCESS AND DISCLOSURES.**—In prescribing the
20 rules required under subsection (a), the Corporation shall
21 take into consideration—

22 (1) the potential cost of such access and disclo-
23 sures; and

24 (2) the effect of such access and disclosures on
25 liquidity in the housing finance market.

1 (c) PRIVACY PROTECTIONS.—In prescribing the rules
2 required under subsection (a), the Corporation shall take
3 into consideration issues of consumer privacy and all stat-
4 utes, rules, and regulations related to privacy of consumer
5 credit information and personally identifiable information.
6 Such rules shall expressly prohibit the identification of
7 specific borrowers.

8 **SEC. 332. INVESTOR IMMUNITY.**

9 Any market participant that has taken the first loss
10 position in a covered security or that has otherwise in-
11 vested in any covered security insured under this title shall
12 have immunity and protection from civil liability under
13 Federal and State law, including under section 131 of the
14 Truth in Lending Act (15 U.S.C. 1641), and no cause
15 of action may be brought under Federal or State law
16 against such market participant, with respect to whether
17 or not eligible mortgage loans that collateralize a covered
18 security insured under this title have complied with the
19 requirements of this Act, including with respect to any un-
20 derwriting requirements applicable to such eligible mort-
21 gage loans, any representations or warranties made by a
22 market participant with respect to such eligible mortgage
23 loans, or whether or not the terms of any uniform
24 securitization agreement have been met.

1 **SEC. 333. NATIONAL MORTGAGE DATABASE.**

2 (a) TRANSFER.—Effective on the system certification
3 date, there are transferred to the Corporation all functions
4 of the Federal Housing Finance Agency of the Corpora-
5 tion relating to the rights, responsibilities, and obligations
6 of the Federal Housing Finance Agency pursuant to the
7 Inter-Agency Agreement (or any successor thereto) en-
8 tered into by the Federal Housing Finance Agency and
9 the Bureau of Consumer Financial Protection with respect
10 to the development, construction, maintenance, operation,
11 and funding of the National Mortgage Database.

12 (b) PRIVACY.—In exercising authority under this sec-
13 tion, the Corporation and the Bureau of Consumer Finan-
14 cial Protection shall—

15 (1) take steps to ensure the privacy of con-
16 sumers, including prohibiting the identification of
17 specific borrowers;

18 (2) minimize the collection and storage of per-
19 sonally identifiable information; and

20 (3) consider all statutes, rules, and regulations
21 relating to the privacy of consumer credit informa-
22 tion and personally identifiable information.

23 (c) DUPLICATION.—The Chairperson and the Direc-
24 tor of the Bureau of Consumer Financial Protection shall
25 take all reasonable steps necessary to minimize conflicts
26 and duplication of the data required under this section

1 with data collected, published, or otherwise obtained by
2 other Federal regulators, including the data disclosure
3 system required under section 304(f) of the Home Mort-
4 gage Disclosure Act of 1975 (12 U.S.C. 2803(f)).

5 (d) MINIMIZE BURDEN ON REPORTING ENTITIES.—
6 If 2 or more entities are required by this section to report
7 the same mortgage data relating to the same mortgage
8 loan, the entities may, by agreement that is clearly com-
9 municated to the Corporation and the Bureau, determine
10 that only 1 of such entities will report the data. If 1 of
11 such entities reports the required mortgage data, it shall
12 not be a violation of this section for the other entities not
13 to report the data.

14 (e) ACCESS TO DATA.—The Corporation and the Bu-
15 reau of Consumer Financial Protection shall each estab-
16 lish, and cause to be published in the Federal Register,
17 the initial date on which—

18 (1) the public shall begin to have access to any
19 data put into the public domain, in accordance with
20 this section and in a manner that is easily accessible
21 to the public; and

22 (2) all mortgage data is required to be put into
23 the public domain, in accordance with this section.

1 **SEC. 334. WORKING GROUP ON ELECTRONIC REGISTRA-**
2 **TION OF MORTGAGE LOANS.**

3 (a) ESTABLISHMENT.—Not later than 180 days after
4 the agency transfer date, the Corporation shall establish
5 a working group to study—

6 (1) whether the establishment of a national
7 electronic mortgage registry system is necessary; and

8 (2) how to establish, operate, and maintain a
9 national electronic mortgage registry system for sin-
10 gle-family mortgage loans and multifamily mortgage
11 loans.

12 (b) COMPOSITION.—The working group established
13 under subsection (a) shall be composed of the following:

14 (1) The Chairperson or the Chairperson's des-
15 ignee.

16 (2) The Director of the Bureau of Consumer
17 Financial Protection or the Director's designee.

18 (3) Individuals selected by the Chairperson
19 from among the following:

20 (A) State and local government agencies.

21 (B) Industry groups, including mortgage
22 originators, title insurers, servicers, issuers, and
23 investors.

24 (c) DUTIES.—The duties of the working group estab-
25 lished under subsection (a) are to assess and develop rec-
26 ommendations on the necessity for and feasibility of estab-

1 lishing, operating, and maintaining a national electronic
2 mortgage registry system for single-family mortgage loans
3 and multifamily mortgage loans to document custody and
4 registration of mortgage loans, notes, titles, liens, deeds
5 of trust, and other security instruments, in order to auto-
6 mate, centralize, standardize, and improve the tracking of
7 changes in—

8 (1) the ownership of mortgage loans, deeds of
9 trust, and other security instruments;

10 (2) the ownership of the beneficial interest in
11 promissory notes secured by any mortgage loan,
12 deed of trust, or other security instrument;

13 (3) the servicing rights for any mortgage loan,
14 deed of trust, or other security instrument; and

15 (4) such other information as the Corporation
16 may require.

17 (d) CONSIDERATIONS.—In carrying out the duties
18 under this section, the working group established under
19 subsection (a) shall consider—

20 (1) the cost to States and localities, including
21 any impact on revenue generated by local recording
22 of mortgage loan documents;

23 (2) the feasibility of allowing States and local-
24 ities to continue to collect fees and revenue;

1 (3) the need to minimize conflicting mortgage
2 loan registry requirements; and

3 (4) the need to provide consumers with access
4 to key information about the ownership and serv-
5 icing of their mortgage loans.

6 (e) REPORT.—Not later than 2 years after the date
7 on which the working group is established under sub-
8 section (a), the working group shall issue a publicly avail-
9 able report, which shall—

10 (1) include recommendations—

11 (A) as to whether the establishment of a
12 national electronic mortgage registry system is
13 necessary or appropriate in the public interest
14 or for the protection of the Mortgage Insurance
15 Fund; and

16 (B) on how to establish, operate, and
17 maintain a national electronic mortgage registry
18 system for single-family mortgage loans and
19 multifamily mortgage loans; and

20 (2) if the working group recommends that the
21 establishment of the national electronic mortgage
22 registry system is necessary or appropriate under
23 paragraph (1), outline the minimum requirements
24 for such registry, which shall include considerations
25 for the development and implementation of elec-

1 tronic mortgage registry systems by State and local
2 government agencies, and shall satisfy the rec-
3 ommendations of this report.

4 (f) RULEMAKING.—

5 (1) IN GENERAL.—Beginning 5 years after pub-
6 lication of the report under subsection (e), the Cor-
7 poration may, by rule, establish a national electronic
8 mortgage registry system for single-family mortgage
9 loans and multifamily mortgage loans, deeds of
10 trust, or other security instruments in accordance
11 with the findings of the report if—

12 (A) the Corporation determines that elec-
13 tronic mortgage registry systems have not been
14 created by State and local government agencies
15 in accordance with the minimum requirements
16 established in the report; and

17 (B) the establishment of a national elec-
18 tronic mortgage registry system for single-fam-
19 ily mortgage loans and multifamily mortgage
20 loans remains necessary or appropriate in the
21 public interest or for the protection of the Mort-
22 gage Insurance Fund.

23 (2) CONFLICTING REPORTS.—If the Corpora-
24 tion establishes a national electronic mortgage reg-
25 istry system under paragraph (1), the Corporation

1 shall provide approved entities a reasonable amount
2 of time to correct a filing made in the national elec-
3 tronic mortgage registry system established under
4 paragraph (1) that is in direct conflict with any fil-
5 ing in a State or local real property recording sys-
6 tem.

7 (3) AUTHORITY TO EXTEND ESTABLISHMENT
8 OF REGISTRIES.—The Corporation, in consultation
9 with appropriate State and local government agen-
10 cies responsible for real property recordation, may
11 extend the period of time provided under paragraph
12 (1) for a single period of not more than 5 years if
13 the Corporation determines that the extension is
14 necessary or appropriate.

15 (4) CONSULTATION AND COORDINATION WITH
16 STATE AND LOCAL AGENCIES.—To promote consist-
17 ency in and minimize disruption to the housing fi-
18 nance system and systems for the local recording of
19 loan documents, the Corporation shall consult and
20 coordinate with appropriate State and local govern-
21 ment agencies responsible for real property recorda-
22 tion when developing and issuing rules under this
23 subsection.

24 (g) RULES OF CONSTRUCTION.—

1 (1) LIMITATION ON LIABILITY.—Nothing in
2 this section shall be construed as implying or estab-
3 lishing a private right of action against an approved
4 entity for filings made to a national electronic mort-
5 gage registry system established under subsection
6 (f)(1) or other filing actions taken pursuant to sub-
7 section (f).

8 (2) LIMITATION ON SUPERVISORY OR ENFORCE-
9 MENT AUTHORITY.—Nothing in this section shall be
10 construed as authorizing the Corporation, before the
11 establishment of a national electronic mortgage reg-
12 istry system under subsection (f)(1), to exercise su-
13 pervisory or enforcement authority with respect to
14 an approved entity relating to a real property filing
15 action in a State or local real property recording
16 system by the approved entity.

17 (3) PREEMPTION.—Nothing in this section shall
18 be construed as preempting, altering, annulling, ex-
19 empting, or affecting the applicability of any State
20 or local law relating to real property recording with
21 respect to any approved entity.

22 **SEC. 335. MULTIPLE LENDER ISSUES.**

23 With respect to the dwelling of a borrower that serves
24 as security for an eligible mortgage loan, if the borrower
25 enters into any credit transaction that would result in the

1 creation of a new mortgage loan or other lien on such
2 dwelling where the loan-to-value ratio of such credit trans-
3 action amount is 80 percent or more, the creditor of such
4 new mortgage loan or other lien shall notify the creditor
5 of the senior eligible mortgage loan before any such credit
6 transaction becomes valid and enforceable.

7 **SEC. 336. REQUIRED HARMONIZATION OF STANDARDS**
8 **WITHIN ELIGIBLE MORTGAGE CRITERIA.**

9 (a) IN GENERAL.—The Corporation shall consult and
10 coordinate with the Bureau of Consumer Financial Pro-
11 tection to ensure that the minimum standards issued by
12 the Corporation with respect to eligible single-family mort-
13 gage loans pursuant to section 2(29) remain, to the great-
14 est extent possible, substantially similar to rules promul-
15 gated by the Bureau pursuant to section 129C(b) of the
16 Truth in Lending Act (15 U.S.C. 1639c(b)) provided that
17 any revisions to, or amendments of, such minimum stand-
18 ards issued by the Corporation—

19 (1) conform to all of the other requirements set
20 forth under section 2(29); and

21 (2) in the determination of the Corporation, do
22 not negatively impact the Mortgage Insurance Fund.

23 (b) ANNUAL REPORT ON ANY CHANGES OR DIF-
24 FERENCES IN RULES.—The Corporation shall, on an an-
25 nual basis, submit to the Chair and Ranking Member of

1 the Committee on Banking, Housing, and Urban Affairs
2 of the Senate and the Chair and Ranking Member of the
3 Committee on Financial Services of the House of Rep-
4 resentatives a report that—

5 (1) describes any changes to the minimum
6 standards identified in subsection (a);

7 (2) describes the economic analysis developed
8 and used by the Corporation for any changes de-
9 scribed under paragraph (1) in order to ensure such
10 changes do not violate the duties of the Corporation
11 to protect the Mortgage Insurance Fund; and

12 (3) identifies any changes that occurred and
13 differences that exist between the minimum stand-
14 ards developed, adopted, and maintained by the Cor-
15 poration and the rules promulgated by the Bureau
16 pursuant to section 129C(b) of the Truth in Lend-
17 ing Act (15 U.S.C. 1639c(b)).

18 **TITLE IV—FHFA AND FMIC** 19 **TRANSITION**

20 **SEC. 401. DEFINITIONS.**

21 In this title—

22 (1) the term “Director” means—

23 (A) during the period beginning on the
24 date of enactment of this Act and ending on the

1 day before the agency transfer date, the Direc-
2 tor of the Existing Agency; and

3 (B) on and after the agency transfer date,
4 the Director of the Federal Housing Finance
5 Agency of the Corporation appointed under sec-
6 tion 402(a)(2);

7 (2) the term “Existing Agency” means the Fed-
8 eral Housing Finance Agency, as constituted on the
9 day before the agency transfer date;

10 (3) the term “function” means any duty, obli-
11 gation, power, authority, responsibility, right, privi-
12 lege, activity, or program;

13 (4) the term “regulated entity” has the same
14 meaning as in section 1303(2) of the Safety and
15 Soundness Act (12 U.S.C. 4502(20)); and

16 (5) the term “Transition Committee” means
17 the Federal Mortgage Insurance Corporation Transi-
18 tion Committee established under section 404(a)(1).

19 **SEC. 402. FHFA TRANSITION.**

20 (a) ESTABLISHMENT.—

21 (1) IN GENERAL.—Effective on the agency
22 transfer date, there is established in the Corporation
23 the Federal Housing Finance Agency, which shall be
24 maintained as a distinct entity within the Corpora-
25 tion.

1 (2) DIRECTOR.—The Federal Housing Finance
2 Agency shall be headed by a Director, who shall
3 be—

4 (A) appointed by the President, by and
5 with the advice and consent of the Senate; and

6 (B) a non-voting member of the Board of
7 Directors.

8 (b) FEDERAL HOUSING FINANCE AGENCY TRANS-
9 FER.—

10 (1) TRANSFER OF PROPERTY AND FUNC-
11 TIONS.—Effective on the agency transfer date and
12 unless otherwise specified by this Act, all property
13 and functions of the Federal Housing Finance Agen-
14 cy are transferred to the Federal Housing Finance
15 Agency of the Corporation.

16 (2) INCUMBENT DIRECTOR.—The individual
17 serving as the Director of the Existing Agency on
18 the day before the agency transfer date may serve
19 as the Director of the Federal Housing Finance
20 Agency of the Corporation until the end of the term
21 of such individual as Director of the Existing Agen-
22 cy under section 1312(b)(2) of the Safety and
23 Soundness Act (12 U.S.C. 4512)(b)(2)), as in effect
24 on the day before the agency transfer date.

25 (3) TRANSITION CHAIRPERSON.—

1 (A) IN GENERAL.—During the period be-
2 ginning on the agency transfer date and ending
3 on the date on which the first individual is ap-
4 pointed as Chairperson under section 202, the
5 Director shall serve as the Transition Chair-
6 person of the Corporation and, except as pro-
7 vided in subparagraph (B), shall exercise all au-
8 thorities of the Chairperson, unless stated oth-
9 erwise.

10 (B) LIMITATION ON AUTHORITY.—In serv-
11 ing as the Transition Chairperson of the Cor-
12 poration pursuant to subparagraph (A), the Di-
13 rector shall not have the authority to establish
14 any rule under section 2 or any rule relating to
15 approved entities under title III.

16 (c) POWERS AND DUTIES.—

17 (1) IN GENERAL.—The Director of the Federal
18 Housing Finance Agency of the Corporation shall—

19 (A) retain and exercise all powers, includ-
20 ing conservatorship and receivership powers, of
21 the Director of the Existing Agency on the day
22 before the agency transfer date relating to the
23 Federal Home Loan Bank System, the Federal
24 Home Loan Banks, and the enterprises;

1 (B) manage and implement actions author-
2 ized by the Corporation related to the transition
3 to the new housing finance system that impact
4 the conservatorship or receivership of regulated
5 entities; and

6 (C) consult with other members of the
7 Transition Committee and the Board of Direc-
8 tors as may be appropriate to fulfill the require-
9 ments of this Act.

10 (2) AUTONOMY OF FHFA.—Except as provided
11 in section 604(a)(2), or as otherwise specifically pro-
12 vided in this Act, the Chairperson and the Board of
13 Directors may not—

14 (A) intervene in any matter or proceeding
15 before the Director, unless otherwise specifically
16 provided by law;

17 (B) appoint, direct, or remove any officer
18 or employee of the Federal Housing Finance
19 Agency of the Corporation; or

20 (C) merge or consolidate the Federal
21 Housing Finance Agency of the Corporation, or
22 any of the functions or responsibilities of the
23 Federal Housing Finance Agency of the Cor-
24 poration, with any division, office, or other com-
25 ponent of the Corporation.

1 (d) AGENCY EXPENDITURES AND BUDGET.—

2 (1) IN GENERAL.—After the agency transfer
3 date, the Director of the Federal Housing Finance
4 Agency of the Corporation—

5 (A) except as provided in paragraph (2),
6 may obligate and expend amounts available to
7 the Federal Housing Finance Agency; and

8 (B) shall submit regular updates to the
9 Board of Directors.

10 (2) LIMITATION ON AMOUNT.—

11 (A) BEFORE CHAIRPERSON APPOINTED.—

12 During the period beginning on the agency
13 transfer date and ending on the date on which
14 the first individual is appointed as Chairperson
15 under section 202, the Director shall require
16 approval from the Transition Committee for
17 any agency capital expenditure in excess of
18 \$5,000,000.

19 (B) CHAIRPERSON APPOINTED.—On and
20 after the date on which the first individual is
21 appointed as Chairperson under section 202,
22 the Director shall require approval from the
23 Board of Directors for any agency capital ex-
24 penditure in excess of \$5,000,0000.

1 (e) COOPERATION.—During the period beginning on
2 the date of enactment of this Act and ending on the sys-
3 tem certification date, the Board of Directors and the Di-
4 rector shall cooperate and coordinate in the exercise of
5 their respective authorities to facilitate and achieve an or-
6 derly transition from housing finance markets facilitated
7 by the enterprises to housing finance markets facilitated
8 by the Corporation with minimum disruption in the avail-
9 ability of credit.

10 (f) COORDINATION AND CONTINUATION OF CERTAIN
11 ACTIONS.—

12 (1) IN GENERAL.—All regulations, orders, de-
13 terminations, and resolutions described in paragraph
14 (2) shall remain in effect according to the terms of
15 such regulations, orders, determinations, and resolu-
16 tions, and shall be enforceable by or against the
17 Federal Housing Finance Agency of the Corporation
18 until modified, terminated, set aside, or superseded
19 in accordance with applicable law by the Federal
20 Housing Finance Agency of the Corporation, any
21 court of competent jurisdiction, or operation of law.

22 (2) APPLICABILITY.—A regulation, order, de-
23 termination, or resolution is described in this para-
24 graph if it—

1 (A) was issued, made, prescribed, or al-
2 lowed to become effective by—

3 (i) the Existing Agency;

4 (ii) the Federal Housing Finance
5 Board; or

6 (iii) a court of competent jurisdiction,
7 and relates to functions transferred by this
8 section;

9 (B) relates to the performance of functions
10 that are transferred by this section; and

11 (C) is in effect on the agency transfer
12 date.

13 (g) USE OF AGENCY SERVICES.—Any agency, de-
14 partment, or other instrumentality of the United States,
15 and any successor to any such agency, department, or in-
16 strumentality, which was providing supporting services to
17 the Existing Agency before the agency transfer date in
18 connection with functions that are transferred to the Fed-
19 eral Housing Finance Agency of the Corporation shall—

20 (1) continue to provide such services, on a reim-
21 bursable basis, until the transfer of such functions
22 is complete; and

23 (2) consult with any such agency to coordinate
24 and facilitate a prompt and reasonable transition.

25 (h) 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 Director of the Existing
5 Agency, or any other person, which—

6 (A) arises under—

7 (i) the Safety and Soundness Act;

8 (ii) the Federal National Mortgage
9 Association Charter Act;

10 (iii) the Federal Home Loan Mort-
11 gage Corporation Act; or

12 (iv) any other provision of law appli-
13 cable with respect to the Existing Agency;

14 and

15 (B) existed on the day before the agency
16 transfer date.

17 (2) CONTINUATION OF SUITS.—No action or
18 other proceeding commenced by or against the Di-
19 rector of the Existing Agency in connection with
20 functions that are transferred to the Federal Hous-
21 ing Finance Agency of the Corporation shall abate
22 by reason of the enactment of this Act, except that
23 the Director of the Federal Housing Finance Agency
24 of the Corporation shall be substituted for the Direc-

1 tor of the Existing Agency as a party to any such
2 action or proceeding.

3 (i) TECHNICAL AND CONFORMING AMENDMENTS.—

4 (1) FEDERAL HOUSING ENTERPRISES FINAN-
5 CIAL SAFETY AND SOUNDNESS ACT OF 1992.—The
6 Safety and Soundness Act (12 U.S.C. 4501 et seq.)
7 is amended—

8 (A) in section 1303—

9 (i) in paragraph (2), by striking
10 “Federal Housing Finance Agency estab-
11 lished under section 1311” and inserting
12 “the Federal Housing Finance Agency
13 within the Federal Mortgage Insurance
14 Corporation established under section
15 402(a)(1) of the Housing Finance Reform
16 and Taxpayer Protection Act of 2014”;
17 and

18 (ii) in paragraph (9), by striking
19 “Federal Housing Finance Agency” and
20 inserting “Agency”;

21 (B) in section 1311(a), by striking “estab-
22 lished” and all that follows through “Govern-
23 ment” and inserting “in the Federal Mortgage
24 Insurance Corporation, the Federal Housing Fi-
25 nance Agency, which shall be maintained as a

1 distinct entity within the Federal Mortgage In-
2 surance Corporation”;

3 (C) in section 1312—

4 (i) in subsection (a)—

5 (I) in the heading, by striking
6 “ESTABLISHMENT OF POSITION” and
7 inserting “DIRECTOR”; and

8 (II) by striking, “established the
9 position of”; and

10 (ii) in subsection (b)(1), by striking
11 “by the President” and all that follows
12 through “housing finance” and inserting
13 “in accordance with section 402(a)(2) of
14 the Housing Finance Reform and Tax-
15 payer Protection Act of 2014”; and

16 (D) in section 1367—

17 (i) in subsection (a)(7), by striking
18 “When acting” and inserting “Except as
19 may be provided in section 604(a)(2) of
20 the Housing Finance Reform and Tax-
21 payer Protection Act of 2014, or as other-
22 wise specifically provided for in such Act,
23 when acting”; and

24 (ii) by amending subsection (b)(2)(D)
25 to read as follows:

1 “(D) POWER AS CONSERVATOR.—

2 “(i) ENTERPRISES.—On and after the
3 agency transfer date, as that term is de-
4 fined in section 2 of the Housing Finance
5 Reform and Taxpayer Protection Act of
6 2014, the Agency shall, as conservator,
7 take such actions as are necessary—

8 “(I) to wind down of the oper-
9 ations of the enterprises in an orderly
10 manner that complies with the re-
11 quirements of such Act;

12 “(II) to manage the affairs, as-
13 sets, and obligations of the enterprises
14 and to operate the enterprises in com-
15 pliance with the requirements of such
16 Act;

17 “(III) to undertake and carry out
18 any sale, transfer, or disposition au-
19 thorized in sections 315(c), 321(d),
20 604(i)(2), 701(b), or 702 of such Act
21 in order to facilitate the orderly tran-
22 sition to the new housing finance sys-
23 tem authorized by such Act; and

24 “(IV) to maintain liquidity and
25 stability in the secondary mortgage

1 market until such time as the enter-
2 prises shall have no authority to con-
3 duct new business, pursuant to title
4 VI of such Act.

5 “(ii) FEDERAL HOME LOAN BANKS.—
6 The Corporation may, as conservator, take
7 such actions as are—

8 “(I) necessary to put a Federal
9 Home Loan Bank in a sound and sol-
10 vent condition; and

11 “(II) appropriate to carry on the
12 business of a Federal Home Loan
13 Bank and preserve and conserve the
14 assets and property of the Federal
15 Home Loan Bank.”.

16 (2) FEDERAL HOME LOAN BANK ACT.—The
17 Federal Home Loan Bank Act (12 U.S.C. 1421 et
18 seq.) is amended—

19 (A) by striking “Chairman of the Director
20 of Governors” each place that term appears and
21 inserting “Chairman of the Board of Gov-
22 ernors”; and

23 (B) in section 2—

1 (i) in paragraph (11), by striking
2 “Federal Housing Finance Agency” and
3 inserting “Agency”; and

4 (ii) in paragraph (12), by striking
5 “the Federal Housing Finance Agency”
6 and all that follows through the period at
7 the end and inserting “the Federal Hous-
8 ing Finance Agency within the Federal
9 Mortgage Insurance Corporation estab-
10 lished under section 402(a)(1) of the
11 Housing Finance Reform and Taxpayer
12 Protection Act of 2014”.

13 (3) FEDERAL DEPOSIT INSURANCE ACT.—The
14 Federal Deposit Insurance Act (12 U.S.C. 1811 et
15 seq.) is amended—

16 (A) in section 11(t)(2)(A), by inserting
17 after clause (vii) the following:

18 “(VIII) The Federal Mortgage
19 Insurance Corporation.”; and

20 (B) in section 18(x)—

21 (i) by inserting “the Federal Mort-
22 gage Insurance Corporation,” before “any
23 Federal banking agency” each place that
24 term appears; and

1 (ii) by inserting “Corporation,” after
2 “such Bureau,” each place that term ap-
3 pears.

4 (4) FEDERAL FINANCIAL INSTITUTIONS EXAM-
5 INATION COUNCIL ACT OF 1978.—The first sentence
6 of section 1011 of the Federal Financial Institutions
7 Examination Council Act of 1978 (12 U.S.C. 3310)
8 is amended by inserting “Federal Mortgage Insur-
9 ance Corporation,” after “Financial Protection,”.

10 (5) FIRREA.—Section 1216 of the Financial
11 Institutions Reform, Recovery, and Enhancement
12 Act of 1989 (12 U.S.C. 1833e) is amended—

13 (A) in subsection (a), by striking “Federal
14 Housing Finance Agency” and inserting “Fed-
15 eral Mortgage Insurance Corporation”; and

16 (B) in subsection (c), by striking “Federal
17 Housing Finance Agency” and inserting “Fed-
18 eral Mortgage Insurance Corporation”.

19 (6) HOUSING AND URBAN-RURAL RECOVERY
20 ACT OF 1983.—Section 469 of the Housing and
21 Urban-Rural Recovery Act of 1983 (12 U.S.C.
22 1701p-1) is amended in the first sentence by insert-
23 ing “the Federal Mortgage Insurance Corporation,”
24 after “cooperation of”.

1 (7) PAPERWORK REDUCTION ACT.—Section
2 3502(5) of title 44, United States Code (commonly
3 known as the “Paperwork Reduction Act”), is
4 amended by striking “Federal Housing Finance
5 Agency” and inserting “Federal Mortgage Insurance
6 Corporation”.

7 (8) PUBLIC LAW 93–495.—Section 111 of Public
8 Law 93–495 (12 U.S.C. 250) is amended by insert-
9 ing “the Federal Mortgage Insurance Corporation,”
10 after “Federal Housing Finance Agency,”.

11 (9) RIGHT TO FINANCIAL PRIVACY ACT OF
12 1978.—Section 1101(7) of the Right to Financial
13 Privacy Act of 1978 (12 U.S.C. 3401(7)) is amend-
14 ed

15 (A) in subparagraph (H), by striking “;
16 or” and inserting a semicolon;

17 (B) in subparagraph (I), by striking “;
18 and” and inserting “; or”; and

19 (C) by adding at the end the following:

20 “(J) the Federal Mortgage Insurance Cor-
21 poration; and”.

22 (10) TITLE 5, UNITED STATES CODE.—Title 5,
23 United States Code, is amended—

24 (A) in section 5313, by inserting the fol-
25 lowing new item:

1 “Chairperson of the Federal Mortgage Insur-
2 ance Corporation.”; and

3 (B) in section 3132(a)(1)(D)—

4 (i) by striking “Supervision,,” and in-
5 sserting “Supervision,,”; and

6 (ii) by inserting the “Federal Mort-
7 gage Insurance Corporation,” after “Fed-
8 eral Housing Finance Agency,”.

9 (11) TITLE 18, UNITED STATES CODE.—Title
10 18, United States Code, is amended by striking
11 “Federal Housing Finance Agency” each place such
12 term appears in each of sections 212, 657, 1006,
13 1014, and 1905 and inserting “Federal Mortgage
14 Insurance Corporation”.

15 (12) EFFECTIVE DATE.—The amendments
16 made by this subsection shall take effect on the
17 agency transfer date.

18 **SEC. 403. TRANSFER AND RIGHTS OF EMPLOYEES OF THE**

19 **FHFA.**

20 (a) TRANSFER.—

21 (1) IN GENERAL.—Effective on the agency
22 transfer date, each employee of the Existing Agency,
23 including each employee of the Office of the Inspec-
24 tor General of the Existing Agency, who is in good
25 standing, shall be transferred to the Corporation for

1 employment, and such transfer shall be deemed a
2 transfer of function for purposes of section 3503 of
3 title 5, United States Code.

4 (2) ASSIGNMENT.—

5 (A) IN GENERAL.—Except as provided in
6 subparagraph (B), an employee transferred
7 under paragraph (1) shall be appointed to a po-
8 sition in the Federal Housing Finance Agency
9 of the Corporation.

10 (B) EXCEPTION.—On and after the agency
11 transfer date, the Chairperson, in consultation
12 with the Director of the Federal Housing Fi-
13 nance Agency of the Corporation, may reassign
14 an employee transferred under paragraph (1) to
15 a component of the Corporation other than the
16 Federal Housing Finance Agency of the Cor-
17 poration, if the reassignment is in the best in-
18 terest of the Corporation.

19 (b) GUARANTEED POSITIONS.—

20 (1) IN GENERAL.—Each employee transferred
21 under subsection (a) shall be guaranteed a position
22 with the same status, tenure, grade, and pay as that
23 held on the day immediately preceding the transfer.

24 (2) NO INVOLUNTARY SEPARATION OR REDUC-
25 TION.—An employee transferred under subsection

1 (a) holding a permanent position on the day imme-
2 diately preceding the transfer may not be involun-
3 tarily separated or reduced in grade or compensation
4 during the 12-month period beginning on the date of
5 transfer, except for cause, or, in the case of a tem-
6 porary employee, separated in accordance with the
7 terms of the appointment of the employee.

8 (c) APPOINTMENT AUTHORITY FOR EXCEPTED AND
9 SENIOR EXECUTIVE SERVICE EMPLOYEES.—

10 (1) IN GENERAL.—In the case of an employee
11 occupying a position in the excepted service or the
12 Senior Executive Service, any appointment authority
13 established under law or by regulations of the Office
14 of Personnel Management for filling such position
15 shall be transferred, subject to paragraph (2).

16 (2) DECLINE OF TRANSFER.—The Corporation
17 may decline a transfer of authority under paragraph
18 (1), to the extent that such authority relates to—

19 (A) a position excepted from the competi-
20 tive service because of its confidential, policy-
21 making, policy-determining, or policy-advocating
22 character; or

23 (B) a noncareer appointee in the Senior
24 Executive Service (within the meaning of sec-
25 tion 3132(a)(7) of title 5, United States Code).

1 (d) EMPLOYEE BENEFIT PROGRAMS.—

2 (1) IN GENERAL.—Any employee of the Exist-
3 ing Agency accepting employment with the Corpora-
4 tion as a result of a transfer under subsection (a)
5 may retain, for 12 months after the date on which
6 such transfer occurs, membership in any employee
7 benefit program of the Existing Agency or the Cor-
8 poration, as applicable, including insurance, to which
9 such employee belongs on the date of the transfer
10 under subsection (a), if—

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

13 (B) the benefit or program is continued by
14 the Corporation.

15 (2) COST DIFFERENTIAL.—

16 (A) IN GENERAL.—The difference in the
17 costs between the benefits which would have
18 been provided by the Existing Agency and those
19 provided by this section shall be paid by the
20 Corporation.

21 (B) HEALTH INSURANCE.—If any em-
22 ployee elects to give up membership in a health
23 insurance program or the health insurance pro-
24 gram is not continued by the Corporation, the
25 employee shall be permitted to select an alter-

1 nate Federal health insurance program not
2 later than 30 days after the date of such elec-
3 tion or notice, without regard to any other reg-
4 ularly scheduled open season.

5 (e) ENTERPRISE EMPLOYEES.—To ensure an orderly
6 transition to the new housing finance system established
7 under this Act and to facilitate the organization, forma-
8 tion, and competency of the Corporation, the Corporation
9 may hire employees from the enterprises.

10 (f) REORGANIZATION.—If the Corporation deter-
11 mines that a reorganization of the workforce is required,
12 the reorganization shall be deemed a major reorganization
13 for purposes of affording affected employee retirement
14 under section 8336(d)(2) or 8414(b)(1)(B) of title 5,
15 United States Code.

16 **SEC. 404. TRANSITION COMMITTEE.**

17 (a) ESTABLISHMENT AND PURPOSE.—

18 (1) IN GENERAL.—Effective on the date of en-
19 actment of this Act, there is established the Federal
20 Mortgage Insurance Corporation Transition Com-
21 mittee.

22 (2) PURPOSE.—The purpose of the Transition
23 Committee shall be to—

1 (A) develop a plan to facilitate an orderly
2 transition to a new housing finance system in
3 accordance with this Act; and

4 (B) provide advice to the Transition Chair-
5 person or the Board when consulted.

6 (b) COMPOSITION.—

7 (1) MEMBERS.—The Transition Committee
8 shall be comprised of—

9 (A) the Director;

10 (B) the Chairman of the Federal Deposit
11 Insurance Corporation;

12 (C) the Comptroller of the Currency;

13 (D) the Chairperson; and

14 (E) any member of the Board of Directors.

15 (2) CHAIRPERSON.—

16 (A) BEFORE CHAIRPERSON OF CORPORA-
17 TION.—Until the date on which the first indi-
18 vidual is appointed as Chairperson under sec-
19 tion 202, the Director shall serve as the Chair-
20 person of the Transition Committee.

21 (B) CHAIRPERSON OF CORPORATION AP-
22 POINTED.—On and after the date on which the
23 first individual is appointed as Chairperson
24 under section 202, the Chairperson shall serve

1 as the Chairperson of the Transition Com-
2 mittee.

3 (3) ACTING OFFICIALS MAY SERVE.—In the
4 event of a vacancy in the office of the head of a
5 member agency, and pending the appointment of a
6 successor, or during the absence or disability of the
7 head of a member agency, the acting head of the
8 member agency shall serve as a member of the
9 Transition Committee in the place of that agency
10 head.

11 (4) STAFF.—As necessary to carry out the du-
12 ties of the Transition Committee, the Chairperson of
13 the Transition Committee may—

14 (A) before the agency transfer date, use
15 employees of the Existing Agency; and

16 (B) on and after the agency transfer date,
17 use employees of the Corporation.

18 (c) TRANSITION PLAN.—

19 (1) DEVELOPMENT.—The Transition Com-
20 mittee shall develop the transition plan required by
21 section 602 of this Act.

22 (2) APPROVAL.—The transition plan may not
23 be submitted to Congress under section 602, unless
24 it is approved by a majority of the Transition Com-
25 mittee.

1 (d) DISSOLUTION.—The Transition Committee shall
2 be dissolved upon the later of—

3 (1) the date on which the first individual is ap-
4 pointed as Chairperson under section 202; or

5 (2) the date on which the transition plan is sub-
6 mitted to Congress in accordance with subsection

7 (c)(2) and section 602.

8 **SEC. 405. TRANSITION ASSESSMENTS.**

9 (a) IN GENERAL.—Section 1316 of the Safety and
10 Soundness Act (12 U.S.C. 4516) is amended by adding
11 at the end the following:

12 “(i) ANNUAL ASSESSMENTS RELATING TO INITIAL
13 FUNDING OF THE FMIC.—Notwithstanding title VI of
14 the Housing Finance Reform and Taxpayer Protection
15 Act of 2014 or any other provision of law, for the period
16 beginning on the date of enactment of this subsection and
17 ending on the system certification date (as that date is
18 set forth under title VI of the Housing Finance Reform
19 and Taxpayer Protection Act of 2014), the Agency shall
20 establish and collect from the enterprises annual assess-
21 ments in addition to those required under subsection (a)
22 in an amount not exceeding the amount sufficient to pro-
23 vide for the reasonable costs (including administrative
24 costs) and expenses of the Federal Mortgage Insurance
25 Corporation, including those purposes detailed in section

1 604(b)(4)(A) of the Housing Finance Reform and Tax-
2 payer Protection Act of 2014. All amounts collected under
3 this subsection shall be transferred to the Federal Mort-
4 gage Insurance Corporation. The annual assessment shall
5 be payable semiannually for each fiscal year, on October
6 1 and April 1.”.

7 (b) TREATMENT OF ASSESSMENTS.—

8 (1) DEPOSIT.—

9 (A) AMOUNTS RECEIVED BY THE COR-
10 PORATION.—Amounts received by the Corpora-
11 tion from assessments imposed under section
12 1316(i) of the Safety and Soundness Act shall
13 be deposited by the Corporation in the Mort-
14 gage Insurance Fund.

15 (B) AMOUNTS RECEIVED BY THE EXISTING
16 AGENCY.—Amounts received by the Existing
17 Agency beginning on the date of enactment of
18 this Act until the agency transfer date from as-
19 sessments imposed under section 1316(i) of the
20 Safety and Soundness Act shall be held in an
21 account of the Existing Agency and shall be
22 transferred to the Corporation on the agency
23 transfer date for deposit in the Mortgage Insur-
24 ance Fund in accordance with subparagraph
25 (A).

1 (C) EXEMPTION FROM APPORTIONMENT.—
2 Notwithstanding any other provision of law,
3 amounts received by the Corporation from any
4 assessment imposed under section 1316(i) of
5 the Safety and Soundness Act shall not be sub-
6 ject to apportionment for the purposes of chap-
7 ter 15 of title 31, United States Code, or under
8 any other authority.

9 (D) RULE OF CONSTRUCTION.—Amounts
10 received by the Corporation from any assess-
11 ment imposed under section 1316(i) of the
12 Safety and Soundness Act shall not be con-
13 strued to be Government or public funds or ap-
14 propriated money.

15 (2) USE OF FUNDS.—

16 (A) IN GENERAL.—The Existing Agency
17 shall use amounts received from assessments
18 imposed under section 1316(i) of the Safety
19 and Soundness Act solely for the purpose of
20 funding the Mortgage Insurance Fund on the
21 agency transfer date.

22 (B) TREASURY INVESTMENTS.—The Exist-
23 ing Agency may request the Secretary of the
24 Treasury to invest such portions of amounts re-

1 ceived from assessments imposed under section
2 1316(i) of the Safety and Soundness Act.

3 (C) GOVERNMENT OBLIGATIONS.—Pursu-
4 ant to a request under subparagraph (B), the
5 Secretary of the Treasury shall invest such
6 amounts in Federal Government obligations—

7 (i) guaranteed as to principal and in-
8 terest by the United States with maturities
9 suitable to the needs of the Existing Agen-
10 cy; and

11 (ii) bearing interest at a rate deter-
12 mined by the Secretary of the Treasury,
13 taking into consideration current market
14 yields on outstanding marketable obliga-
15 tions of the United States of comparable
16 maturity.

17 **SEC. 406. TRANSFER OF POWERS AND DUTIES ON THE SYS-**
18 **TEM CERTIFICATION DATE; CONTINUATION**
19 **AND COORDINATION OF CERTAIN ACTIONS.**

20 (a) TRANSFER OF FUNCTIONS.—Effective on the sys-
21 tem certification date and except as provided in section
22 333(a), there are transferred to the Corporation all func-
23 tions of the Federal Housing Finance Agency of the Cor-
24 poration and the Director thereof.

1 (b) COORDINATION AND CONTINUATION OF CERTAIN
2 ACTIONS.—

3 (1) IN GENERAL.—All regulations, orders, de-
4 terminations, and resolutions described in paragraph
5 (2) shall remain in effect according to the terms of
6 such regulations, orders, determinations, and resolu-
7 tions, and shall be enforceable by or against the Cor-
8 poration until modified, terminated, set aside, or su-
9 perseded in accordance with applicable law by the
10 Corporation, any court of competent jurisdiction, or
11 operation of law.

12 (2) APPLICABILITY.—A regulation, order, de-
13 termination, or resolution is described in this para-
14 graph if it—

15 (A) was issued, made, prescribed, or al-
16 lowed to become effective by—

17 (i) the Existing Agency;

18 (ii) the Federal Housing Finance
19 Agency of the Corporation;

20 (iii) the Federal Housing Finance
21 Board; or

22 (iv) a court of competent jurisdiction;

23 (B) relates to the performance of functions
24 that are transferred by subsection (a); and

1 (C) is in effect on the effective date of the
2 transfer under subsection (a).

3 (c) USE OF AGENCY SERVICES.—Any agency, depart-
4 ment, or other instrumentality of the United States, and
5 any successor to any such agency, department, or instru-
6 mentality, which was providing supporting services to the
7 Federal Housing Finance Agency of the Corporation be-
8 fore the system certification date in connection with func-
9 tions that are transferred to the Corporation under sub-
10 section (a) shall—

11 (1) continue to provide such services, on a reim-
12 bursable basis, until the transfer of such functions
13 is complete; and

14 (2) consult with any such agency to coordinate
15 and facilitate a prompt and reasonable transition.

16 (d) SAVINGS PROVISIONS.—

17 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
18 TIONS NOT AFFECTED.—Subsection (a) shall not af-
19 fect the validity of any right, duty, or obligation of
20 the United States, the Director of the Federal Hous-
21 ing Finance Agency of the Corporation, or any other
22 person, which—

23 (A) arises under—

24 (i) the Safety and Soundness Act;

- 1 (ii) the Federal National Mortgage
2 Association Charter Act;
- 3 (iii) the Federal Home Loan Mort-
4 gage Corporation Act; or
- 5 (iv) any other provision of law appli-
6 cable with respect to the Federal Housing
7 Finance Agency; and
- 8 (B) existed on the day before the system
9 certification date.

10 (2) CONTINUATION OF SUITS.—No action or
11 other proceeding commenced by or against the Di-
12 rector of the Federal Housing Finance Agency of
13 the Corporation in connection with functions that
14 are transferred to the Corporation under subsection
15 (a) shall abate by reason of the enactment of this
16 Act, except that the Corporation shall be substituted
17 for the Director of the Federal Housing Finance
18 Agency of the Corporation as a party to any such
19 action or proceeding.

20 **SEC. 407. TECHNICAL AND CONFORMING AMENDMENTS RE-**
21 **LATING TO ABOLISHMENT OF FHFA.**

22 (a) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the system certification
24 date.

1 (b) ACCESS TO LOCAL TV ACT OF 2000.—Section
2 1004(d)(2)(D)(iii) of the Launching Our Communities’
3 Access to Local Television Act of 2000 (47 U.S.C.
4 1103(d)(2)(D)(iii)) is amended by striking “Federal
5 Housing Finance Agency” and inserting “Federal Mort-
6 gage Insurance Corporation”.

7 (c) COMMODITY EXCHANGE ACT.—Section
8 1a(39)(E) of the Commodity Exchange Act (7 U.S.C.
9 1a(39)(E)) is amended by striking “Federal Housing Fi-
10 nance Agency” and inserting “Federal Mortgage Insur-
11 ance Corporation”.

12 (d) EMERGENCY ECONOMIC STABILIZATION ACT OF
13 2008.—The Emergency Economic Stabilization Act of
14 2008 (12 U.S.C. 5201 note) is amended—

15 (1) in section 104(b)(3), by striking “the Direc-
16 tor of the Federal Housing Finance Agency” and in-
17 serting “the Chairperson of the Federal Mortgage
18 Insurance Corporation”;

19 (2) in section 109(b), by striking “Federal
20 Housing Finance Agency” and inserting “Federal
21 Mortgage Insurance Corporation”; and

22 (3) in section 110(a)(1)(A), by striking “Fed-
23 eral Housing Finance Agency” and inserting “Fed-
24 eral Mortgage Insurance Corporation”.

1 (e) FEDERAL NATIONAL MORTGAGE ASSOCIATION
2 CHARTER ACT.—The Federal National Mortgage Associa-
3 tion Charter Act (12 U.S.C. 1716 et seq.) is amended—

4 (1) in section 303(c)(2), by striking “Director
5 of the Federal Housing Finance Agency” and insert-
6 ing “Chairperson of the Federal Mortgage Insurance
7 Corporation”; and

8 (2) in section 309—

9 (A) in subsection (d)(3)(B)—

10 (i) by striking “Federal Housing Fi-
11 nance Agency” and inserting “Federal
12 Mortgage Insurance Corporation”; and

13 (ii) by striking “Director” each place
14 that term appears and inserting “Chair-
15 person”;

16 (B) in subsection (k)(1), by striking “Di-
17 rector of the Federal Housing Finance Agency”
18 and inserting “Chairperson of the Federal
19 Mortgage Insurance Corporation”;

20 (C) in subsection (m)—

21 (i) in paragraph (1), by striking “Di-
22 rector of the Federal Housing Finance
23 Agency” and inserting “Chairperson of the
24 Federal Mortgage Insurance Corporation”;
25 and

1 (ii) in paragraph (2)—

2 (I) by striking “Federal Housing
3 Finance Agency” and inserting “Fed-
4 eral Mortgage Insurance Corpora-
5 tion”; and

6 (II) by striking “Director” each
7 place that term appears and inserting
8 “Chairperson”; and

9 (D) in subsection (n)—

10 (i) in paragraph (1), by striking “Di-
11 rector of the Federal Housing Finance
12 Agency” and inserting “Chairperson of the
13 Federal Mortgage Insurance Corporation”;

14 (ii) in paragraph (2)(L), by striking
15 “Director of the Federal Housing Finance
16 Agency” and inserting “Chairperson of the
17 Federal Mortgage Insurance Corporation”;
18 and

19 (iii) in paragraph (3)(B), by striking
20 “Director of the Federal Housing Finance
21 Agency” and inserting “Chairperson of the
22 Federal Mortgage Insurance Corporation”.

23 (f) FEDERAL DEPOSIT INSURANCE ACT.—The Fed-
24 eral Deposit Insurance Act (12 U.S.C. 1811 et seq.) is
25 amended—

1 (1) in section 7(a)(2)(A), by striking “Federal
2 Housing Finance Agency” each place that term ap-
3 pears and inserting “Federal Mortgage Insurance
4 Corporation”;

5 (2) in section 8(e)(7)(A)(vi), by striking “Fed-
6 eral Housing Finance Agency” each place that term
7 appears and inserting “Federal Mortgage Insurance
8 Corporation”; and

9 (3) in section 33(e), by striking “Federal Hous-
10 ing Finance Agency” and inserting “Federal Mort-
11 gage Insurance Corporation”.

12 (g) FEDERAL FINANCIAL INSTITUTIONS EXAMINA-
13 TION COUNCIL ACT OF 1978.—The first sentence of sec-
14 tion 1011 of the Federal Financial Institutions Examina-
15 tion Council Act of 1978 (12 U.S.C. 3310) is amended
16 by striking “ and the Federal Housing Finance Agency”.

17 (h) FEDERAL HOME LOAN BANK ACT.—Section 2 of
18 the Federal Home Loan Bank Act (12 U.S.C. 1422) is
19 amended—

20 (1) in paragraph (11), as previously amended
21 by section 402(i), by striking “Agency” and insert-
22 ing “Chairperson of the Federal Mortgage Insurance
23 Corporation”; and

24 (2) in paragraph (12), as previously amended
25 by section 402(i), by striking “the Federal Housing

1 Finance Agency within the Federal Mortgage Insur-
2 ance Corporation established under section
3 402(a)(1) of the Housing Finance Reform and Tax-
4 payer Protection Act of 2014” and inserting “Fed-
5 eral Mortgage Insurance Corporation established
6 under section 201 of the Housing Finance Reform
7 and Taxpayer Protection Act of 2014”.

8 (i) FEDERAL HOME LOAN MORTGAGE CORPORATION
9 ACT.—The Federal Home Loan Mortgage Corporation
10 Act (12 U.S.C. 1451 et seq.) is amended—

11 (1) in section 303—

12 (A) in subsection (b)(2), by striking “Di-
13 rector of the Federal Housing Finance Agency”
14 and inserting “Chairperson of the Federal
15 Mortgage Insurance Corporation”; and

16 (B) in subsection (h)—

17 (i) in paragraph (2)—

18 (I) by striking “Federal Housing
19 Finance Agency” and inserting “Fed-
20 eral Mortgage Insurance Corpora-
21 tion”; and

22 (II) by striking “Director” each
23 place that term appears and inserting
24 “Chairperson;” and

1 (ii) in paragraph (4), by striking “Di-
2 rector” and inserting “Chairperson”;

3 (2) in section 305(a)(2), by striking “Director
4 of the Federal Housing Finance Agency” and insert-
5 ing “Chairperson of the Federal Mortgage Insurance
6 Corporation”;

7 (3) in section 307—

8 (A) in subsection (c)(1), by striking “Fed-
9 eral Housing Finance Agency” and inserting
10 “Federal Mortgage Insurance Corporation”;

11 (B) in subsection (e)—

12 (i) in paragraph (1)—

13 (I) by striking “Federal Housing
14 Finance Agency” and inserting “Fed-
15 eral Mortgage Insurance Corpora-
16 tion”; and

17 (II) by striking “Director” each
18 place that term appears and inserting
19 “Chairperson”; and

20 (ii) in paragraph (2)—

21 (I) by striking “Federal Housing
22 Finance Agency” and inserting “Fed-
23 eral Mortgage Insurance Corpora-
24 tion”; and

1 (II) by striking “Director” each
2 place that term appears and inserting
3 “Chairperson”; and

4 (C) in subsection (f)—

5 (i) in paragraph (1), by striking “Di-
6 rector of the Federal Housing Finance
7 Agency” and inserting “Chairperson of the
8 Federal Mortgage Insurance Corporation”;

9 (ii) in paragraph (2), by striking “Di-
10 rector of the Federal Housing Finance
11 Agency” each place that term appears and
12 inserting “Chairperson of the Federal
13 Mortgage Insurance Corporation”; and

14 (iii) in paragraph (3)(B), by striking
15 “Director of the Federal Housing Finance
16 Agency” and inserting “Chairperson of the
17 Federal Mortgage Insurance Corporation”.

18 (j) FEDERAL HOUSING ENTERPRISES FINANCIAL
19 SAFETY AND SOUNDNESS ACT OF 1992.—The Safety and
20 Soundness Act (12 U.S.C. 4501 et seq.) is amended—

21 (1) in section 1303—

22 (A) in paragraph (2), as previously amend-
23 ed by section 402(i), by striking “the Federal
24 Housing Finance Agency within the Federal
25 Mortgage Insurance Corporation established

1 under section 402(a)(1) of the Housing Finance
2 Reform and Taxpayer Protection Act of 2014”
3 and inserting “Federal Mortgage Insurance
4 Corporation established under section 201 of
5 the Housing Finance Reform and Taxpayer
6 Protection Act of 2014”; and

7 (B) by striking paragraph (4) and insert-
8 ing the following:

9 “(4) [Reserved.]”; and

10 (C) in paragraph (9), as previously amend-
11 ed by section 402(i), by striking “Agency” and
12 inserting “Chairperson of the Federal Mortgage
13 Insurance Corporation”;

14 (2) by repealing section 1313A;

15 (3) in section 1317 (12 U.S.C. 4517)—

16 (A) by striking subsection (d); and

17 (B) by redesignating subsections (e)
18 through (i) as subsections (d) through (h), re-
19 spectively; and

20 (4) in section 1367—

21 (A) in subsection (a), in the heading, by
22 striking “AGENCY” and inserting “CORPORA-
23 TION”;

1 (B) in subsection (b), in the heading to
2 paragraph (9)(B), as so redesignated, by strik-
3 ing “AGENCY” and inserting “CORPORATION”.

4 (k) FINANCIAL INSTITUTIONS REFORM, RECOVERY,
5 AND ENHANCEMENT ACT OF 1989.—The Financial Insti-
6 tutions Reform, Recovery, and Enhancement Act of 1989
7 (Public Law 101–73; 103 Stat. 183) is amended—

8 (1) in section 402(e), by striking “Federal
9 Housing Finance Agency” each place that term ap-
10 pears and inserting “Federal Mortgage Insurance
11 Corporation”;

12 (2) in section 1124, by striking “Federal Hous-
13 ing Finance Agency” each place that term appears
14 and inserting “Federal Mortgage Insurance Cor-
15 poration”; and

16 (3) in section 1125(b), by striking “Federal
17 Housing Finance Agency” and inserting “Federal
18 Mortgage Insurance Corporation”.

19 (l) FLOOD DISASTER PROTECTION ACT OF 1973.—
20 Section 102(f)(3)(A) of the Flood Disaster Protection Act
21 of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by strik-
22 ing “Director of the Federal Housing Finance Agency”
23 and inserting “Chairperson of the Federal Mortgage In-
24 surance Corporation”.

1 (m) HOUSING ECONOMIC RECOVERY ACT OF 2008.—
2 Section 1002(b) of the Housing and Economic Recovery
3 Act of 2008 (Public Law 110–289; 122 Stat. 2661) is
4 amended—

5 (1) in paragraph (1), by striking “Federal
6 Housing Finance Agency” and inserting “Federal
7 Mortgage Insurance Corporation”; and

8 (2) in paragraph (2), by striking “Director of
9 the Agency” and inserting “Chairperson of the Fed-
10 eral Mortgage Insurance Corporation”.

11 (n) HOUSING AND URBAN-RURAL RECOVERY ACT OF
12 1983.—Section 469 of the Housing and Urban-Rural Re-
13 covery Act of 1983 (12 U.S.C. 1701p-1) is amended in
14 the first sentence by striking “Federal Housing Finance
15 Agency,”.

16 (o) MULTIFAMILY ASSISTED HOUSING REFORM AND
17 AFFORDABILITY ACT OF 1997.—Section 517(b)(4) of the
18 Multifamily Assisted Housing Reform and Affordability
19 Act of 1997 (42 U.S.C. 1437f note) is amended by strik-
20 ing “Federal Housing Finance Agency” and inserting
21 “Federal Mortgage Insurance Corporation”.

22 (p) PUBLIC LAW 93–495.—Section 111 of Public
23 Law 93–495 (12 U.S.C. 250) is amended by striking “the
24 Director of the Federal Housing Finance Agency”.

1 (q) NEIGHBORHOOD REINVESTMENT CORPORATION
2 ACT.—Section 606(c)(3) of the Neighborhood Reinvest-
3 ment Corporation Act (42 U.S.C. 8105(c)(3)) is amended
4 by striking “Federal Housing Finance Agency” and in-
5 serting “Federal Mortgage Insurance Corporation”.

6 (r) RIEGLE COMMUNITY DEVELOPMENT AND REGU-
7 LATORY IMPROVEMENT ACT OF 1994.—Section 117(e) of
8 the Riegle Community Development and Regulatory Im-
9 provement Act of 1994 (12 U.S.C. 4716(e)) is amended
10 by striking “Federal Housing Finance Agency” and in-
11 serting “Federal Mortgage Insurance Corporation”.

12 (s) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—
13 Section 1113(o) of the Right to Financial Privacy Act of
14 1978 (12 U.S.C. 3413(o)) is amended—

15 (1) in the heading to the subsection, by striking
16 “FEDERAL HOUSING FINANCE AGENCY” and insert-
17 ing “FEDERAL MORTGAGE INSURANCE CORPORA-
18 TION”;

19 (2) by striking “Federal Housing Finance
20 Agency” and inserting “Federal Mortgage Insurance
21 Corporation”; and

22 (3) by striking “Federal Housing Finance
23 Agency’s” and inserting “Federal Mortgage Insur-
24 ance Corporation’s”.

1 (t) SARBANES-OXLEY ACT OF 2002.—Section
2 105(b)(5)(B)(ii)(II) of the Sarbanes-Oxley Act of 2002
3 (15 U.S.C. 7215(b)(5)(B)(ii)(II)) is amended by striking
4 “Director of the Federal Housing Finance Agency” and
5 inserting “Chairperson of the Federal Mortgage Insurance
6 Corporation”.

7 (u) SECURITIES EXCHANGE ACT.—Section 15G of
8 the Securities Exchange Act (15 U.S.C. 78o-11) is amend-
9 ed—

10 (1) in subsection (b)(2), by striking “Federal
11 Housing Finance Agency” and inserting “Federal
12 Mortgage Insurance Corporation”; and

13 (2) in subsection (e)(4), by striking “Director
14 of the Federal Housing Finance Agency” each place
15 that term appears and inserting “Chairperson of the
16 Federal Mortgage Insurance Corporation”.

17 (v) TRUTH IN LENDING ACT.—The Truth in Lending
18 Act (15 U.S.C. 1601 et seq.) is amended—

19 (1) section 129H(b)(4), by striking “Federal
20 Housing Finance Agency” and inserting “Federal
21 Mortgage Insurance Corporation”; and

22 (2) in section 129E—

23 (A) in subsection (g)(1), by striking “Fed-
24 eral Housing Finance Agency” and inserting

1 “Federal Mortgage Insurance Corporation”;
2 and

3 (B) in subsection (h), by striking “Federal
4 Housing Finance Agency” and inserting “Fed-
5 eral Mortgage Insurance Corporation”.

6 (w) OTHER REFERENCES IN FEDERAL LAW.—On
7 and after the system certification date, any reference to
8 the Federal Housing Finance Agency or the Director
9 thereof in any law, rule, regulation, certificate, directive,
10 instruction, or other official paper in force on the system
11 certification date shall be considered to refer and apply
12 to the Federal Mortgage Insurance Corporation and the
13 Chairperson thereof, respectively.

14 **SEC. 408. REPEAL OF MANDATORY HOUSING GOALS.**

15 (a) REPEAL OF HOUSING GOALS.—The Safety and
16 Soundness Act is amended by striking sections 1331
17 through 1336 (12 U.S.C. 4561–6).

18 (b) CONFORMING AMENDMENTS.—The Safety and
19 Soundness Act (12 U.S.C. 4501 et seq.) is amended—

20 (1) in section 1303(28), by striking “, and, for
21 the purposes” and all that follows through “des-
22 ignated disaster areas”;

23 (2) in section 1324(b)(1)(A), by striking clauses
24 (i), (ii), and (iv);

25 (3) in section 1341—

- 1 (A) in subsection (a)—
- 2 (i) in paragraph (1), by inserting “or”
- 3 after the semicolon at the end;
- 4 (ii) in paragraph (2), by striking the
- 5 semicolon at the end and inserting a pe-
- 6 riod; and
- 7 (iii) by striking paragraphs (3) and
- 8 (4); and
- 9 (B) in subsection (b)(2)—
- 10 (i) in subparagraph (A), by inserting
- 11 “or” after the semicolon at the end;
- 12 (ii) by striking subparagraphs (B) and
- 13 (C); and
- 14 (iii) by redesignating subparagraph
- 15 (D) as subparagraph (B);
- 16 (4) in section 1345(a)—
- 17 (A) in paragraph (1), by inserting “or”
- 18 after the semicolon at the end;
- 19 (B) in paragraph (2), by striking the semi-
- 20 colon at the end and inserting a period; and
- 21 (C) by striking paragraphs (3) and (4);
- 22 and
- 23 (5) in section 1371(a)(2), by striking “with any
- 24 housing goal established under subpart B of part 2

1 of subtitle A of this title, with section 1336 or 1337
2 of this title.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of enactment of
5 this Act.

6 (d) REQUIRED COMPLIANCE.—Covered entities shall
7 comply with the Fair Housing Act (42 U.S.C. 3601 et
8 seq.) and the Equal Credit Opportunity Act (15 U.S.C.
9 1691 et seq.).

10 **TITLE V—IMPROVING TRANS-**
11 **PARENCY, ACCOUNTABILITY,**
12 **AND EFFICACY WITHIN AF-**
13 **FORDABLE HOUSING**

14 **SEC. 501. AFFORDABLE HOUSING ALLOCATIONS.**

15 (a) FEE AND ALLOCATION OF AMOUNTS.—In addi-
16 tion to any fees for the provision of insurance established
17 in accordance with title III, in each fiscal year the Cor-
18 poration shall—

19 (1) charge and collect a fee determined as pro-
20 vided in subsection (b) for each dollar of the out-
21 standing principal balance of all eligible mortgage
22 loans that collateralize covered securities insured
23 under this Act; and

24 (2) allocate or otherwise transfer, on an annual
25 basis—

1 (A) 75 percent of such fee amounts to the
2 Secretary of Housing and Urban Development
3 to fund the Housing Trust Fund established
4 under section 1338 of the Safety and Sound-
5 ness Act (12 U.S.C. 4568);

6 (B) 15 percent of such fee amounts to the
7 Secretary of the Treasury to fund the Capital
8 Magnet Fund established under section 1339 of
9 the Safety and Soundness Act (12 U.S.C.
10 4569); and

11 (C) 10 percent of such fee amounts to the
12 Corporation to fund the Market Access Fund
13 established under section 504.

14 (b) DETERMINATION OF FEE.—The fee required to
15 be charged under subsection (a) shall be determined as
16 follows:

17 (1) INITIAL FEE.—Beginning on the date of en-
18 actment of this Act and ending upon the date set
19 forth under paragraph (2)(E), the fee shall be an
20 amount equal to 10 basis points for each dollar of
21 the outstanding principal balance of eligible mort-
22 gage loans collateralizing covered securities insured
23 under this Act.

24 (2) SUBSEQUENT INCENTIVE-BASED FEE.—Not
25 later than 6 months after the date that the Corpora-

1 tion has approved at least 2 approved guarantors,
2 approved multifamily guarantors, or approved
3 aggregators, the Corporation shall, by regulation,
4 after notice and comment, establish a formula for
5 determining the fee that meets the following criteria:

6 (A) AVERAGE FOR ALL FEES.—The aver-
7 age of fees charged on the total outstanding
8 principal balance of all eligible mortgage loans
9 collateralizing covered securities insured under
10 this Act shall be equal to 10 basis points.

11 (B) PERMISSIBLE RANGE.—The highest
12 basis point fee charged to an approved guar-
13 antor, approved multifamily guarantor, or ap-
14 proved aggregator engaged in a covered guar-
15 antee transaction or an approved aggregator
16 engaged in a covered market-based risk-sharing
17 transaction shall not exceed 2 times the lowest
18 basis point fee charged.

19 (C) INCENTIVES TO SERVE UNDERSERVED
20 MARKET SEGMENTS.—

21 (i) IN GENERAL.—The formula deter-
22 mined under this subsection shall provide
23 that the amount by which any particular
24 fee charged to an approved guarantor, ap-
25 proved multifamily guarantor, or approved

1 aggregator engaged in a covered guarantee
2 transaction or an approved aggregator en-
3 gaged in a covered market-based risk-shar-
4 ing transaction may be more or less than
5 the average fee required under subpara-
6 graph (A) based upon consideration of the
7 following factors:

8 (I) PERFORMANCE RELATIVE TO

9 PEERS.—The performance of each ap-
10 proved guarantor, approved multi-
11 family guarantor, or approved
12 aggregator engaged in a covered guar-
13 antee transaction and each approved
14 aggregator engaged in a covered mar-
15 ket-based risk-sharing transaction in
16 serving underserved market segments,
17 as identified and defined under sec-
18 tion 210, relative to the performance
19 of all other approved guarantors, ap-
20 proved multifamily guarantors, or ap-
21 proved aggregators engaged in a cov-
22 ered guarantee transaction or covered
23 market-based risk-sharing transaction.

24 (II) PERFORMANCE RELATIVE TO

25 PRIMARY MARKET LOAN ORIGINATION

1 DATA.—The performance of each ap-
2 proved guarantor, approved multi-
3 family guarantor, or approved
4 aggregator engaged in a covered guar-
5 antee transaction and each approved
6 aggregator engaged in a covered mar-
7 ket-based risk-sharing transaction in
8 serving underserved market segments,
9 as identified and defined under sec-
10 tion 210, relative to the level of pri-
11 mary market mortgage originations in
12 each of the underserved market seg-
13 ments so identified and defined that
14 were facilitated by the approved guar-
15 antor, approved multifamily guar-
16 antor, or approved aggregator’s en-
17 gagement in a covered guarantee
18 transaction or the approved
19 aggregator’s engagement in a covered
20 market-based risk-sharing transaction.

21 (III) RELATIVE EXTENT TO
22 WHICH INDIVIDUAL MARKET SEG-
23 MENTS ARE UNDERSERVED.—The rel-
24 ative extent to which each of the un-
25 derserved market segments, as identi-

1 fied and defined under section 210,
2 that have primary market mortgage
3 originations facilitated by the ap-
4 proved guarantor, approved multi-
5 family guarantor, or approved
6 aggregator's engagement in a covered
7 guarantee transaction or the approved
8 aggregator's engagement in a covered
9 market-based risk-sharing transaction
10 is underserved.

11 (ii) **WEIGHING FACTORS.**—The for-
12 mula determined under this subsection
13 shall assign such weights to each of the
14 factors set forth under clause (i) as the
15 Corporation determines necessary and ap-
16 propriate.

17 (iii) **DATA FOR MEASURING FAC-**
18 **TORS.**—To measure the performance in
19 serving underserved market segments, as
20 identified and defined under section 210,
21 by approved guarantors, approved multi-
22 family guarantors, or approved aggregators
23 engaged in a covered guarantee transaction
24 and approved aggregators engaged in a
25 covered market-based risk-sharing trans-

1 action and the extent to which a market
2 segment is underserved, the formula deter-
3 mined under this subsection shall provide
4 for the use of—

5 (I) the identifications and defini-
6 tions of underserved market segments
7 established by the Corporation under
8 section 210;

9 (II) data and other information
10 in the annual report filed with the
11 Corporation by each approved guar-
12 antor, approved multifamily guar-
13 antor, or approved aggregator en-
14 gaged in a covered guarantee trans-
15 action and each approved aggregator
16 engaged in a covered market-based
17 risk-sharing transaction, as required
18 under section 210;

19 (III) loan level data, to the ex-
20 tent possible in the manner required
21 by the Home Mortgage Disclosure Act
22 (12 U.S.C. 2801 et seq.) on activities
23 related to covered securities; and

24 (IV) other publicly available data.

1 (D) THIRD-PARTY ENTITY TO MEASURE
2 FACTORS.—

3 (i) SELECTION.—The Corporation,
4 through a competitive process, shall select
5 an entity independent of the Corporation
6 to gather, use, and provide to the Corpora-
7 tion the data required under subparagraph
8 (C)(iii).

9 (ii) RANKING.—The entity selected
10 under clause (i) shall—

11 (I) analyze the data required
12 under subparagraph (C)(iii); and

13 (II) rank the approved guaran-
14 tors, approved multifamily guarantors,
15 or approved aggregators engaged in a
16 covered guarantee transaction and the
17 approved aggregators engaged in a
18 covered market-based risk-sharing
19 transaction, applying the formula es-
20 tablished by the Corporation.

21 (iii) TIMING OF RANKING.—The entity
22 selected under clause (i) shall, on an an-
23 nual basis, provide the rankings required
24 under clause (ii)(II). The annual rankings
25 required under this clause shall begin at a

1 time to be determined mutually by the en-
2 tity selected under clause (i) and the Cor-
3 poration, so that the Corporation will be
4 positioned to determine, charge, and collect
5 the first incentive-based fees beginning on
6 the date that is 12 months after the date
7 of approval of at least 2 approved guaran-
8 tors, approved multifamily guarantors, or
9 approved aggregators.

10 (E) TIMING OF CHARGING AND COL-
11 LECTING INCENTIVE-BASED FEES.—

12 (i) FIRST INCENTIVE-BASED FEES.—
13 Subject to paragraph (3), the Corporation
14 shall charge and collect the first incentive-
15 based fees required under this subsection
16 beginning on the date that is 12 months
17 after the date of the approval of at least
18 2 approved guarantors, approved multi-
19 family guarantors, or approved
20 aggregators.

21 (ii) SUBSEQUENT ANNUAL INCENTIVE-
22 BASED FEES.—Subject to paragraph (3),
23 the Corporation shall charge and collect in-
24 centive-based fees annually on the first
25 business day of each 12-month period that

1 begins after the expiration of the initial
2 12-month period set forth in clause (i).

3 (iii) COLLECTION.—

4 (I) PROCEDURES.—The Corpora-
5 tion shall, by regulation, establish pro-
6 cedures for collecting the incentive-
7 based fee required under this para-
8 graph on a periodic basis determined
9 by the Corporation.

10 (II) COMPLIANCE WITH PROCE-
11 DURES.—The Corporation shall collect
12 all incentive-based fees required under
13 this paragraph consistent with the
14 procedures established pursuant to
15 subclause (I).

16 (iv) ADJUSTMENTS TO INCENTIVE-
17 BASED FEES PAID.—

18 (I) IN GENERAL.—The Corpora-
19 tion shall make appropriate adjust-
20 ments to the incentive-based fee
21 charged to an approved guarantor, ap-
22 proved multifamily guarantor, or ap-
23 proved aggregator engaged in a cov-
24 ered guarantee transaction or an ap-
25 proved aggregator engaged in a cov-

1 ered market-based risk-sharing trans-
2 action for any year based on the—

3 (aa) application of the for-
4 mula established under this para-
5 graph to such approved guar-
6 antor, approved multifamily
7 guarantor, or approved
8 aggregator; and

9 (bb) measured performance
10 of such approved guarantor, ap-
11 proved multifamily guarantor, or
12 approved aggregator in that year.

13 (II) FORM OF ADJUSTMENTS.—

14 Any adjustments made pursuant to
15 subclause (I) may take the form of—

16 (aa) a credit against the fee
17 paid by an approved guarantor,
18 approved multifamily guarantor,
19 or approved aggregator for the
20 year; or

21 (bb) an additional amount
22 owing on the fee for the year by
23 the approved guarantor, ap-
24 proved multifamily guarantor, or
25 approved aggregator.

1 (v) FREQUENCY OF INCENTIVE-BASED
2 FEE COLLECTION.—In determining the ap-
3 propriate periodic basis for collecting the
4 incentive-based fees required under this
5 paragraph under clause (iii), the Corpora-
6 tion shall take into consideration the need
7 to make appropriate adjustments to the
8 fees under clause (iv) through credits or
9 additional billings.

10 (vi) RULE OF CONSTRUCTION.—Noth-
11 ing in this subparagraph shall be construed
12 to waive, override, or in any manner super-
13 sede the requirement set forth under sub-
14 paragraph (A).

15 (F) ADDITIONAL INCENTIVES TO SERVE
16 UNDERSERVED MARKET SEGMENTS.—

17 (i) FEE CREDITS FROM THE MARKET
18 ACCESS FUND.—Notwithstanding any pro-
19 vision of section 504 or any other provision
20 of law, the Corporation may use up to 50
21 percent of the amounts in the Market Ac-
22 cess Fund, determined as of the date that
23 an incentive-based fee under subparagraph
24 (E) is to be charged in any year, to provide
25 1 or more approved guarantors, approved

1 multifamily guarantors, or approved
2 aggregators engaged in a covered guar-
3 antee transaction or approved aggregators
4 engaged in a covered market-based risk-
5 sharing transaction with additional incen-
6 tives to serve underserved market seg-
7 ments, as identified and defined under sec-
8 tion 210, through the award of a credit
9 that may be applied to reduce the annual
10 fee charged to the approved guarantor, ap-
11 proved multifamily guarantor, or approved
12 aggregator if that person exceeds perform-
13 ance measures related to the service of
14 such underserved market segments estab-
15 lished by the Corporation.

16 (ii) **RULE REQUIRED.**—The Corpora-
17 tion shall establish, by regulation, the
18 terms, conditions, and performance meas-
19 ures for the awarding of credits under
20 clause (i).

21 (3) **OPT-OUT FROM INCENTIVE-BASED FEES.**—

22 (A) **ELECTION AND WRITTEN AGREE-**
23 **MENT.**—An approved guarantor, approved mul-
24 tifamily guarantor, or approved aggregator en-
25 gaged in a covered guarantee transaction or an

1 approved aggregator engaged in a covered mar-
2 ket-based risk-sharing transaction may elect to
3 be excepted from the incentive-based fee that is
4 charged under paragraph (2) by notifying the
5 Corporation in writing that the approved guar-
6 antor, approved multifamily guarantor, or ap-
7 proved aggregator agrees to pay the fee amount
8 described in subparagraph (C) of this para-
9 graph.

10 (B) TIMING FOR ELECTION.—For any 12-
11 month period for which an incentive-based fee
12 will be charged under paragraph (2), an ap-
13 proved guarantor, approved multifamily guar-
14 antor, or approved aggregator engaged in a cov-
15 ered guarantee transaction or an approved
16 aggregator engaged in a covered market-based
17 risk-sharing transaction may make an election
18 under subparagraph (A) not later than 3
19 months prior to the beginning of such 12-month
20 period.

21 (C) FEE AMOUNT FOR OPT-OUT.—If an
22 approved guarantor, approved multifamily guar-
23 antor, or approved aggregator engaged in a cov-
24 ered guarantee transaction or an approved
25 aggregator engaged in a covered market-based

1 risk-sharing transaction makes an election
2 under subparagraph (A), the Corporation shall
3 charge to, and collect from, the approved guar-
4 antor, approved multifamily guarantor, or ap-
5 proved aggregator a fee in an amount equal to
6 the highest fee charged by Corporation for the
7 12-month period under the ranking made under
8 paragraph (2)(D).

9 (D) OPT-OUT NOT TO AFFECT REPORTING
10 REQUIREMENTS.—An election made under sub-
11 subparagraph (A) shall not release, diminish, or
12 otherwise affect any requirement set forth by
13 this Act that requires an approved guarantor,
14 approved multifamily guarantor, or approved
15 aggregator engaged in a covered guarantee
16 transaction or an approved aggregator engaged
17 in a covered market-based risk-sharing trans-
18 action to furnish to the Corporation such infor-
19 mation as the Corporation is authorized by this
20 Act to obtain, including the annual report re-
21 quired to be filed with the Corporation under
22 section 210.

23 (e) CONTINUING OBLIGATION.—The fee required to
24 be charged under subsection (a) shall be collected for the
25 life of the covered security.

1 (d) SUSPENSION OF CONTRIBUTIONS.—The Corpora-
2 tion may temporarily suspend allocations under subsection
3 (a)(2) upon a finding by the Corporation that such alloca-
4 tions are contributing, or would contribute, to the finan-
5 cial instability of the Mortgage Insurance Fund estab-
6 lished under section 303.

7 (e) RULE OF CONSTRUCTION.—The cost of the fee
8 required to be charged under subsection (a) shall not be
9 borne by eligible borrowers.

10 **SEC. 502. HOUSING TRUST FUND.**

11 Section 1338 of the Safety and Soundness Act (12
12 U.S.C. 4568) is amended—

13 (1) in subsection (a)(1)—

14 (A) in the first sentence, by inserting “or
15 pursuant to section 501 of the Housing Finance
16 Reform and Taxpayer Protection Act of 2014”
17 after “section 1337”; and

18 (B) in the second sentence, by inserting
19 “federally-recognized tribes and” after “grants
20 to”;

21 (2) by striking subsection (b) and inserting the
22 following:

23 “(b) [Reserved.]”;

24 (3) in subsection (c)—

1 (A) in paragraph (1), by striking “Except
2 as provided in subsection (b), the” and insert-
3 ing “The”;

4 (B) in paragraph (2)—

5 (i) by striking “(as such term is de-
6 fined in section 4 of the Native American
7 Housing Assistance and Self-Determina-
8 tion Act of 1997 (25 U.S.C. 4103))”;

9 (ii) by adding at the end the fol-
10 lowing: “An Indian tribe receiving grant
11 amounts under this subsection may des-
12 ignate a federally recognized tribe or a
13 tribally designated housing entity to re-
14 ceive such grant amounts. Nothing in this
15 subsection shall limit or be construed to
16 limit the ability of an Indian tribe or a
17 tribally designated housing entity from
18 being a permissible designated recipient of
19 grant amounts provided by a State under
20 this section.”;

21 (C) in paragraph (3)—

22 (i) in the heading, by inserting “IN-
23 DIAN TRIBES AND” before “STATES”;

1 (ii) in subparagraph (A), by striking
2 “The Secretary shall” and insert the fol-
3 lowing:

4 “(i) MINIMUM TRIBAL DISTRIBUTIONS.—
5

6 (I) IN GENERAL.—The Sec-
7 retary, acting through the Office of
8 Native American Programs, shall dis-
9 tribute via competitive grants the
10 amounts determined under subclause
11 (II) and made available under this
12 subsection to federally recognized
13 tribes and tribally designated housing
14 entities.

15 (II) AMOUNTS.—The total
16 amount required to be distributed
17 under this subclause for a fiscal year
18 shall be the greater of \$20,000,000,
19 or 2 percent of the total amount of
20 amounts allocated for the Housing
21 Trust Fund under this section.

22 (III) USE OF AMOUNTS.—Com-
23 petitive grant amounts received by a
24 federally recognized tribe or a tribally
25 designated housing entity under this

1 clause may be used, or committed to
2 use, only for those activities that are
3 identified as eligible affordable hous-
4 ing activities under section 202 of the
5 Native American Housing Assistance
6 and Self-Determination Act of 1996
7 (25 U.S.C. 4132).

8 “(IV) EVALUATION OF APPLICA-
9 TIONS.—

10 “(aa) IN GENERAL.—In
11 evaluating any application for the
12 receipt of competitive grant
13 amounts authorized under this
14 clause, the Secretary, acting
15 through the Office of Native
16 American Programs, shall con-
17 sider with respect to the federally
18 recognized tribe applicant or trib-
19 ally designated housing entity ap-
20 plicant and to Indian reserva-
21 tions and other Indian areas as-
22 sociated with the federally recog-
23 nized tribe applicant or served by
24 the tribally designated housing

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1 entity applicant evaluation cri-
2 teria, including the following:

3 “(AA) Level of poverty
4 on the Indian reservation or
5 in the Indian area.

6 “(BB) Level of unem-
7 ployment on the Indian res-
8 ervation or in the Indian
9 area.

10 “(CC) Condition of
11 housing stock on the Indian
12 reservation or in the Indian
13 area.

14 “(DD) Level of over-
15 crowded housing on the In-
16 dian reservation or in the
17 Indian area, as measured by
18 the number of households in
19 which the number of persons
20 per room is greater than 1.

21 “(EE) Presence and
22 prevalence of black mold on
23 the Indian reservation or in
24 the Indian area.

1 “(FF) Demonstrated
2 experience, capacity, and
3 ability of the applicant to
4 manage affordable housing
5 programs, including multi-
6 family rental housing pro-
7 grams, homeownership pro-
8 grams, and programs to as-
9 sist purchasers with down
10 payments, closing costs, or
11 interest rate buy-downs.

12 “(GG) Demonstrated
13 ability of the applicant to
14 meet the requirements under
15 the Native American Hous-
16 ing Assistance and Self-De-
17 termination Act of 1996 (25
18 U.S.C. 4101 et. seq.), in-
19 cluding the timely and effi-
20 cient expenditure of funds.

21 “(HH) Such other cri-
22 teria as may be specified by
23 the Secretary in order to
24 evaluate the overall quality
25 of the proposed project, the

1 feasibility of the proposed
2 project, and whether the
3 proposed project will address
4 the housing needs on the In-
5 dian reservation or in the
6 Indian area.

7 “(bb) REVIEW OF DATA.—In
8 evaluating any application for the
9 receipt of competitive grant
10 amounts authorized under this
11 clause, the Secretary, acting
12 through the Office of Native
13 American Programs, shall permit
14 a federally recognized tribe appli-
15 cant or a tribally designated
16 housing entity applicant to sup-
17 plement or replace, in whole or in
18 part, any data compiled and pro-
19 duced by the Bureau of the Cen-
20 sus and upon which the Sec-
21 retary, acting through the Office
22 of Native American Program, re-
23 lies, provided such tribally-col-
24 lected data meets the Depart-
25 ment of Housing and Urban De-

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1 velopment’s standards for accu-
2 racy.

3 “(V) TREATMENT OF FUNDS.—
4 Notwithstanding any other provision
5 of law, competitive grant amounts re-
6 ceived under this clause shall not be
7 considered Federal funds for purposes
8 of matching other Federal sources of
9 funds.

10 “(VI) RULE OF CONSTRUC-
11 TION.—The requirements under
12 clause (ii), subparagraphs (B) and (C)
13 of this paragraph, and paragraphs (4)
14 through (8) and paragraph (10)(A) of
15 this subsection shall not apply to any
16 amounts distributed under this clause
17 to a federally recognized tribe or a
18 tribally designated housing entity.

19 “(ii) STATE DISTRIBUTIONS.—From
20 any amounts remaining in the Housing
21 Trust Fund after the distribution of the
22 amounts required under clause (i), the Sec-
23 retary shall”;

1 (iii) in subparagraph (B), by striking
2 “subparagraph (A)” and inserting “sub-
3 paragraph (A)(ii)”; and

4 (iv) in subparagraph (C), by striking
5 “subparagraph (A)” and inserting “sub-
6 paragraph (A)(ii)”;
7 (D) in paragraph (4)—

8 (i) in subparagraph (B), by striking
9 “other than fiscal year 2009”; and

10 (ii) by striking subparagraph (C), and
11 inserting the following:

12 “(C) MINIMUM STATE ALLOCATIONS.—

13 “(i) IN GENERAL.—Except as pro-
14 vided in clause (ii), if the formula amount
15 determined under paragraph (3) for a fis-
16 cal year would allocate less than
17 \$10,000,000 to any of the 50 States of the
18 United States or the District of Columbia,
19 the allocation for such State of the United
20 States or the District of Columbia shall be
21 the greater of \$10,000,000, or 1 percent of
22 the total amount of amounts allocated for
23 the Housing Trust Fund under this section
24 and the increase in any such allocation
25 shall be deducted pro rata from the alloca-

1 tions made to all other of the States (as
2 such term is defined in section 1303).

3 “(ii) EXCEPTION.—If the allocation to
4 the Housing Trust Fund under section
5 501(a)(2)(A) of the Housing Finance Re-
6 form and Taxpayer Protection Act of 2014
7 for a fiscal year is less than
8 \$1,000,000,000, the minimum allocation to
9 any of the 50 States of the United States
10 or the District of Columbia shall be the
11 greater of \$5,000,000 or 1 percent of the
12 total amount of amounts allocated for the
13 Housing Trust Fund under this section
14 and the increase in any such allocation
15 shall be deducted pro rata from the alloca-
16 tions made to all other of the States (as
17 such term is defined in section 1303).”;

18 (E) in paragraph (7)(B)(iv), by striking
19 “section 132” and inserting “section 1132”;
20 and

21 (F) by adding at the end the following:

22 “(11) RULE OF CONSTRUCTION.—Nothing in
23 this subsection shall be construed to limit the ability
24 of a federally recognized tribe or a tribally des-

1 ignated housing entity from receiving grant amounts
2 provided by a State under this section.”; and

3 (4) in subsection (f), by adding at the end the
4 following:

5 “(7) TRIBAL TERMS.—

6 “(A) IN GENERAL.—The terms ‘federally
7 recognized tribe’, ‘Indian area’, ‘Indian tribe’,
8 and ‘tribally designated housing entity’ have the
9 same meaning as in section 4 of the Native
10 American Housing Assistance and Self-Deter-
11 mination Act of 1996 (25 U.S.C. 4103).

12 “(B) INDIAN RESERVATION.—The term
13 ‘Indian reservation’ means land subject to the
14 jurisdiction of an Indian tribe.”.

15 **SEC. 503. CAPITAL MAGNET FUND.**

16 Section 1339 of the Safety and Soundness Act (12
17 U.S.C. 4569) is amended—

18 (1) in subsection (b)(1), by inserting “or sec-
19 tion 501 of the Housing Finance Reform and Tax-
20 payer Protection Act of 2014” after “section 1337”;

21 (2) in subsection (c)(2), by inserting “and trib-
22 al” after “rural”; and

23 (3) in subsection (h)(2)(A), by inserting “and
24 tribal” after “rural”.

1 **SEC. 504. MARKET ACCESS FUND.**

2 (a) ESTABLISHMENT.—The Corporation shall estab-
3 lish a fund, to be known as the “Market Access Fund”,
4 which shall be maintained and administered by the Office
5 of Consumer and Market Access.

6 (b) DEPOSITS.—The Market Access Fund shall be
7 credited with—

8 (1) the share of the fee charged and collected
9 by the Corporation under section 501; and

10 (2) such other amounts as may be appropriated
11 or transferred to the Market Access Fund.

12 (c) PURPOSE.—Amounts in the Market Access Fund
13 shall be eligible for use by grantees to address the home-
14 ownership and rental housing needs of extremely low-,
15 very low-, low-, and moderate-income and underserved or
16 hard-to-serve populations by—

17 (1) providing grants and loans for research, de-
18 velopment, and pilot testing of innovations in con-
19 sumer education, product design, underwriting, and
20 servicing;

21 (2) offering additional credit support for certain
22 eligible mortgage loans or pools of eligible mortgage
23 loans, such as by covering a portion of any capital
24 required to obtain insurance from the Corporation
25 under this Act, provided that amounts for such addi-

1 tional credit support do not replace borrower funds
2 required of an eligible mortgage loan;

3 (3) providing grants and loans, including
4 through the use of pilot programs of sufficient scale,
5 to support the research and development of sustain-
6 able homeownership and affordable rental programs,
7 which programs shall include manufactured homes
8 purchased through real estate and personal property
9 loans and manufactured homes used as rental hous-
10 ing, provided that such grant or loan amounts are
11 used only for the benefit of families whose income
12 does not exceed 120 percent of the median income
13 for the area as determined by the Corporation, with
14 adjustments for family size;

15 (4) providing limited credit enhancement, and
16 other forms of credit support, for product and serv-
17 ices that—

18 (A) will increase the rate of sustainable
19 homeownership and affordable rental housing,
20 including manufactured homes purchased
21 through real estate and personal property loans
22 and manufactured homes used as rental hous-
23 ing, by individuals or families whose income
24 does not exceed 120 percent of the area median

1 income as determined by the Corporation, with
2 adjustments for family size; and

3 (B) might not otherwise be offered or sup-
4 ported by a pilot program of sufficient scale to
5 determine the viability of such products and
6 services in the private market;

7 (5) providing housing counseling by a HUD-ap-
8 proved housing counseling agency; and

9 (6) providing incentives to achieve broader ac-
10 cess to credit.

11 (d) ANNUAL REPORT.—

12 (1) IN GENERAL.—The Chairperson shall, on
13 an annual basis, report to Congress on the perform-
14 ance and outcome of grants, loans, or credit support
15 programs funded by the Market Access Fund in ac-
16 cordance with subsection (c), including an evaluation
17 of how each grant, loan, or credit support pro-
18 gram—

19 (A) succeeded in meeting or failed to meet
20 the need of certain populations, especially ex-
21 tremely low-, very low-, low-, and moderate-in-
22 come and underserved or hard-to-serve popu-
23 lations; and

24 (B) succeeded in maximizing or failed to
25 maximize the leverage of public investment

1 made for each such grant, loan, or credit sup-
2 port program.

3 (2) INCLUSION IN ANNUAL REPORT.—The
4 Chairperson shall include the report required under
5 paragraph (1) in the annual report required under
6 section 206.

7 **SEC. 505. ADDITIONAL TAXPAYER PROTECTIONS.**

8 (a) NOT TO BE USED FOR POLITICAL ACTIVITIES.—
9 Consistent with the existing requirements under sections
10 1338(c)(10)(D) and 1339(h)(5) of the Safety and Sound-
11 ness Act (12 U.S.C. 4568(c)(10)(D) and 4569(h)(5)) and
12 section 504 of this Act, the Secretary of Housing and
13 Urban Development, the Secretary of the Treasury, and
14 the Office of Community and Market Access, respectively,
15 shall ensure that grant amounts allocated by covered
16 grantees to eligible recipients or allocated to individuals
17 by such eligible recipients are not used for—

18 (1) political activities;

19 (2) political advocacy;

20 (3) lobbying, whether directly or through other
21 parties;

22 (4) influencing the selection, nomination, elec-
23 tion, or appointment of 1 or more candidates to any
24 Federal, State or local office;

25 (5) personal counseling services;

1 (6) travel expenses; and

2 (7) preparing or providing advice on tax re-
3 turns.

4 (b) PENALTIES.—

5 (1) CIVIL MONEY PENALTY.—If an eligible re-
6 cipient or any other individual in receipt of grant
7 amounts described by this section violates any provi-
8 sion of subsection (a), the Secretary of Housing and
9 Urban Development, the Secretary of the Treasury,
10 or the Corporation, as the case may be, may impose
11 a civil penalty on such recipient or individual, as the
12 case may be, of not more than \$1,000,000 for each
13 violation.

14 (2) CRIMINAL PENALTIES.—Whoever, being
15 subject to the provisions of subsection (a), knowingly
16 participates, directly or indirectly, in any manner in
17 conduct that results in a violation of such provisions
18 shall, notwithstanding section 3571 of title 18,
19 United States Code, be fined not more than
20 \$1,000,000 for each violation, imprisoned for not
21 more than 5 years, or both.

22 (3) RULE OF CONSTRUCTION.—The penalties
23 imposed under paragraphs (1) or (2) shall be in ad-
24 dition to any other available civil remedy or any
25 other available criminal penalty and may be imposed

1 whether or not the Secretary of Housing and Urban
2 Development, the Secretary of the Treasury, or the
3 Corporation, as the case may be, imposes other ad-
4 ministrative sanctions.

5 (c) DEFINITION.—As used in this section—

6 (1) the term “covered grantee” means—

7 (A) for purposes of the Housing Trust
8 Fund, a State or State designated entity; and

9 (B) for purposes of the Capital Magnet
10 Fund, an eligible grantee as described under
11 section 1339(e) of the Safety and Soundness
12 Act (12 U.S.C. 4569(e));

13 (2) the term “eligible recipient” means—

14 (A) for purposes of the Housing Trust
15 Fund, a recipient as described under section
16 1338(c)(9) of the Safety and Soundness Act
17 (12 U.S.C. 4568(c)(9)); and

18 (B) for purposes of the Capital Magnet
19 Fund, a recipient of assistance from the Capital
20 Magnet Fund;

21 (3) the term “Capital Magnet Fund” means the
22 Capital Magnet Fund established under section
23 1339 of the Safety and Soundness Act (12 U.S.C.
24 4569); and

1 (4) the term “Housing Trust Fund” means the
2 Housing Trust Fund established under section 1338
3 of the Safety and Soundness Act (12 U.S.C. 4568).

4 (d) **RULE OF CONSTRUCTION.**—Nothing in sub-
5 section (a) shall be construed to prevent funds from being
6 used for—

7 (1) HUD-approved housing counseling services;

8 (2) financial literacy education; or

9 (3) application fees, permits, or other construc-
10 tion-related expenses, if funds are authorized for
11 such construction.

12 **TITLE VI—TRANSITION AND**
13 **TERMINATION OF FANNIE**
14 **MAE AND FREDDIE MAC**

15 **SEC. 601. MINIMUM HOUSING FINANCE SYSTEM CRITERIA**
16 **TO BE MET PRIOR TO SYSTEM CERTIFI-**
17 **CATION DATE.**

18 (a) **SYSTEM CERTIFICATION DATE.**—The system cer-
19 tification date shall be the date that the Board of Direc-
20 tors, in its sole discretion, certifies by a majority vote
21 that—

22 (1) the Corporation is able to undertake, in a
23 manner found satisfactory to the Board, the duties
24 specified by this Act, and any amendments made by
25 this Act; and

1 (2) all the minimum criteria set forth under
2 subsection (b) with respect to the housing finance
3 system have been fully satisfied.

4 (b) MINIMUM HOUSING FINANCE SYSTEM CRI-
5 TERIA.—The Board of Directors shall consider the fol-
6 lowing minimum criteria in determining whether to certify
7 that the new housing finance system is ready:

8 (1) TAXPAYER PROTECTION.—The Department
9 of the Treasury advised the Board of Directors that
10 laws and contracts are in place to provide for com-
11 pensation to the Department for its support of the
12 enterprises and the housing finance system.

13 (2) SECURITIZATION PLATFORM AND STAND-
14 ARDIZED SECURITIES.—The Securitization Platform
15 is developed and able to issue standardized securities
16 for the single-family covered securities market.

17 (3) SMALL LENDER MUTUALS.—At least 1
18 small lender mutual is fully operational and able to
19 undertake the duties specified in section 315.

20 (4) APPROVED ENTITIES.—A sufficient number
21 of approved entities have been approved pursuant
22 the provisions of subtitle B of title III—

23 (A) to assume a reasonable level of first
24 loss position through approved guarantors or

1 through approved credit risk-sharing mecha-
2 nisms established under section 302; and

3 (B) to generate a substantial volume of
4 secondary mortgage market activity with re-
5 spect to single-family eligible mortgage loans
6 collateralizing single-family covered securities
7 insured in accordance with this Act.

8 (5) MULTIFAMILY MARKET.—

9 (A) WELL-FUNCTIONING MULTIFAMILY
10 MARKET.—The Corporation has approved mul-
11 tiple multifamily guarantors pursuant to title
12 VII who are providing sufficient multifamily fi-
13 nancing in the primary, secondary, and tertiary
14 geographical markets, including in rural mar-
15 kets and through a diversity of experienced
16 multifamily lenders.

17 (B) REQUIREMENTS OF THE ACT.—Ap-
18 proved multifamily guarantors are meeting the
19 requirements of this Act.

20 (C) COMPETITIVE MARKET.—There is a
21 competitive multifamily market for approved
22 multifamily guarantors engaging in multifamily
23 covered securities.

24 (D) RULE OF CONSTRUCTION.—Non-
25 compliance with the requirements of this Act by

1 any individual approved multifamily guarantor
2 shall not constitute grounds to prevent system
3 certification.

4 (c) **RULE OF CONSTRUCTION.**—The Corporation
5 shall take all steps necessary to meet each minimum hous-
6 ing finance system criteria set forth under subsection (b)
7 as expeditiously and efficiently as practicable. The Cor-
8 poration may commence providing guarantees on single-
9 family or multifamily covered securities prior to meeting
10 all the minimum housing finance system criteria set forth
11 under subsection (b).

12 (d) **NOTIFICATION TO CONGRESS.**—

13 (1) **IN GENERAL.**—The Chairperson shall
14 promptly submit to the Committee on Banking,
15 Housing, and Urban Affairs of the Senate and the
16 Committee on Financial Services of the House of
17 Representatives a written notification that the Board
18 of Directors has certified that criteria set forth
19 under subsection (b) have been met.

20 (2) **TIMING.**—The Corporation shall provide the
21 notification required under paragraph (1) not later
22 than 5 years after the date of enactment of this Act.

23 (3) **DEADLINE EXTENSIONS.**—

24 (A) **FIRST EXTENSION.**—If the Corpora-
25 tion is unable to make a certification required

1 by this section prior to the deadline required in
2 paragraph (2), the Board of Directors may,
3 with an affirmative vote of the majority of the
4 Board, extend the deadline an additional 2
5 years.

6 (B) SECOND EXTENSION.—If, after the ex-
7 piration of the first extension of 2 years, the
8 Corporation is unable to make a certification
9 required by this section, the Board of Directors
10 may, with an affirmative vote of at least $\frac{2}{3}$ of
11 the Board, extend the deadline an additional 2
12 years.

13 (C) ADDITIONAL EXTENSIONS.—If, after
14 the expiration of the second extension of 2
15 years, the Corporation is unable to make a cer-
16 tification required by this section, the Board of
17 Directors may, with a unanimous affirmative
18 vote of the Board and upon the written agree-
19 ment of the Chairman of the Board of Gov-
20 ernors of the Federal Reserve System and the
21 Secretary of the Treasury, and in consultation
22 with the Secretary of the Housing and Urban
23 Development, extend the deadline an additional
24 year, and annually thereafter utilizing the same
25 process described in this subparagraph until

1 such time as the Board of Directors makes the
2 certification required by this section.

3 **SEC. 602. TRANSITION OF THE HOUSING FINANCE SYSTEM.**

4 (a) **TRANSITION PLAN.**—The Transition Committee
5 established under section 404 shall develop a transition
6 plan not later than 12 months after the date of enactment
7 of this Act to facilitate an orderly transition to the new
8 housing finance system authorized by this Act.

9 (b) **CONTENTS OF PLAN.**—The transition plan re-
10 quired under subsection (a) shall include—

11 (1) estimated timeframes by which to achieve
12 the minimum housing finance system criteria set
13 forth under section 601(b) within 5 years after the
14 date of enactment of this Act;

15 (2) detailed actions that the Corporation will
16 take to achieve such minimum criteria;

17 (3) estimated timeframes and detailed actions
18 that the Corporation, including the Federal Housing
19 Finance Agency, will take to provide an orderly wind
20 down of the Federal National Mortgage Association
21 and the Federal Home Loan Mortgage Corporation;

22 (4) detailed plans for utilizing any intellectual
23 property, technology, infrastructure, or processes of
24 the enterprises in effecting the transition plan;

1 (5) description and updates on the ongoing op-
2 erations of the Corporation, including the operations
3 of the Federal Housing Finance Agency;

4 (6) detailed plans and timeframes for estab-
5 lishing, as soon as practicable, a multifamily covered
6 securities market;

7 (7) detailed plans and timeframes for estab-
8 lishing, as soon as practicable, a standardized secu-
9 rity issued by or through the Securitization Platform
10 for the single-family covered securities market; and

11 (8) detailed plans for increasing the level of
12 credit risk-sharing in the secondary mortgage mar-
13 ket.

14 (c) CONSIDERATIONS.—

15 (1) IN GENERAL.—For purposes of facilitating
16 an orderly transition to the new housing finance sys-
17 tem authorized by this Act, the Corporation shall
18 consider in determining how to best fulfill the re-
19 quirements of this title the estimated impact of var-
20 ious transition options with respect to the following:

21 (A) Housing prices and affordability.

22 (B) The effectiveness of consumer protec-
23 tions in the housing market.

24 (C) Volume and characteristics of mort-
25 gage loan originations.

1 (D) The condition of the rental housing
2 market.

3 (E) Small lender participation in the sec-
4 ondary mortgage market.

5 (F) Access to credit in rural and under-
6 served communities.

7 (G) Competition among market partici-
8 pants.

9 (H) The condition of the multifamily hous-
10 ing market.

11 (I) Innovation among secondary mortgage
12 market participants.

13 (J) Taxpayer repayment.

14 (K) Private capital in the secondary mort-
15 gage market.

16 (2) INCLUSION IN ANNUAL REPORT.—A de-
17 scription and analysis of each consideration required
18 under paragraph (1) shall be included in the report
19 required to be submitted to Congress under sub-
20 section (d).

21 (d) REPORT TO CONGRESS.—

22 (1) IN GENERAL.—Not later than 12 months
23 after the date of enactment of this Act and in ac-
24 cordance with section 404(c)(2), the Transition
25 Committee shall submit the transition plan required

1 under subsection (a) to the Committee on Banking,
2 Housing, and Urban Affairs of the Senate and the
3 Committee on Financial Services of the House of
4 Representatives.

5 (2) UPDATES.—Not later than 1 year after the
6 date on which the transition plan is submitted under
7 subparagraph (A) and annually thereafter until the
8 system certification date, the Chairperson shall—

9 (A) update the transition plan, subject to
10 the requirements of subsection (b); and

11 (B) submit such updated plan to the Com-
12 mittee on Banking, Housing, and Urban Affairs
13 of the Senate and the Committee on Financial
14 Services of the House of Representatives.

15 **SEC. 603. RESOLUTION AUTHORITY; TECHNICAL AMEND-**
16 **MENTS.**

17 (a) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the agency transfer date.

19 (b) FEDERAL HOUSING ENTERPRISES FINANCIAL
20 SAFETY AND SOUNDNESS ACT OF 1992.—Section 1367
21 of the Safety and Soundness Act (12 U.S.C. 4617) is
22 amended—

23 (1) by striking “stockholder” and “stock-
24 holders” and inserting “shareholder, member,” and

1 “shareholders, members,” respectively, each place
2 those terms appear;

3 (2) by striking “wind up” and “winding up”
4 and inserting “wind down” and “winding down”
5 each place those terms appear;

6 (3) in subsection (a)—

7 (A) in paragraph (3)(G), by striking “,
8 and there is no reasonable prospect for the reg-
9 ulated entity to become adequately capitalized
10 (as defined in section 1364(a)(1))”;

11 (B) by striking paragraph (3)(J) and in-
12 sserting the following:

13 “(J) INSOLVENCY.—The regulated entity
14 is insolvent or near-insolvent.”;

15 (C) by striking paragraph (3)(K);

16 (D) by redesignating paragraph (3)(L) as
17 paragraph (3)(K); and

18 (E) in paragraph (4)(B)—

19 (i) in the heading, by striking “CRITI-
20 CALLY UNDERCAPITALIZED REGULATED
21 ENTITY” and inserting “INSOLVENT OR
22 NEAR-INSOLVENT REGULATED ENTITIES”;

23 (ii) in the matter preceding clause (i),
24 by striking “critically undercapitalized”

1 and inserting “insolvent or near-insolvent”;

2 and

3 (iii) in paragraph clause (i) by strik-

4 ing “critically undercapitalized” and in-

5 serting “insolvent or near-insolvent”;

6 (4) in subsection (b)—

7 (A) in paragraph (2)(B)—

8 (i) in clause (iii), by adding “and”

9 after “conservator or receiver;”;

10 (ii) by striking clause (iv); and

11 (iii) by redesignating clause (v) as

12 clause (iv);

13 (B) in paragraph (2)(H), by striking “of

14 proceeds realized from the performance of con-

15 tracts or sale of the assets of a regulated enti-

16 ty” and inserting “that funds are available”;

17 (C) in paragraph (2)(I)(i)(I), by striking

18 “section 1348” and inserting “part II of this

19 subtitle”;

20 (D) in paragraph (2)(I)(iii), by striking

21 “section 1317 or 1379B”, and inserting “sub-

22 title B of this Act”;

23 (E) by striking paragraph (3)(A) and in-

24 serting the following:

25 “(A) IN GENERAL.—The Agency—

1 “(i) may, as receiver, determine
2 claims in accordance with the requirements
3 of this subsection and any regulations pre-
4 scribed under paragraph (4); and

5 “(ii) may define the term ‘creditor’
6 and may distinguish between creditors, in
7 order to facilitate the orderly administra-
8 tion of the regulated entity in conservator-
9 ship or receivership, in accordance with the
10 requirements of this section.”;

11 (F) in paragraph (3)(B), by striking
12 “closed”;

13 (G) in paragraph (5)(D)(iii)(II), inserting
14 “legally enforceable and perfected” before “se-
15 curity interest”;

16 (H) by striking paragraph (7);

17 (I) by redesignating paragraphs (8)
18 through (19) as paragraphs (7) through (18),
19 respectively; and

20 (J) in paragraph (10)(E), as so redesign-
21 nated—

22 (i) in clause (ii), by striking “; and”
23 and inserting a semicolon;

24 (ii) in clause (iii), by striking the pe-
25 riod and inserting a semicolon; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(iv) prohibits discrimination on the
4 basis of race, sex, or ethnic group in the
5 solicitation or consideration of offers; and

6 “(v) mitigates the potential for serious
7 adverse effects to the financial system.”;

8 and

9 (5) by striking subsection (c) and inserting the
10 following:

11 “(c) PRIORITY OF EXPENSES AND UNSECURED
12 CLAIMS.—

13 “(1) IN GENERAL.—Unsecured claims against a
14 regulated entity, or the receiver therefor, that are
15 proven to the satisfaction of the receiver shall have
16 priority in the following order:

17 “(A) Claims of the receiver for administra-
18 tive expenses.

19 “(B) Any amounts owed to the United
20 States, unless the United States agrees or con-
21 sents otherwise.

22 “(C) Wages, salaries, or commissions, in-
23 cluding vacation, severance, and sick leave pay
24 earned by an individual (other than an indi-
25 vidual described in subparagraph (F)), but only

1 to the extent of \$12,475 for each individual (as
2 indexed for inflation, by regulation of the Agen-
3 cy) earned not later than 180 days before the
4 date of appointment of the Agency as receiver.

5 “(D) Contributions owed to employee ben-
6 efit plans arising from services rendered not
7 later than 180 days before the date of appoint-
8 ment of the Agency as receiver, to the extent of
9 the number of employees covered by each such
10 plan, multiplied by \$12,475 (as indexed for in-
11 flation, by regulation of the Agency), less the
12 aggregate amount paid to such employees under
13 subparagraph (C), plus the aggregate amount
14 paid by the receivership on behalf of such em-
15 ployees to any other employee benefit plan.

16 “(E) Any claim arising solely from a cov-
17 ered guarantee transaction involving the regu-
18 lated entity.

19 “(F) Any other general or senior liability
20 of the regulated entity (which is not a liability
21 described under subparagraph (G), (H), or (I)).

22 “(G) Any obligation subordinated to gen-
23 eral creditors (which is not an obligation de-
24 scribed under subparagraph (H) or (I)).

1 “(iii) initiate and continue operations
2 essential to implementation of the receiver-
3 ship or any limited-life regulated entity;

4 “(iv) minimize the amount of any loss
5 realized upon the sale or other disposition
6 of the assets of the regulated entity; or

7 “(v) preserve the financial stability of
8 the United States; and

9 “(B) all creditors that are similarly situ-
10 ated under paragraph (1) receive not less than
11 the amount provided in subsection (f)(2).

12 “(4) DEFINITION.—As used in this subsection,
13 the term ‘administrative expenses of the receiver’ in-
14 cludes—

15 “(A) the actual, necessary costs and ex-
16 penses incurred by the receiver in preserving
17 the assets of a failed regulated entity or liqui-
18 dating or otherwise resolving the affairs of a
19 failed regulated entity; and

20 “(B) any obligations that the receiver de-
21 termines are necessary and appropriate to fa-
22 cilitate the smooth and orderly liquidation or
23 other resolution of the regulated entity.”;

24 (6) by redesignating subsections (d) through (j)
25 as subsections (e) and (k), respectively;

1 (7) by inserting after section (c) the following:

2 “(d) SUBROGATION.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of Federal law, the law of any State, or the
5 constitution of any State, the Agency, upon the pay-
6 ment to any person as provided in subsection (c) in
7 connection with any covered guarantee transaction
8 (as that term is defined in section 2 of the Housing
9 Finance Reform and Taxpayer Protection Act of
10 2014), shall be subrogated to all rights of the person
11 against such regulated entity to the extent of such
12 payment or assumption.

13 “(2) DIVIDENDS ON SUBROGATED AMOUNTS.—

14 The subrogation of the Agency under paragraph (1)
15 with respect to any regulated entity shall include the
16 right on the part of the Agency to receive the same
17 dividends, fees, or other amounts from the proceeds
18 of the assets of such regulated entity and recoveries
19 on account of stockholders’ liability as would have
20 been payable to the person on a claim related to the
21 covered guarantee transaction.

22 “(3) WAIVER OF CERTAIN CLAIMS.—The Agen-
23 cy shall waive, in favor only of any person against
24 whom stockholders’ individual liability may be as-
25 serted, any claim on account of such liability in ex-

1 cess of the liability, if any, to the regulated entity
2 or its creditors, for the amount unpaid upon such
3 stock in such regulated entity, but any such waiver
4 shall be effected in such manner and on such terms
5 and conditions as will not increase recoveries or divi-
6 dends on account of claims to which the Agency is
7 not subrogated.”;

8 (8) in subsection (e), as so redesignated—

9 (A) in paragraph (8), by adding at the end
10 the following:

11 “(H) RECORDKEEPING.—The Agency may
12 prescribe regulations requiring that regulated
13 entities maintain such records with respect to
14 qualified financial contracts (including market
15 valuations) that the Agency determines to be
16 necessary or appropriate in order to assist the
17 Agency as receiver for a regulated entity in
18 being able to exercise its rights and fulfill its
19 obligations under this paragraph or paragraph
20 (9) or (10).”;

21 (B) by striking paragraph (9) and insert-
22 ing the following:

23 “(9) TRANSFER OF QUALIFIED FINANCIAL CON-
24 TRACTS.—

1 any affiliate of such person) under
2 any such contract; and

3 “(IV) all property securing, or
4 any other credit enhancement for any
5 contract described in subclause (I), or
6 any claim described in subclause (II)
7 or (III) under any such contract; or

8 “(ii) transfer none of the financial
9 contracts, claims, or property referred to
10 under clause (i) (with respect to such per-
11 son and any affiliate of such person).

12 “(B) TRANSFER TO FOREIGN BANK, FI-
13 NANCIAL INSTITUTION, OR BRANCH OR AGENCY
14 THEREOF.—In transferring any qualified finan-
15 cial contracts and related claims and property
16 under subparagraph (A)(i), the Agency as re-
17 ceiver for a regulated entity shall not make
18 such transfer to a foreign person unless, under
19 the law applicable to such foreign person, to the
20 qualified financial contracts, and to any netting
21 contract, any security agreement or arrange-
22 ment or other credit enhancement related to 1
23 or more qualified financial contracts, the con-
24 tractual rights of the parties to such qualified
25 financial contracts, netting contracts, security

1 agreements or arrangements, or other credit en-
2 hancements, are enforceable substantially to the
3 same extent as permitted under this section.”;

4 (C) in paragraph (13)(C)(ii)—

5 (i) by redesignating subclause (III) as
6 subclause (IV);

7 (ii) by striking “and” at the end of
8 subclause (II); and

9 (iii) by inserting after subclause (II)
10 the following:

11 “(III) apply to the rights of par-
12 ties to netting contracts pursuant to
13 subtitle A of title IV of the Federal
14 Deposit Insurance Act of 1991 (12
15 U.S.C. 4401 et seq.); or”;

16 (D) in paragraph (15)—

17 (i) in the heading, by striking “FED-
18 ERAL RESERVE AND FEDERAL HOME LOAN
19 BANKS” and inserting “FEDERAL RESERVE
20 BANKS”; and

21 (ii) in subparagraph (A), by striking
22 “Federal Home Bank or Federal Reserve
23 Bank” and inserting “Federal Reserve
24 bank”;

25 (9) in subsection (g), as so redesignated—

1 (A) by striking “section or at the request
2 of the Director” and inserting “title”; and

3 (B) by striking “a conservator or a re-
4 ceiver” and inserting “the conservator or re-
5 ceiver hereunder, and any remedy against the
6 Agency as conservator or receiver shall be lim-
7 ited to money damages determined in accord-
8 ance with this title”;

9 (10) in subsection (j), as so redesignated—

10 (A) in paragraph (1)(A)(ii), by striking
11 “shall” and inserting “may”;

12 (B) in paragraph (2)—

13 (i) in the heading, by striking “CHAR-
14 TER AND ESTABLISHMENT” and inserting
15 “ESTABLISHMENT OF LIMITED-LIFE REGU-
16 LATED ENTITIES”; and

17 (ii) by striking subparagraph (A) and
18 inserting the following:

19 “(A) TRANSFER OF REGISTERED STA-
20 TUS.—If the Agency is appointed as receiver for
21 an enterprise, the limited-life regulated entity
22 established under this subsection with respect
23 to such enterprise shall, by operation of law and
24 immediately upon its organization succeed to
25 the registered status of the enterprise and

1 thereafter operate in accordance with, and sub-
2 ject to this Act and any other provision of law
3 to which an enterprise is subject, except as oth-
4 erwise provided in this subsection.”;

5 (C) in paragraph (3)—

6 (i) in the heading, by inserting “AND
7 OPERATING FUNDS” after “CAPITAL
8 STOCK”;

9 (ii) by redesignating subparagraphs
10 (A) and (B) as subparagraphs (B) and
11 (C), respectively;

12 (iii) by inserting prior to subpara-
13 graph (B) the following:

14 “(A) CAPITAL NOT REQUIRED.—Notwith-
15 standing any other provision of Federal or
16 State law, a limited-life regulated entity may, if
17 permitted by the Agency, operate without any
18 capital or surplus as the Agency may in its dis-
19 cretion determine to be appropriate.”;

20 (iv) in subparagraph (B), as so redес-
21 ignated, by striking “NO AGENCY RE-
22 QUIREMENT” and inserting “NO CON-
23 TRIBUTION BY THE AGENCY REQUIRED”;
24 and

25 (v) by adding at the end the following:

1 “(D) OPERATING FUNDS.—Upon the orga-
2 nization of a limited-life regulated entity, and
3 thereafter, as the Agency may, in its discretion,
4 determine to be necessary or advisable, the
5 Agency may make available to the limited-life
6 regulated entity, upon such terms and condi-
7 tions and in such form and amounts as the
8 Agency may in its discretion determine, funds
9 for the operation of the limited-life regulated
10 entity in lieu of capital.”;

11 (D) in paragraph (6)—

12 (i) in the heading, by striking “WIND-
13 ING UP” and inserting “WINDING DOWN”

14 (ii) by striking subparagraph (A) and
15 inserting the following:

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the Agency shall wind down the af-
18 fairs of a limited-life regulated entity estab-
19 lished under this subsection—

20 “(i) with respect to a Federal Home
21 Loan Bank, not later than 2 years after
22 the date of its organization; and

23 “(ii) with respect to an enterprise,
24 within such period of time as the Agency

1 determines to be necessary and appro-
2 priate.”; and

3 (iii) in subparagraph (B), by inserting
4 “established under this subsection with re-
5 spect to a Federal Home Loan Bank”
6 after “limited-life regulated entity”;

7 (E) in paragraph (7)(A)(iv)—

8 (i) in the matter preceding subclause
9 (I), by inserting “the Agency determines
10 that such actions are necessary to” after
11 “that do not comply with this clause, if”;
12 and

13 (ii) by striking subclauses (I) and (II)
14 and inserting the following:

15 “(I) maximize the value of the
16 assets of the regulated entity;

17 “(II) maximize the present value
18 return from the sale or other disposi-
19 tion of the assets of the regulated en-
20 tity;

21 “(III) initiate and continue oper-
22 ations essential to the implementation
23 of the limited-life regulated entity;

24 “(IV) minimize the amount of
25 any loss realized upon the sale or

1 other disposition of the assets of the
2 regulated entity;

3 “(V) preserve the financial sta-
4 bility of the United States; and

5 “(VI) ensure that all creditors
6 that are similarly situated under sub-
7 section (c)(1) receive not less than the
8 amount provided in subsection
9 (f)(2).”; and

10 (F) in paragraph (11)(C)—

11 (i) in clause (i), in the matter pre-
12 ceding subclause (I), by striking “(other
13 than mortgages that collateralize the mort-
14 gage-backed securities issued or guaran-
15 teed by an enterprise)”; and

16 (ii) by inserting at the end the fol-
17 lowing:

18 “(ii) HEARING.—The hearing required
19 pursuant to this subparagraph shall be be-
20 fore a court of the United States, which
21 shall have jurisdiction to conduct such
22 hearing and to authorize the limited-life
23 regulated entity to obtain secured credit
24 under clause (i).”; and

1 (11) by striking subsection (k)(relating to char-
2 ter revocation), as so designated by Public Law
3 110—289.

4 (c) **RULE OF CONSTRUCTION.**—Nothing in this Act,
5 or any amendments made by this Act, except as may be
6 explicitly provided for in this Act, or any amendment made
7 by this Act, shall be deemed to alter the powers, authori-
8 ties, rights, or duties that are vested in the Federal Hous-
9 ing Finance Agency or the Director thereof with respect
10 to supervision and regulation of the enterprises, until such
11 time as the Federal Housing Finance Agency and the posi-
12 tion of the Director are transferred in accordance with
13 title IV of this Act.

14 **SEC. 604. WIND DOWN.**

15 (a) **AUTHORITY OF FHFA DIRECTOR.**—

16 (1) **IN GENERAL.**—Beginning on the date of en-
17 actment of this Act and ending on the system certifi-
18 cation date, the FHFA Director, in consultation
19 with the Corporation, shall take such action, and
20 may prescribe such regulations and procedures, as
21 may be necessary to wind down the operations of the
22 enterprises in an orderly manner that complies with
23 the requirements of this Act and any amendments
24 made by this Act.

1 (2) LIMITATION.—Notwithstanding any author-
2 ity granted to the FHFA Director under paragraph
3 (1)—

4 (A) the sale, transfer, exchange, or other
5 disposition of any asset subject to the wind
6 down required under this section shall be pro-
7 hibited, if the Corporation—

8 (i) in its discretion determines that
9 such sale, transfer, exchange, or disposi-
10 tion would materially interfere with the
11 ability of the Corporation to carry out the
12 requirements of this Act; and

13 (ii) notifies, in writing, the FHFA Di-
14 rector within 14 days of such determina-
15 tion; and

16 (B) the Corporation may direct the conser-
17 vator of the enterprises to sell, transfer, ex-
18 change, or otherwise dispose of any asset sub-
19 ject to the wind down required under this sec-
20 tion, if the Board of Directors certifies by a
21 majority vote that—

22 (i) not completing such sale, transfer,
23 exchange, or disposition would be incon-
24 sistent with the transition plan approved
25 pursuant to section 602; and

1 (ii) such sale, transfer, exchange, or
2 disposition would not violate the duties of
3 the conservator.

4 (b) **AUTHORITY OF CORPORATION.**—Beginning on
5 the system certification date, the Corporation shall take
6 such action, and may prescribe such regulations and pro-
7 cedures, as may be necessary to wind down the operations
8 of the enterprises in an orderly manner that complies with
9 the requirements of this Act and any amendments made
10 by this Act.

11 (c) **RESOLUTION PLAN.**—

12 (1) **IN GENERAL.**—Each enterprise shall de-
13 velop a resolution plan in order to facilitate an or-
14 derly transition to the new housing finance system
15 authorized by this Act.

16 (2) **TIMING.**—Each resolution plan required to
17 be developed under paragraph (1) shall be submitted
18 to the FHFA Director not later than 90 days after
19 the agency transfer date.

20 (3) **CONTENTS OF PLANS.**—Each resolution
21 plan required to be developed under paragraph (1)
22 shall include a full description and valuation of the
23 assets, liabilities, and contractual obligations of the
24 enterprise, and any other information that the
25 FHFA Director may require.

1 (4) RETENTION OF AUTHORITY.—Notwith-
2 standing any provision of a resolution plan required
3 to be developed under paragraph (1), the Federal
4 Housing Finance Agency and the Corporation shall
5 retain and exercise full discretion to the extent that
6 either the Agency or the Corporation utilizes or re-
7 lies on such a resolution plan, either in whole or in
8 part, in fulfilling any duty or responsibility required
9 by this Act.

10 (5) PUBLIC SUMMARY.—After reviewing each
11 resolution plan required to be developed under para-
12 graph (1), the Corporation shall make available to
13 the public a summary of each such resolution plan.

14 (6) VALUATION STUDY.—After reviewing each
15 resolution plan required to be developed under para-
16 graph (1), the Corporation shall conduct a valuation
17 study of each enterprise’s business segments, includ-
18 ing any technology, business unit, legacy book, and
19 other assets and liabilities that may be sold for value
20 in a manner consistent with the purposes and re-
21 quirements of this Act.

22 (d) PROHIBITION ON NEW BUSINESS.—

23 (1) FEDERAL NATIONAL MORTGAGE ASSOCIA-
24 TION.—

1 (A) NEW BUSINESS PROHIBITED.—Effective
2 tive on the system certification date, the Fed-
3 eral National Mortgage Association shall have
4 no authority to conduct new business under the
5 Federal National Mortgage Association Charter
6 Act.

7 (B) NEW BUSINESS DEFINED.—For pur-
8 poses of subparagraph (A), the term “new busi-
9 ness” means any new—

10 (i) purchase of, servicing of, or deal-
11 ing in any insured or conventional mort-
12 gages by the Federal National Mortgage
13 Association under section 302(b) of the
14 Federal National Mortgage Association
15 Charter Act (12 U.S.C. 1717(b));

16 (ii) purchase of a mortgage by the
17 Federal National Mortgage Association in
18 its secondary mortgage market operations
19 under section 304(a) of the Federal Na-
20 tional Mortgage Association Charter Act
21 (12 U.S.C. 1719(a));

22 (iii) issue of an obligation of the Fed-
23 eral National Mortgage Association under
24 section 304(b) of the Federal National

1 Mortgage Association Charter Act (12
2 U.S.C. 1719(b)), including—

3 (I) bonds, notes, debentures, and
4 other similar instruments;

5 (II) capital lease obligations;

6 (III) obligations in respect of let-
7 ters of credit, bankers acceptances, or
8 other similar instruments;

9 (IV) guarantees of new securities
10 based on mortgages set aside; and

11 (V) swap, security-based swap,
12 derivative product, or other similar in-
13 strument;

14 (iv) setting aside of any mortgages
15 held by the Federal National Mortgage As-
16 sociation and any new issue and sale of se-
17 curities based on the mortgages so set
18 aside under section 304(d) of the Federal
19 National Mortgage Association Charter
20 Act (12 U.S.C. 1719(d)); and

21 (v) issue of a subordinated obligation
22 of the Federal National Mortgage Associa-
23 tion under section 304(e) of the Federal
24 National Mortgage Association Charter
25 Act (12 U.S.C. 1719(e)).

1 (C) EXCLUSION FROM NEW BUSINESS.—

2 The term “new business” shall not include any
3 new—

4 (i) purchase by the Federal National
5 Mortgage Association of a non-performing
6 mortgage from a pool of mortgages pre-
7 viously set aside by the enterprise;

8 (ii) issue of an obligation of the Fed-
9 eral National Mortgage Association if,
10 after giving effect to the issuance, the ag-
11 gregate amount of such obligations does
12 not exceed 120 percent of the amount of
13 mortgage assets permitted to be owned by
14 the enterprise under section 605;

15 (iii) setting aside of mortgages pre-
16 viously set aside by the Federal National
17 Mortgage Association, or any new issue
18 and sale of securities based on the mort-
19 gages so previously set aside, to refund or
20 replace an outstanding issue of securities
21 based on mortgages previously set aside, if
22 the face amount of the refunding or replac-
23 ing mortgage-backed securities does not
24 exceed the face amount of the mortgage-

1 backed securities being refunded or re-
2 placed;

3 (iv) transfer of guarantees of mort-
4 gage-backed securities guaranteed by the
5 Federal National Mortgage Association if
6 the mortgage loans collateralizing such se-
7 curities are refinanced, regardless of the
8 value of the underlying collateral and the
9 homeowner's current employment status
10 and income; or

11 (v) entry into any swap, security-
12 based swap, or other similar instrument, or
13 purchase of sale of any derivative product,
14 or other similar instrument, to facilitate
15 the orderly wind down of the Federal Na-
16 tional Mortgage Association and appro-
17 priate loss mitigation on any outstanding
18 guarantees of the Federal National Mort-
19 gage Association under section 605.

20 (D) NEW BUSINESS PROHIBITION NOT TO
21 AFFECT OUTSTANDING ENTERPRISE DEBT OR
22 GUARANTEES.—Nothing in subparagraph (A)
23 shall adversely affect the rights and obligations
24 of any holders of—

- 1 (i) outstanding debt obligations of the
2 Federal National Mortgage Association, in-
3 cluding any—
- 4 (I) bonds, notes, debentures, or
5 other similar instruments;
- 6 (II) capital lease obligations;
- 7 (III) obligations in respect of let-
8 ters of credit, bankers' acceptances, or
9 other similar instruments; or
- 10 (IV) swap, security-based swap,
11 derivative product, or other similar in-
12 strument; or
- 13 (ii) mortgage-backed securities guar-
14 anteed by the Federal National Mortgage
15 Association.
- 16 (2) FEDERAL HOME LOAN MORTGAGE COR-
17 PORATION.—
- 18 (A) NEW BUSINESS PROHIBITED.—Effec-
19 tive on the system certification date, the Fed-
20 eral Home Loan Mortgage Corporation shall
21 have no authority to conduct new business
22 under the Federal Home Loan Mortgage Cor-
23 poration Act.

1 (B) NEW BUSINESS DEFINED.—For pur-
2 poses of subparagraph (A), the term “new busi-
3 ness” means any new—

4 (i) purchase of, servicing of, or deal-
5 ing in any insured or conventional mort-
6 gages by the Federal Home Loan Mort-
7 gage Corporation under section 305(a) of
8 the Federal Home Loan Mortgage Cor-
9 poration Act (12 U.S.C. 1454(a));

10 (ii) issue of an obligation of the Fed-
11 eral Home Loan Mortgage Corporation
12 under section 306(a) of the Federal Home
13 Loan Mortgage Corporation Act (12
14 U.S.C. 1455(a)), including—

15 (I) bonds, notes, debentures, and
16 other similar instruments;

17 (II) capital lease obligations;

18 (III) obligations in respect of let-
19 ters of credit, bankers acceptances, or
20 other similar instruments;

21 (IV) guarantees of new securities
22 based on mortgages set aside; and

23 (V) swap, security-based swap,
24 derivative product, or other similar in-
25 strument;

1 (iii) issue of mortgage-backed securi-
2 ties under the Federal Home Loan Mort-
3 gage Corporation Act; and

4 (iv) issue of a subordinated obligation
5 of the Federal Home Loan Mortgage Cor-
6 poration under the Federal Home Loan
7 Mortgage Corporation Act.

8 (C) EXCLUSION FROM NEW BUSINESS.—

9 The term “new business” shall not include any
10 new—

11 (i) purchase by the Federal Home
12 Loan Mortgage Corporation of a non-per-
13 forming mortgage from a pool of mort-
14 gages previously set aside by the enter-
15 prise;

16 (ii) issue of an obligation of the Fed-
17 eral Home Loan Mortgage Corporation if,
18 after giving effect to the issuance, the ag-
19 gregate amount of such obligations does
20 not exceed 120 percent of the amount of
21 mortgage assets permitted to be owned by
22 the enterprise under section 605;

23 (iii) issue of mortgage-backed securi-
24 ties, to refund or replace an outstanding
25 issue of mortgage-backed securities, if the

1 face amount of the refunding or replacing
2 mortgage-backed securities does not exceed
3 the face amount of the mortgage-backed
4 securities being refunded or replaced;

5 (iv) transfer of guarantees of mort-
6 gage-backed securities guaranteed by the
7 Federal Home Loan Mortgage Corporation
8 if the mortgage loans collateralizing such
9 securities are refinanced, regardless of the
10 value of the underlying collateral and the
11 homeowner's current employment status
12 and income; or

13 (v) entry into any swap, security-
14 based swap, or other similar instrument, or
15 purchase of sale of any derivative product,
16 or other similar instrument, to facilitate
17 the orderly wind down of the Federal
18 Home Loan Mortgage Corporation and ap-
19 propriate loss mitigation on any out-
20 standing guarantees of the Federal Home
21 Loan Mortgage Corporation under section
22 605.

23 (D) NEW BUSINESS PROHIBITION NOT TO
24 AFFECT OUTSTANDING ENTERPRISE DEBT OR
25 GUARANTEES.—Nothing in subparagraph (A)

1 shall adversely affect the rights and obligations
2 of any holders of—

3 (i) outstanding debt obligations of the
4 Federal National Mortgage Association, in-
5 cluding any—

6 (I) bonds, notes, debentures, or
7 other similar instruments;

8 (II) capital lease obligations;

9 (III) obligations in respect of let-
10 ters of credit, bankers' acceptances, or
11 other similar instruments; or

12 (IV) swap, security-based swap,
13 derivative product, or other similar in-
14 strument; or

15 (ii) mortgage-backed securities guar-
16 anteed by the Federal National Mortgage
17 Association.

18 (3) RULE OF CONSTRUCTION.—The prohibition
19 on new business by the Federal National Mortgage
20 Association and the Federal Home Loan Mortgage
21 Corporation set forth in paragraphs (1) and (2) of
22 this subsection shall not prohibit, nor be construed
23 to prohibit, the Corporation from managing such en-
24 tity.

25 (4) EXISTING GUARANTEE OBLIGATIONS.—

1 (A) EXPLICIT GUARANTEE.—The full faith
2 and credit of the United States is pledged to
3 the payment of all amounts which may be re-
4 quired to be paid under any obligation de-
5 scribed under paragraphs (1) and (2), including
6 any obligation issued on or after the system
7 certification date to refund or replace an obliga-
8 tion that was outstanding on the day before the
9 system certification date.

10 (B) LOAN ELIGIBILITY.—The enterprises
11 shall include as eligible loans for the purposes
12 of refinancing all current loans that qualify as
13 eligible mortgage loans and meet those under-
14 writing requirements for eligibility for same
15 servicer refinancing, except that the enterprises
16 may not disqualify or impose varying rules
17 based on loan-to-value, combined loan-to-value,
18 employment status, or income with regard to
19 refinancing mortgage loans that collateralize
20 mortgage-backed securities issued by an enter-
21 prise prior to the system certification date.

22 (C) CONTINUED DIVIDEND PAYMENTS.—
23 Notwithstanding the provisions of this section
24 or any other provision of law, provision 2(a)
25 (relating to Dividend Payment Dates and Divi-

1 dend Periods) and provision 2(c) (relating to
2 Dividend Rates and Dividend Amount) of the
3 Senior Preferred Stock Purchase Agreement, or
4 any provision of any certificate in connection
5 with such Agreement creating or designating
6 the terms, powers, preferences, privileges, limi-
7 tations, or any other conditions of the Variable
8 Liquidation Preference Senior Preferred Stock
9 of an enterprise issued pursuant to such Agree-
10 ment—

11 (i) shall not be amended, restated, or
12 otherwise changed to reduce the rate or
13 amount of dividends in effect pursuant to
14 such Agreement as of the Third Amend-
15 ment to such Agreement dated August 17,
16 2012, except that any amendment to such
17 Agreement shall be permitted if it facili-
18 tates the sale of assets of the enterprises
19 to facilitate compliance with this title; and

20 (ii) shall remain in effect until the
21 guarantee obligations described under
22 paragraphs (1) and (2) are fully extin-
23 guished.

24 (D) APPLICABILITY.—Notwithstanding the
25 provisions of this section, all guarantee fee

1 amounts derived from the mortgage guarantee
2 business of the enterprises in existence as of the
3 system certification date, after satisfying the
4 fee amounts required to be collected by section
5 1327 of the Safety and Soundness Act (12
6 U.S.C. 4547), shall be subject to the terms of
7 the Senior Preferred Stock Purchase Agree-
8 ment.

9 (e) CHARTERS REVOKED.—Effective upon the date
10 the guarantee obligations under subsection (d)(4)(A) are
11 fully extinguished:

12 (1) The Federal National Mortgage Association
13 Charter Act is repealed, except as the provisions of
14 such Act relate to the establishment, purposes, pow-
15 ers, authorities, duties, supervision, administration,
16 and management of the Government National Mort-
17 gage Association.

18 (2) The Federal Home Loan Mortgage Cor-
19 poration Act is repealed.

20 (f) AUTHORITY TO INSURE OUTSTANDING MORT-
21 GAGE-BACKED SECURITIES; MORTGAGE-BACKED SECURI-
22 TIES OF THE ENTERPRISES.—

23 (1) AUTHORITY TO INSURE MORTGAGE-BACKED
24 SECURITIES; AUTHORITY TO DEVELOP ENTERPRISE
25 MORTGAGE-BACKED SECURITIES.—After the agency

1 transfer date, and subject to such procedures, stand-
2 ards, terms, and conditions as may be adopted by
3 the Corporation under paragraph (2), the Corpora-
4 tion may—

5 (A) upon application and in exchange for
6 a fee determined by the Corporation, provide in-
7 surance on outstanding mortgage-backed securi-
8 ties issued by the enterprises; and

9 (B) facilitate, including through the oper-
10 ations of the enterprises or the utilization of the
11 Platform, the—

12 (i) exchange of mortgage-backed secu-
13 rities issued by either enterprise for cov-
14 ered securities;

15 (ii) exchange of mortgage-backed se-
16 curities issued by 1 enterprise for those of
17 the other enterprise;

18 (iii) issuance of mortgage-backed se-
19 curities by both enterprises through a sin-
20 gle issuer; and

21 (iv) issuance of real estate mortgage
22 investment conduit securities, consisting of
23 mortgage-backed securities issued by the
24 enterprises.

1 (2) DEVELOPMENT OF PROCEDURES, STAND-
2 ARDS, TERMS, AND CONDITIONS.—The Corporation
3 shall develop and adopt procedures, standards,
4 terms, and conditions, to enable the Corporation and
5 each of the enterprises, as applicable, to implement
6 each of the activities described in paragraph (1).

7 (3) REQUIRED PROCEDURES, STANDARDS,
8 TERMS, AND CONDITIONS.—In the development and
9 adoption of the procedures, standards, terms, and
10 conditions required under paragraph (2), the Cor-
11 poration shall consider the effect of each activity
12 with respect to the following:

13 (A) Lender access to the secondary mort-
14 gage market.

15 (B) The liquidity and trading price of ex-
16 isting enterprise mortgage-backed securities.

17 (C) The ability of market participants and
18 the enterprises to issue new mortgage-backed
19 securities.

20 (D) The cost to the enterprises or the Cor-
21 poration to exchange, restructure, or insure
22 mortgage-backed securities.

23 (g) REPORT TO CONGRESS.—

24 (1) IN GENERAL.—Prior to the agency transfer
25 date, the FHFA Director shall submit a study con-

1 sidering the feasibility of activities described in sub-
2 section (f)(1) to—

3 (A) the Committee on Banking, Housing,
4 and Urban Affairs of the Senate;

5 (B) the Committee on Financial Services
6 of the House of Representatives; and

7 (C) the Corporation.

8 (2) UPDATES.—Following the agency transfer
9 date, the Corporation shall provide updates on the
10 activities described in subsection (f)(1) in the transi-
11 tion plan (and in each annual update thereof) re-
12 quired under section 602.

13 (h) DIVISION OF ASSETS AND LIABILITIES; AUTHOR-
14 ITY TO ESTABLISH HOLDING COMPANIES, TRUSTS, AND
15 SUBSIDIARIES.—

16 (1) IN GENERAL.—The action and procedures
17 required under subsection (a)—

18 (A) shall include the establishment and
19 execution of plans to manage assets toward the
20 liquidation of liabilities and provide for an equi-
21 table division, distribution, and liquidation of
22 the assets and liabilities of an enterprise, in-
23 cluding any infrastructure, property, including
24 intellectual property, platforms, or any other
25 thing or object of value, provided such plan

1 complies with the requirements of this Act and
2 any amendments made by this Act;

3 (B) may provide for the establishment of—

4 (i) a holding corporation organized
5 under the laws of any State of the United
6 States or the District of Columbia for the
7 purpose of winding down an enterprise or
8 both enterprises;

9 (ii) 1 or more trusts to which to
10 transfer—

11 (I) outstanding debt obligations
12 of an enterprise or both enterprises;
13 or

14 (II) outstanding mortgages held
15 for the purpose of collateralizing
16 mortgage-backed securities guaran-
17 teed by an enterprise or both enter-
18 prises; and

19 (iii) 1 or more subsidiaries or joint
20 ventures with private entities for the pur-
21 poses of facilitating an orderly wind down
22 of one enterprise or both enterprises and
23 the transition to the new housing finance
24 system;

1 (C) may include the sale as a going con-
2 cern of any holding company, trust, subsidiary,
3 or joint venture with a private entity estab-
4 lished by an enterprise under this subsection;
5 and

6 (D) may provide that any holding com-
7 pany, trust, subsidiary, or joint venture sold as
8 a going concern may be utilized to facilitate the
9 formation of—

10 (i) a small lender mutual under sec-
11 tion 315;

12 (ii) an approved guarantor;

13 (iii) an approved multifamily guar-
14 antor;

15 (iv) an approved aggregator; or

16 (v) the Securitization Platform.

17 (2) **RULE OF CONSTRUCTION.**—Any holding
18 company, trust, subsidiary, or joint venture estab-
19 lished by an enterprise before or after the agency
20 transfer date is eligible to be sold by the Federal
21 Housing Finance Agency as a going concern for the
22 purposes described in this section.

23 (i) **RECOUPMENT BY SENIOR PREFERRED SHARE-**
24 **HOLDERS.**—

1 (1) MAXIMUM RETURN TO SENIOR PREFERRED
2 SHAREHOLDERS.—The wind down of each enterprise
3 required under this section shall be managed by the
4 Corporation, to obtain resolutions that maximize the
5 return for the senior preferred shareholders, to the
6 extent that such resolutions—

7 (A) are consistent with the goals of facili-
8 tating—

9 (i) a deep, liquid, and resilient sec-
10 ondary mortgage market for single-family
11 and multifamily mortgage-backed securities
12 in order to support access to mortgage
13 credit in the primary mortgage market;
14 and

15 (ii) an orderly transition from housing
16 finance markets facilitated by the enter-
17 prises to housing finance markets facili-
18 tated by the Corporation with minimum
19 disruption in the availability of loan credit;

20 (B) are consistent with applicable Federal
21 and State law;

22 (C) comply with the requirements of this
23 Act and the amendments made by this Act; and

1 (D) protect the taxpayer from having to
2 absorb losses incurred in the secondary mort-
3 gage market.

4 (2) SALE OF CERTAIN ASSETS AS A GOING CON-
5 CERN.—

6 (A) SALE FOR VALUE.—If the Federal
7 Housing Finance Agency makes the determina-
8 tion in subparagraph (B), the Federal Housing
9 Finance Agency may conduct a sale for value of
10 any line of business of an enterprise, or any
11 function, activity, or service of an enterprise, as
12 a going concern.

13 (B) REQUIRED DETERMINATIONS.—A sale
14 under subparagraph (A) is permitted if the
15 Federal Housing Finance Agency determines
16 that the sale—

17 (i) is consistent with the goal of an
18 orderly transition from housing finance
19 markets facilitated by the enterprises to ef-
20 ficient housing finance markets facilitated
21 by the Corporation with minimum interrup-
22 tion in the availability of loan credit;

23 (ii) does not impede or otherwise
24 interfere with the ability of the Federal
25 Housing Finance Agency or the Corpora-

1 tion to carry out the functions and require-
2 ments of this Act;

3 (iii) does not transfer, convey, or au-
4 thorize any guarantee or Federal support,
5 assistance, or backing, implicit or explicit,
6 related to any such business line, function,
7 activity, or service; and

8 (iv) will maximize the return for the
9 senior preferred shareholders as required
10 under paragraph (1).

11 **SEC. 605. PORTFOLIO REDUCTION.**

12 (a) GRADUATED REDUCTION.—

13 (1) IN GENERAL.—In the year after the date of
14 enactment of this Act, and each year thereafter,
15 each enterprise shall not own single-family mortgage
16 loan assets in excess of 85 percent of the aggregate
17 amount of the single-family mortgage loan assets
18 that the enterprise was permitted to own as of De-
19 cember 31 of the immediately preceding calendar
20 year.

21 (2) RETAINED SINGLE-FAMILY PORTFOLIO TO
22 FACILITATE ORDERLY WIND DOWN.—Not later than
23 the date on which the system certification date oc-
24 curs, the Corporation shall establish an allowable
25 amount of enterprise-owned single-family mortgage

1 loan assets in an amount equal to the amount nec-
2 essary to facilitate—

3 (A) the orderly wind down of the enter-
4 prises; and

5 (B) appropriate loss mitigation on any leg-
6 acy guarantees of the enterprises.

7 (b) MORTGAGE LOAN ASSETS DEFINED.—For pur-
8 poses of this section, the term “mortgage loan assets”
9 means, with respect to an enterprise, assets of such enter-
10 prise consisting of mortgage loans, mortgage-related secu-
11 rities, participation certificates, mortgage-backed commer-
12 cial paper, obligations of real estate mortgage loan invest-
13 ment conduits, and similar assets, in each case to the ex-
14 tent that such assets would appear on the balance sheet
15 of such enterprise in accordance with generally accepted
16 accounting principles in effect in the United States as of
17 September 7, 2008 (as set forth in the opinions and pro-
18 nouncements of the Accounting Principles Board and the
19 American Institute of Certified Public Accountants and
20 statements and pronouncements of the Financial Account-
21 ing Standards Board from time to time, and without giv-
22 ing any effect to any change that may be made after Sep-
23 tember 7, 2008, in respect of Statement of Financial Ac-
24 counting Standards No. 140 or any similar accounting
25 standard).

1 **SEC. 606. OVERSIGHT OF TRANSITION OF THE HOUSING FI-**
2 **NANCE SYSTEM.**

3 (a) TESTIMONY.—Beginning on the agency transfer
4 date and ending on the system certification date, the
5 Chairperson shall, on an annual basis, appear before the
6 Committee on Banking, Housing, and Urban Affairs of
7 the Senate and the Committee on Financial Services of
8 the House of Representatives to provide testimony on the
9 progress made in carrying out the requirements of this
10 title.

11 (b) INSPECTOR GENERAL REPORT ON TRANSI-
12 TION.—Beginning on the agency transfer date and ending
13 on the system certification date, the Inspector General of
14 the Federal Mortgage Insurance Corporation shall, on an
15 annual basis—

16 (1) submit a report to the Corporation and the
17 Committee on Banking, Housing, and Urban Affairs
18 of the Senate and the Committee on Financial Serv-
19 ices of the House of Representatives—

20 (A) on the status of the transition to the
21 new housing finance system authorized by this
22 Act;

23 (B) that includes recommendations to fa-
24 cilitate an orderly transition to the new housing
25 finance system authorized by this Act; and

1 (C) on the impact of various actions re-
2 quired by this Act on borrowers and small
3 mortgage lenders; and

4 (2) appear before the Committee on Banking,
5 Housing, and Urban Affairs of the Senate and the
6 Committee on Financial Services of the House of
7 Representatives to provide testimony on the report
8 required under paragraph (1).

9 (c) GAO REPORT ON TRANSITION.—

10 (1) IN GENERAL.—Not later than 18 months
11 after the system certification date, the Comptroller
12 General of the United States shall conduct a study
13 and submit a report to the Committee on Banking,
14 Housing, and Urban Affairs of the Senate and the
15 Committee on Financial Services of the House of
16 Representatives reviewing the transition required by
17 this Act.

18 (2) CONTENTS OF STUDY.—In conducting the
19 study required under paragraph (1), the Comptroller
20 General shall review—

21 (A) all property of the enterprises that
22 may have been sold, transferred, or licensed for
23 value pursuant to this title or any amendment
24 made by this title;

1 (B) the number and market share of each
2 type of approved entity; and

3 (C) the amount of any taxpayer repay-
4 ment.

5 **SEC. 607. AUTHORITY TO ESTABLISH PROVISIONAL STAND-**
6 **ARDS.**

7 (a) PROVISIONAL STANDARDS.—

8 (1) IN GENERAL.—Notwithstanding any stand-
9 ard required under subtitle B of title III or section
10 703, the Corporation may establish provisional
11 standards for the approval of approved entities in
12 order to ensure the sufficient participation of finan-
13 cially sound entities in the housing finance system.

14 (2) PERIOD OF EFFECTIVENESS DURING TRAN-
15 SITION.—The Corporation is authorized to establish
16 provisional standards under paragraph (1) prior to
17 the system certification date and such provisional
18 standards shall—

19 (A) be published in the Federal Register
20 for notice and comment; and

21 (B) remain in effect until the Corporation
22 adopts and publishes final standards for the ap-
23 proval of approved entities pursuant to subtitle
24 B of title III or section 703.

1 (3) PERIOD OF EFFECTIVENESS DURING UN-
2 USUAL AND EXIGENT CIRCUMSTANCES.—The Cor-
3 poration is authorized to establish provisional stand-
4 ards under paragraph (1) during periods when the
5 authority of the Corporation under section 305 is ex-
6 ercised and such provisional standards shall—

7 (A) be published in the Federal Register;

8 and

9 (B) remain in effect until the final date of
10 the timeline established by the Corporation pur-
11 suant to section 305(h)(1).

12 (4) RULE OF CONSTRUCTION.—Nothing in
13 paragraph (2) shall be construed to allow the Cor-
14 poration to delay or otherwise not implement sub-
15 section (c) in the required timeframe.

16 (b) OVERSIGHT OF APPROVED ENTITIES.—During
17 any period in which a provisional standard is in effect pur-
18 suant to subsection (a), the Corporation shall maintain all
19 oversight and enforcement authorities with regard to ap-
20 proved entities in accordance with the requirements and
21 authorities of subtitles B and C of title III and section
22 703.

23 (c) PHASED-IN REQUIREMENT FOR CAPITAL STAND-
24 ARDS OF APPROVED GUARANTORS.—

1 (1) IN GENERAL.—The requirement under sec-
2 tion 311(g)(1)(A) shall take effect on the date that
3 is 10 years after the system certification date.

4 (2) PHASE-IN.—Beginning on the date of en-
5 actment of this Act and ending on the date set forth
6 under paragraph (1), the Corporation shall—

7 (A) require an approved guarantor to
8 maintain an appropriate level of capital nec-
9 essary to ensure the safety and soundness of
10 the approved guarantor; and

11 (B) increase annually, in equal increments,
12 the required amount of capital to be held by the
13 approved guarantor.

14 **SEC. 608. INITIAL FUND LEVEL FOR THE MORTGAGE IN-**
15 **SURANCE FUND.**

16 (a) FUND AMOUNT ON SYSTEM CERTIFICATION
17 DATE.—The Corporation shall endeavor to ensure that
18 the Mortgage Insurance Fund established under section
19 303 attains a reserve ratio of 0.75 percent of the sum of
20 the outstanding principal balance of the covered securities
21 for which insurance is projected to be provided under this
22 Act for the 5 year-period beginning on the system certifi-
23 cation date

24 (b) REPORT TO CONGRESS ON PROJECTION.—The
25 projection required under subsection (a) shall be—

1 (1) determined by the Corporation; and

2 (2) reported to the Committee on Banking,
3 Housing, and Urban Affairs of the Senate and the
4 Committee on Financial Services of the House of
5 Representatives.

6 (c) ASSESSMENTS.—Pursuant to the authorities
7 granted to the Corporation under section 1316(i) of the
8 Safety and Soundness Act, as added by section 405, the
9 amount of funds required to be held by the Mortgage In-
10 surance Fund under subsection (a) shall be acquired
11 through assessments on the enterprises. The assessments
12 required under this subsection shall be in effect for the
13 period beginning on the date of enactment of this Act and
14 ending on the system certification date. The assessments
15 required under this subsection shall be deposited in the
16 Mortgage Insurance Fund.

17 **SEC. 609. GAO REPORT ON FULL PRIVATIZATION OF SEC-**
18 **ONDARY MORTGAGE MARKET.**

19 (a) GAO REPORT.—Not later than 8 years after the
20 date of enactment of this Act, the Comptroller General
21 of the United States shall submit a report to the Com-
22 mittee on Banking, Housing, and Urban Affairs of the
23 Senate and the Committee on Financial Services of the
24 House of Representatives on the feasibility of
25 transitioning to and creating a fully privatized secondary

1 mortgage market, including recommendations on how to
2 best carry out any displacement of the insurance model
3 established under this Act, and an assessment of the cost
4 of mortgage credit and the impact on the economy if the
5 secondary mortgage market is fully privatized.

6 (b) CORPORATION PLAN.—Not later than 6 months
7 after the date on which the report under subsection (a)
8 is submitted, the Corporation shall submit to the Com-
9 mittee on Banking, Housing, and Urban Affairs of the
10 Senate and the Committee on Financial Services of the
11 House of Representatives a description of the legislative,
12 administrative, and regulatory actions necessary to imple-
13 ment the recommendations of the report.

14 **TITLE VII—MULTIFAMILY**

15 **SEC. 701. ESTABLISHMENT OF MULTIFAMILY SUBSIDI-** 16 **ARIES.**

17 (a) FORMATION AND GOVERNANCE OF MULTIFAMILY
18 SUBSIDIARIES.—

19 (1) FEDERAL NATIONAL MORTGAGE ASSOCIA-
20 TION.—

21 (A) MULTIFAMILY SUBSIDIARY PLAN.—

22 The FHFA Director, in consultation with the
23 Secretary of the Treasury, shall direct the Fed-
24 eral National Mortgage Association to develop a
25 plan, not later than 180 days after the date of

1 enactment of this Act, to establish a multi-
2 family subsidiary for purposes of expeditiously
3 meeting the multifamily market minimum cri-
4 teria required under section 601.

5 (B) ESTABLISHMENT OF MULTIFAMILY
6 SUBSIDIARY.—Pursuant to section 604, the
7 Federal Housing Finance Agency shall direct
8 the Federal National Mortgage Association to
9 establish a multifamily subsidiary not later than
10 1 year after the date of enactment of this Act.

11 (2) FEDERAL HOME LOAN MORTGAGE COR-
12 PORATION.—

13 (A) MULTIFAMILY SUBSIDIARY PLAN.—
14 The FHFA Director, in consultation with the
15 Secretary of the Treasury, shall direct the Fed-
16 eral Home Loan Mortgage Corporation to de-
17 velop a plan, not later than 180 days after the
18 date of enactment of this Act, to establish a
19 multifamily subsidiary for purposes of expedi-
20 tiously meeting the multifamily market min-
21 imum criteria required under section 601.

22 (B) ESTABLISHMENT OF MULTIFAMILY
23 SUBSIDIARY.—Pursuant to section 604, the
24 Federal Housing Finance Agency shall direct
25 the Federal Home Loan Mortgage Corporation

1 to establish a multifamily subsidiary not later
2 than 1 year after the date of enactment of this
3 Act.

4 (b) TRANSFER OF FUNCTIONS.—

5 (1) FANNIE MAE MULTIFAMILY SUBSIDIARY.—

6 (A) IN GENERAL.—Notwithstanding the
7 provisions under title VI or any other provision
8 of law, effective on the date on which the multi-
9 family subsidiary is established under sub-
10 section (a)(1)(B), all employees, functions, ac-
11 tivities, infrastructure, property, including the
12 Delegated Underwriting and Servicing Lender
13 Program and other intellectual property, plat-
14 forms, technology, or any other object or service
15 of the Federal National Mortgage Association
16 necessary to the support, maintenance, and op-
17 eration of the multifamily business of the Fed-
18 eral National Mortgage Association shall be
19 transferred and contributed, without cost, to
20 the multifamily subsidiary.

21 (B) CAPITAL CONTRIBUTION.—In connec-
22 tion with the transfer required under subpara-
23 graph (A), the Federal National Mortgage As-
24 sociation shall contribute, in any form or man-
25 ner the Federal Housing Finance Agency may

1 determine, subject to the approval right of the
2 Secretary of the Treasury in the Senior Pre-
3 ferred Stock Purchase Agreement, any capital
4 necessary to ensure that the multifamily sub-
5 sidiary established under subsection (a)(1)(B)
6 has, in the determination of the FHFA Direc-
7 tor, sufficient capital to carry out its multi-
8 family business, including the ability to obtain
9 warehouse lines of credit.

10 (C) ENSURING CONTINUATION OF ONGO-
11 ING OPERATION OF MULTIFAMILY BUSINESS.—

12 (i) IN GENERAL.—In carrying out the
13 multifamily business transferred pursuant
14 to subparagraph (A), the multifamily sub-
15 sidiary established under subsection
16 (a)(1)(B) shall ensure that any such busi-
17 ness continues to operate, as applicable,
18 consistent with—

19 (I) the Delegated Underwriting
20 and Servicing Lender Program estab-
21 lished by the Federal National Mort-
22 gage Association;

23 (II) any other programs, activi-
24 ties, and contractual agreements of
25 the enterprises that support the enter-

1 prises' provision of liquidity to the
2 multifamily housing market; and

3 (III) the provisions of this title.

4 (2) FREDDIE MAC MULTIFAMILY SUBSIDIARY.—

5 (A) IN GENERAL.—Notwithstanding the
6 provisions under title VI or any other provision
7 of law, effective on the date on which the multi-
8 family subsidiary is established under sub-
9 section (a)(2)(B), all employees, functions, ac-
10 tivities, infrastructure, property, including the
11 Capital Market Execution Program Series K
12 Structured 2Pass-Through Certificates origi-
13 nated and offered under the Program Plus
14 Lender Program and other intellectual prop-
15 erty, platforms, technology, or any other object
16 or service of the Federal Home Loan Mortgage
17 Corporation necessary to the support, mainte-
18 nance, and operation of the multifamily busi-
19 ness of the Federal Home Loan Mortgage Cor-
20 poration shall be transferred and contributed,
21 without cost, to the multifamily subsidiary.

22 (B) CAPITAL CONTRIBUTION.—In connec-
23 tion with the transfer required under subpara-
24 graph (A), the Federal Home Loan Mortgage
25 Corporation shall contribute, in any form or

1 manner the Federal Housing Finance Agency
2 may determine, subject to the approval right of
3 the Secretary of the Treasury in the Senior
4 Preferred Stock Purchase Agreement, any cap-
5 ital necessary to ensure that the multifamily
6 subsidiary established under subsection
7 (a)(2)(B) has, in the determination of the
8 FHFA Director, sufficient capital to carry out
9 its multifamily business, including the ability to
10 obtain warehouse lines of credit.

11 (C) ENSURING CONTINUATION OF ONGO-
12 ING OPERATION OF MULTIFAMILY BUSINESS.—

13 (i) IN GENERAL.—In carrying out the
14 multifamily business transferred pursuant
15 to subparagraph (A), the multifamily sub-
16 sidiary established under subsection
17 (a)(2)(B) shall ensure that any such busi-
18 ness continues to operate, as applicable,
19 consistent with—

20 (I) the Capital Market Execution
21 Program Series K Structured 2Pass-
22 Through Certificates originated and
23 offered under the Program Plus
24 Lender Program established by the

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1 Federal Home Loan Mortgage Cor-
2 poration;

3 (II) any other programs, activi-
4 ties, and contractual agreements of
5 the enterprises that support the enter-
6 prises' provision of liquidity to the
7 multifamily housing market; and

8 (III) the provisions of this title.

9 (c) MULTIFAMILY SUBSIDIARIES.—

10 (1) IN GENERAL.—The multifamily subsidiaries
11 established by the Federal National Mortgage Asso-
12 ciation and the Federal Home Loan Mortgage Cor-
13 poration under subsection (a) may retain a limited
14 multifamily mortgage loan portfolio to—

15 (A) aggregate mortgage loans for pooled
16 securities executions;

17 (B) implement pilot mortgage loan pro-
18 grams and other risk-sharing transactions and
19 product modification testing;

20 (C) engage in the financing of properties
21 with rent-regulatory restrictions, off-campus
22 student housing, and senior and assisted living
23 developments; and

24 (D) perform additional activities as may be
25 established by the Corporation for the purpose

1 of facilitating the continuation of existing multi-
2 family activities.

3 (2) PORTFOLIO REDUCTION APPLICABILITY.—

4 For purposes of expeditiously meeting the multi-
5 family market minimum criteria required under sec-
6 tion 601, the multifamily subsidiaries established
7 under subsection (a) shall not be subject to the port-
8 folio reduction required under section 605.

9 **SEC. 702. DISPOSITION OF MULTIFAMILY BUSINESSES.**

10 (a) AUTHORITY TO MANAGE DISPOSITION OF MULTI-
11 FAMILY BUSINESSES.—Notwithstanding any provision of
12 title VI or any other provision of law, the Federal Housing
13 Finance Agency may, on or before the system certification
14 date, manage the sale, transfer, or disposition for value
15 of property, including intellectual property, technology,
16 platforms, and legacy systems, infrastructure and proc-
17 esses of an enterprise relating to the operation and main-
18 tenance of the multifamily business of an enterprise.

19 (b) REQUIRED ESTABLISHMENT OF WELL-FUNC-
20 TIONING MULTIFAMILY COVERED SECURITY MARKET.—

21 In exercising the authority in subsection (a), the Federal
22 Housing Finance Agency shall manage any disposition of
23 the multifamily business of an enterprise in a manner con-
24 sistent with—

1 (1) the establishment of a well-functioning mul-
2 tifamily covered security market;

3 (2) the provision of broad access to multifamily
4 financing; and

5 (3) facilitating competition in the multifamily
6 covered security market by—

7 (A) providing open access to performance
8 information on the legacy multifamily business
9 of an enterprise;

10 (B) providing for reasonable licensing of
11 the multifamily proprietary systems of an enter-
12 prise; and

13 (C) setting market share limitations, fees,
14 or additional capital standards on multifamily
15 business assets that were sold, transferred, or
16 disposed.

17 **SEC. 703. APPROVAL AND SUPERVISION OF MULTIFAMILY**
18 **GUARANTORS.**

19 (a) **STANDARDS FOR APPROVAL OF MULTIFAMILY**
20 **GUARANTORS.—**

21 (1) **IN GENERAL.—**The Corporation shall de-
22 velop, adopt, and publish standards for the approval
23 by the Corporation of multifamily guarantors to—

24 (A) issue multifamily covered securities;
25 and

1 (B) guarantee the timely payment of prin-
2 cipal and interest on multifamily covered securi-
3 ties collateralized by eligible multifamily mort-
4 gage loans and insured by the Corporation.

5 (2) REQUIRED STANDARDS.—The standards re-
6 quired under paragraph (1) shall include—

7 (A) the financial history and condition of
8 the multifamily guarantor;

9 (B) a requirement that the multifamily
10 guarantor maintain capital levels as defined by
11 the Corporation, pursuant to subsection (h);

12 (C) the general character and fitness of
13 the management of the multifamily guarantor,
14 including compliance history with Federal and
15 State laws;

16 (D) the risk presented by the multifamily
17 guarantor to the Mortgage Insurance Fund;

18 (E) the adequacy of insurance and fidelity
19 coverage of the multifamily guarantor;

20 (F) the ability of the multifamily guar-
21 antor to—

22 (i) ensure that eligible multifamily
23 mortgage loans that collateralize a multi-
24 family covered security insured under this

1 Act are originated in compliance with the
2 requirements of this Act;

3 (ii) oversee multifamily servicers and
4 special servicers conducting servicing ac-
5 tivities on eligible multifamily mortgage
6 loans, which may be governed under the
7 terms of seller-servicer guides in effect at
8 either of the enterprises on the date of en-
9 actment of this Act; and

10 (iii) oversee counterparties in credit
11 risk-sharing transactions;

12 (G) the capacity of the multifamily guar-
13 antor to take the first loss position or transfer
14 investment risk and credit risk to private mar-
15 ket holders;

16 (H) that the multifamily guarantor has the
17 capacity to guarantee eligible multifamily mort-
18 gage loans in a manner that furthers the pur-
19 poses of the Corporation as described in section
20 201(b)(5);

21 (I) a requirement that the multifamily
22 guarantor submit audited financial statements
23 to the Corporation; and

1 (J) a requirement that the multifamily
2 guarantor has the capacity to meet the require-
3 ment of section 704.

4 (3) CONSULTATION AND COORDINATION.—To
5 promote consistency and minimize regulatory con-
6 flict, the Corporation shall consult and coordinate
7 with appropriate Federal and State regulators and
8 officials when developing standards pursuant to this
9 subsection.

10 (b) APPLICATION AND APPROVAL.—

11 (1) APPLICATION PROCESS.—

12 (A) IN GENERAL.—The Corporation shall
13 establish an application process, in such form
14 and manner and requiring such information as
15 the Corporation may require, for the approval
16 of multifamily guarantors under this section.

17 (B) APPLICATION REVIEW.—The Corpora-
18 tion shall establish internal timelines for its
19 processing of applications under this section, in-
20 cluding timelines for any action to approve or
21 to deny an application under this section.

22 (C) APPLICATION PROCESS BY INSURED
23 DEPOSITORY INSTITUTIONS.—

24 (i) IN GENERAL.—Only a separately
25 capitalized affiliate of an insured depository

1 tory institution may be eligible to apply to
2 become an approved multifamily guar-
3 antor.

4 (ii) RULE OF CONSTRUCTION.—Noth-
5 ing in clause (i) shall be construed to pro-
6 hibit or otherwise restrict a an entity that
7 is not an insured depository institution
8 from seeking to become an approved multi-
9 family guarantor.

10 (D) EXPEDITED APPLICATION PROCESS.—
11 The Corporation may establish an expedited ap-
12 plication process for an applicant applying to
13 become an approved multifamily guarantor,
14 provided that any such applicant—

15 (i) proposes to use a credit risk-shar-
16 ing mechanism approved under subsection
17 (c); and

18 (ii) otherwise meets the requirements
19 of this section.

20 (2) APPROVAL.—The Corporation may approve
21 any application made pursuant to paragraph (1),
22 provided the multifamily guarantor meets the stand-
23 ards established under subsection (a).

24 (3) NOTICE AND PUBLICATION.—The Corpora-
25 tion shall—

1 (A) provide prompt notice to a multifamily
2 guarantor of the approval or denial of any ap-
3 plication of the multifamily guarantor to be-
4 come an approved multifamily guarantor under
5 this section;

6 (B) publish a notice in the Federal Reg-
7 ister upon approval of any multifamily guar-
8 antor; and

9 (C) maintain an updated list of approved
10 multifamily guarantors on the website of the
11 Corporation.

12 (c) CREDIT RISK-SHARING MECHANISMS.—

13 (1) CONSIDERATION AND APPROVAL.—The Cor-
14 poration shall—

15 (A) consider and approve credit risk-shar-
16 ing mechanisms that may be employed by an
17 approved multifamily guarantor to manage the
18 credit risk related to guarantees provided for
19 multifamily covered securities; and

20 (B) approve any credit risk-sharing mecha-
21 nism undertaken by an enterprise as of the date
22 of enactment of this Act, including—

23 (i) the Delegated Underwriting and
24 Servicing Lender Program established by

1 the Federal National Mortgage Associa-
2 tion;

3 (ii) the Capital Market Execution
4 Program Series K Structured 2Pass-
5 Through Certificates originated and of-
6 fered under the Program Plus Lender Pro-
7 gram established by the Federal Home
8 Loan Mortgage Corporation;

9 (iii) any other program, activity, or
10 contractual agreement of an enterprise
11 that supports the enterprise's provision of
12 liquidity to the multifamily housing mar-
13 ket; and

14 (iv) any credit risk-sharing mecha-
15 nism based on the mechanisms described
16 in clause (i), (ii), or (iii), with modifica-
17 tions approved by the Corporation;

18 (2) RULE OF CONSTRUCTION.—Nothing in
19 paragraph (1) shall be construed to—

20 (A) prevent private market holders from
21 taking a first loss position on multifamily cov-
22 ered securities guaranteed by an approved mul-
23 tifamily guarantor; or

24 (B) limit an approved multifamily guar-
25 antor from engaging in other forms of risk-

1 sharing using mechanisms that have not been
2 considered or approved by the Corporation.

3 (3) REPORT.—Each report required by section
4 302(b)(5) shall include a description of each credit
5 risk-sharing mechanism approved by the Corporation
6 pursuant to this subsection.

7 (4) NOTICE AND PUBLICATION.—The Corpora-
8 tion shall—

9 (A) provide prompt notice to any person
10 seeking approval for a credit risk-sharing mech-
11 anism of the approval or denial of that credit
12 risk-sharing mechanism under this section; and

13 (B) make available on the website of the
14 Corporation updated information regarding ap-
15 proved credit risk-sharing mechanisms.

16 (5) APPLICABILITY OF THE COMMODITY EX-
17 CHANGE ACT AND SECURITIES ACT OF 1933.—

18 (A) EXEMPTION FROM THE COMMODITY
19 EXCHANGE ACT; PRIOR CONSULTATION RE-
20 QUIRED.—

21 (i) EXEMPTION.—No counterparty
22 that enters into a swap, as that term is de-
23 fined by section 1a of the Commodity Ex-
24 change Act (7 U.S.C. 1a), for purposes of
25 structuring any credit risk-sharing mecha-

1 nism that is approved by the Corporation
2 pursuant to this section, which credit risk-
3 sharing mechanism is intended to be used
4 or is used by a private market holder to
5 assume losses associated with any multi-
6 family covered security insured in accord-
7 ance with section 303 or section 305, shall
8 be deemed, by reason of such swap trans-
9 action, to be a commodity pool, as that
10 term is defined in section 1a of the Com-
11 modity Exchange Act (7 U.S.C. 1a).

12 (ii) PRIOR CONSULTATION RE-
13 QUIRED.—Before approving any credit
14 risk-sharing mechanism that would be ex-
15 empt from the Commodity Exchange Act
16 pursuant to subparagraph (A), the Cor-
17 poration shall consult with the Commodity
18 Futures Trading Commission.

19 (B) EXEMPTION FROM SECTION 27B OF
20 THE SECURITIES ACT OF 1933; PRIOR CON-
21 SULTATION REQUIRED.—

22 (i) EXEMPTION.—Any credit risk-
23 sharing mechanism that is approved by the
24 Corporation pursuant to this section, which
25 credit risk-sharing mechanism is intended

1 to be used or is used by a private market
2 holder to assume losses associated with
3 any multifamily covered security insured in
4 accordance with section 303 or section
5 305, shall be exempt from section 27B of
6 the Securities Act of 1933 (15 U.S.C. 77z-
7 2a).

8 (ii) PRIOR CONSULTATION RE-
9 QUIRED.—Before approving any credit
10 risk-sharing mechanism that would be ex-
11 empt from section 27B of the Securities
12 Act of 1933 pursuant to subparagraph
13 (A), the Corporation shall consult with the
14 Securities and Exchange Commission.

15 (d) REQUIREMENT TO MAINTAIN APPROVAL STA-
16 TUS.—

17 (1) AUTHORITY TO ISSUE ORDER.—If the Cor-
18 poration determines that an approved multifamily
19 guarantor approved under this section no longer
20 meets the standards for such approval or violates the
21 requirements under this Act, including any stand-
22 ards, regulations, or orders promulgated in accord-
23 ance with this Act, the Corporation may—

24 (A) suspend or revoke the approved status
25 of the approved multifamily guarantor; or

1 (B) take any other action with respect to
2 such approved multifamily guarantor as may be
3 authorized under this Act.

4 (2) **RULE OF CONSTRUCTION.**—The suspension
5 or revocation of the approved status of an approved
6 multifamily guarantor under this section shall have
7 no effect on the status as a multifamily covered se-
8 curity of any multifamily covered security
9 collateralized by eligible multifamily mortgage loans
10 with which the approved multifamily guarantor con-
11 tracted prior to the suspension or revocation.

12 (3) **PUBLICATION.**—The Corporation shall—

13 (A) promptly publish a notice in the Fed-
14 eral Register upon suspension or revocation of
15 the approval of any approved multifamily guar-
16 antor; and

17 (B) maintain an updated list of such ap-
18 proved multifamily guarantors on the website of
19 the Corporation.

20 (4) **DEFINITION.**—In this subsection, the term
21 “violate” includes any action, taken alone or with
22 others, for or toward causing, bringing about, par-
23 ticipating in, counseling, or aiding or abetting, a vio-
24 lation of the requirements under this Act.

1 (e) PRUDENTIAL STANDARDS FOR SUPERVISION.—

2 The Corporation shall prescribe prudential standards for

3 approved multifamily guarantors in order to—

4 (1) ensure—

5 (A) the safety and soundness of approved

6 multifamily guarantors; and

7 (B) the maintenance of approval standards

8 by approved multifamily guarantors; and

9 (2) minimize the risk presented to the Mortgage

10 Insurance Fund.

11 (f) REPORTS AND EXAMINATIONS.—For purposes of

12 determining whether an approved multifamily guarantor

13 is fulfilling the requirements under this Act, the Corpora-

14 tion shall have the authority to require reports from and

15 examine approved multifamily guarantors, in the same

16 manner and to the same extent as the Federal Deposit

17 Insurance Corporation has with respect to insured deposi-

18 tory institutions under the provisions of subsection (a) of

19 section 9 of the Federal Deposit Insurance Act (12 U.S.C.

20 1819).

21 (g) ENFORCEMENT.—The Corporation shall have the

22 authority to enforce the provisions of this Act with respect

23 to approved multifamily guarantors, in the same manner

24 and to the same extent as the Federal Deposit Insurance

25 Corporation has with respect to insured depository institu-

1 tions under the provisions of subsections (b) through (n)
2 of section 8 of the Federal Deposit Insurance Act (12
3 U.S.C. 1818).

4 (h) CAPITAL STANDARDS.—

5 (1) IN GENERAL.—Pursuant to the requirement
6 to establish capital and related solvency standards
7 under section 309(b), the Corporation shall establish
8 standards for approved multifamily guarantors that
9 require an approved multifamily guarantor—

10 (A) to hold 10 percent capital; and

11 (B) to maintain solvency levels adequate
12 for the approved multifamily guarantor to with-
13 stand losses that might be incurred by the ap-
14 proved multifamily guarantor in a period of eco-
15 nomic stress, including national and regional
16 home price declines, such as those observed
17 during moderate to severe recessions in the
18 United States.

19 (2) RISK-SHARING CONSIDERATIONS.—For pur-
20 poses of paragraph (1), the Corporation shall con-
21 sider the extent, amount, and form of risk-sharing
22 and risk mitigation through the use by approved
23 multifamily guarantors of credit risk-sharing mecha-
24 nisms approved pursuant to subsection (c). The Cor-
25 poration shall allow such risk-sharing and risk miti-

1 gation to fulfill required amounts of capital to be
2 held under paragraph (1)(A) while maintaining an
3 appropriate structure of capital as determined by the
4 Corporation.

5 (3) OTHER CONSIDERATION.—To reflect the
6 differences between single-family and multifamily
7 businesses, the capital standards established under
8 paragraph (1) may differ from the capital standards
9 established under section 311 for approved guaran-
10 tors.

11 (4) STRESS TESTS.—The Corporation shall con-
12 duct appropriate stress tests of approved multifamily
13 guarantors that have total assets of more than
14 \$10,000,000,000, provided that such stress tests
15 shall be—

16 (A) specifically tailored to the business
17 model of the approved multifamily guarantor;
18 and

19 (B) utilized to—

20 (i) ensure the safety and soundness of
21 the approved multifamily guarantor; and

22 (ii) minimize the risk the approved
23 multifamily guarantor may present to the
24 Mortgage Insurance Fund.

25 (i) RESOLUTION AUTHORITY.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of Federal law, the law of any State, or the
3 constitution of any State, the Corporation shall—

4 (A) have the authority to act, in the same
5 manner and to the same extent, with respect to
6 an approved multifamily guarantor that is clas-
7 sified as critically undercapitalized pursuant to
8 section 316, as the Federal Deposit Insurance
9 Corporation has with respect to insured deposi-
10 tory institutions under subsections (c) through
11 (s) of section 11 of the Federal Deposit Insur-
12 ance Act (12 U.S.C. 1821), section 12 of the
13 Federal Deposit Insurance Act (12 U.S.C.
14 1822), and section 13 of the Federal Deposit
15 Insurance Act (12 U.S.C. 1823), while tailoring
16 such actions to the specific business model of
17 the approved multifamily guarantor, as may be
18 necessary to properly exercise such authority
19 under this subsection;

20 (B) in carrying out any authority provided
21 in subparagraph (A), act, in the same manner
22 and to the same extent, with respect to the
23 Mortgage Insurance Fund as the Federal De-
24 posit Insurance Corporation may act with re-
25 spect to the Deposit Insurance Fund under the

1 provisions of the Federal Deposit Insurance Act
2 set forth in clauses (i) through (iii) of subpara-
3 graph (A); and

4 (C) consistent with the authorities pro-
5 vided in subparagraph (A), immediately place
6 an insolvent approved multifamily guarantor
7 into receivership.

8 (2) LEAST-COST RESOLUTION REQUIRED.—The
9 Corporation may not exercise any authority under
10 paragraph (1) with respect to any approved multi-
11 family guarantor unless—

12 (A) the Corporation determines that the
13 exercise of such authority is necessary to ensure
14 the timely payment of principal and interest on
15 multifamily covered securities guaranteed by an
16 approved multifamily guarantor for which the
17 Corporation has been appointed according to
18 this subsection; and

19 (B) the total amount of the expenditures
20 by the Corporation and obligations incurred by
21 the Corporation in connection with the exercise
22 of any such authority with respect to such ap-
23 proved multifamily guarantor is the least costly
24 to the Mortgage Insurance Fund, consistent
25 with the least cost approach specified in the

1 Federal Deposit Insurance Act (12 U.S.C. 1811
2 et seq.), of all possible methods for meeting the
3 Corporation's obligations under this Act and ex-
4 peditiously concluding its resolution activities.

5 (3) TAXPAYER PROTECTION.—The Corporation,
6 in carrying out any authority provided in this sub-
7 section, shall ensure that any amounts owed to the
8 United States, unless the United States agrees or
9 consents otherwise, shall have priority following ad-
10 ministrative expenses of the receiver when satisfying
11 unsecured claims against an approved multifamily
12 guarantor, or the receiver therefor, that are proven
13 to the satisfaction of the receiver.

14 (j) HEARING.—Upon notice of denial of an applica-
15 tion for approval under subsection (b) or upon a notice
16 of suspension or revocation of the approved status of an
17 approved multifamily guarantor under subsection (d), the
18 applicant or approved multifamily guarantor shall be af-
19 forded a hearing under subsection (h) of section 8 of the
20 Federal Deposit Insurance Act (12 U.S.C. 1818(h)), in
21 the same manner and to the same extent as if the Cor-
22 poration were the appropriate Federal banking agency,
23 provided that the approved multifamily guarantor submits
24 a request to the Corporation for a hearing not later than

1 10 days after the date on which the notice is published
2 under subsection (b)(3) or (d)(3).

3 **SEC. 704. MULTIFAMILY HOUSING REQUIREMENT.**

4 (a) IN GENERAL.—Each approved multifamily guar-
5 antor shall ensure, during each calendar year, that at least
6 60 percent of the rental housing units which are contained
7 in the eligible multifamily mortgage loans that
8 collateralize all multifamily covered securities guaranteed
9 by each such approved multifamily guarantor during the
10 previous 24-month period were, at the time of origination,
11 affordable to low-income families.

12 (b) DETERMINATION OF AFFORDABILITY OF RENTAL
13 HOUSING UNITS.—For purposes of subsection (a), the af-
14 fordability of rental housing units contained in an eligible
15 multifamily mortgage loan shall be determined at the time
16 of loan commitment by using—

17 (1) the most recent rent roll for an occupied
18 property; or

19 (2) in the case of rental housing units that are
20 newly constructed or substantially rehabilitated, a
21 final pro-forma rent roll.

22 (c) DETERMINATION OF COMPLIANCE.—The Cor-
23 poration shall determine, during each calendar year,
24 whether each approved multifamily guarantor has com-
25 plied with the requirement under subsection (a).

1 (d) SUSPENSION OR ADJUSTMENT.—

2 (1) IN GENERAL.—The Corporation may sus-
3 pend or adjust the requirement under subsection (a)
4 for an approved multifamily guarantor or guaran-
5 tors—

6 (A) during a period of unusual and exigent
7 market conditions in the multifamily housing
8 market as determined pursuant to section 305;
9 or

10 (B) either—

11 (i) pursuant to information available
12 to the Corporation demonstrating adverse
13 market conditions in the multifamily hous-
14 ing market; or

15 (ii) pursuant to a written request to
16 suspend or adjust the requirement under
17 subsection (a) made by an approved multi-
18 family guarantor, which the Corporation
19 may grant in whole or in part.

20 (2) CRITERIA FOR SUSPENSION OR ADJUST-
21 MENT.—The Corporation may suspend or adjust the
22 requirement under subsection (a) pursuant to para-
23 graph (1)(B) only if—

24 (A) market and economic conditions re-
25 quire such an action; or

1 (B) efforts to meet the requirement under
2 subsection (a) would result in—

3 (i) the constraint of liquidity in cer-
4 tain market segments;

5 (ii) over-investment in certain market
6 segments; or

7 (iii) other consequences contrary to
8 the intent of this section.

9 (3) LIMITATION ON AUTHORITY.—The Corpora-
10 tion shall narrowly tailor any suspension or adjust-
11 ment made under paragraph (1)(B) to address the
12 market conditions that prompted the suspension or
13 adjustment.

14 (4) DETERMINATION.—

15 (A) PERIOD FOR PUBLIC COMMENT.—The
16 Corporation shall, promptly upon a decision to
17 pursue a suspension or adjustment under para-
18 graph (1)(B)(i) or upon receipt of a request
19 under paragraph (1)(B)(ii), seek public com-
20 ment on the suspension or adjustment for a pe-
21 riod of 30 days.

22 (B) PERIOD FOR DETERMINATION.—The
23 Corporation shall make a determination regard-
24 ing any proposed suspension or adjustment
25 within 30 days after the expiration of the public

1 comment period provided under subparagraph
2 (A).

3 (C) EXTENSIONS.—The Corporation may
4 extend the period for determination provided
5 under subparagraph (B) for a single additional
6 15-day period, but only if the Corporation re-
7 quests additional information from the regu-
8 lated entity or approved multifamily guarantor.

9 (5) REVIEW OF SUSPENSION OR ADJUST-
10 MENT.—

11 (A) ANNUAL REVIEW.—The Corporation
12 shall review any suspension or adjustment made
13 by the Corporation under subparagraphs (A) or
14 (B) of paragraph (1) at least annually to deter-
15 mine whether the suspension or adjustment sat-
16 isfies the criteria established under paragraph
17 (2).

18 (B) PUBLICATION AND COMMENT.—The
19 Corporation shall—

20 (i) not less than annually, publish a
21 list of all suspensions and adjustments in
22 effect under this section; and

23 (ii) seek public comment as to the
24 continued necessity of such suspensions or
25 adjustments.

1 (e) MIXED INCOME LIQUIDITY STUDY AND RE-
2 VIEW.—

3 (1) STUDY.—Not later than 2 years after the
4 date of enactment of this Act, and periodically or as
5 market conditions warrant thereafter, the Corpora-
6 tion shall conduct a study of liquidity in the market
7 for financing the new construction or substantial re-
8 habilitation of mixed-income properties containing
9 multifamily units that—

10 (A) otherwise qualify under the require-
11 ment under subsection (a); and

12 (B) are financed by tax-exempt bonds that
13 are issued by a State or local housing finance
14 agency.

15 (2) ADJUSTMENT TO REQUIREMENT.—The Cor-
16 poration may adjust the requirement under sub-
17 section (a), subject to the procedures provided under
18 paragraphs (2) through (5) of subsection (d), if the
19 Corporation finds based on a study conducted under
20 paragraph (1) that—

21 (A) liquidity is constrained in the market
22 for eligible multifamily mortgage loans for the
23 mixed-income properties described in paragraph
24 (1); and

1 (B) it is necessary to foster liquidity in
2 that market.

3 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to authorize the Corporation to re-
5 quire an approved multifamily guarantor to exceed the 60
6 percent requirement set forth under subsection (a).

7 (g) DEFINITIONS; APPLICABILITY TO ENTER-
8 PRISES.—In this section—

9 (1) the term “approved multifamily guarantor”
10 includes an enterprise or any multifamily subsidiary
11 established pursuant to section 701;

12 (2) the term “multifamily covered security” in-
13 cludes a multifamily mortgage-backed security guar-
14 anteed by an enterprise or any multifamily sub-
15 sidiary established pursuant to section 701; and

16 (3) the term “eligible multifamily mortgage
17 loan” includes a multifamily mortgage loan
18 collateralizing a security guaranteed by an enterprise
19 or any multifamily subsidiary established pursuant
20 to section 701.

21 **SEC. 705. ESTABLISHMENT OF SMALL MULTIFAMILY PROP-**
22 **ERTY PROGRAM.**

23 (a) PILOT PROGRAM.—The Corporation shall estab-
24 lish at least 1 pilot program, to be administered by the
25 Office of Multifamily Housing, in consultation with the

1 Office of Consumer and Market Access, to test and assess
2 methods or products designed to increase secondary mort-
3 gage market access for multifamily properties comprised
4 of not more than 50 units.

5 (b) **ACTIVITIES.**—In administering the pilot program
6 required under subsection (a), the Corporation shall—

7 (1) review and approve proposals from regu-
8 lated entities or approved multifamily guarantors to
9 participate in the pilot program by carrying out ac-
10 tivities to decrease barriers to secondary mortgage
11 market access for multifamily properties comprised
12 of not more than 50 units through new risk-sharing,
13 partnerships, or other mechanisms or incentives; and

14 (2) establish requirements governing the activi-
15 ties of the pilot program, including requirements
16 with respect to—

17 (A) any mid-course alterations of activities
18 permitted under the pilot program, information
19 sharing, reporting, and evaluation of the results
20 of a pilot program; and

21 (B) the tracking of any allocations of
22 amounts from the Market Access Fund.

23 (c) **USE OF MARKET ACCESS FUND.**—A regulated
24 entity or approved multifamily guarantor that submits a
25 proposal under subsection (b) may request, as part of the

1 proposal, allocations from the Market Access Fund as nec-
2 essary to support its proposed activities.

3 (d) AMENDMENTS TO PILOT PROGRAM.—The Cor-
4 poration may amend a pilot program established under
5 subsection (a) as needed to accommodate the multifamily
6 mortgage market.

7 (e) PUBLICATION.—The Corporation shall make pub-
8 licly available the results of a pilot program established
9 under subsection (a).

10 (f) REQUIREMENT.—The Corporation shall consider
11 the results of a pilot program established under subsection
12 (a) for purposes of expanding and implementing new
13 mechanisms to decrease barriers to secondary mortgage
14 market access for multifamily properties comprised of not
15 more than 50 units.

16 (g) LIMITATION ON FUNDING.—The Corporation
17 may not use funds from the Mortgage Insurance Fund
18 to fund any pilot program activities conducted by a regu-
19 lated entity or approved multifamily guarantor under this
20 section.

21 **SEC. 706. MULTIFAMILY HOUSING STUDY.**

22 The Office of Multifamily Housing established under
23 section 209 shall conduct a study on the expansion of the
24 Federal Home Loan Banks' Acquired Member Assets
25 (“AMA”) programs to eligible multifamily mortgage loans.

1 **SEC. 707. MULTIFAMILY PLATFORM STUDY.**

2 (a) IN GENERAL.—Not later than 18 months after
3 the system certification date, the Corporation shall con-
4 duct a study on the need, feasibility, costs, and merits of
5 creating a cooperatively-owned, nonprofit multifamily
6 issuance platform to securitize eligible multifamily mort-
7 gage loans.

8 (b) CONTENT OF STUDY.—The study required under
9 subsection (a) shall address—

10 (1) competition between existing approved mul-
11 tifamily guarantors;

12 (2) the barriers to entry for new multifamily
13 guarantors;

14 (3) the costs associated with developing a new
15 platform;

16 (4) the funding of smaller-balance multifamily
17 mortgage loans, including mortgage loans originated
18 by credit unions and community and mid-size banks
19 and other small-volume lenders in rural and other
20 underserved communities;

21 (5) standardized definitions and reporting and
22 payment requirements;

23 (6) stability in the multifamily lending market
24 in times of stress; and

1 (7) such other information as the Corporation
2 determines appropriate to further the purpose of the
3 study.

4 (c) CONSIDERATION.—In conducting the study re-
5 quired under subsection (a), the Corporation shall con-
6 sider whether any identified need to establish a multi-
7 family securitization platform can and will be met by the
8 Platform established under section 321, or any subsidiary
9 or affiliate thereof.

10 (d) REPORT TO CONGRESS.—Not later than 18
11 months after the system certification date, the Corpora-
12 tion shall submit the study required under subsection (a)
13 to the Committee on Banking, Housing, and Urban Af-
14 fairs of the Senate and the Committee on Financial Serv-
15 ices of the House of Representatives.

16 **TITLE VIII—GENERAL**
17 **PROVISIONS**

18 **SEC. 801. RULE OF CONSTRUCTION.**

19 Nothing in this Act shall be construed to prohibit or
20 otherwise restrict the ability of a holder of any loss posi-
21 tion in any covered security insured under this Act from
22 restructuring, retransching, or resecuritizing such position.

23 **SEC. 802. SEVERABILITY.**

24 If any provision of this Act or the application of any
25 provision of this Act to any person or circumstance, is held

1 invalid, the application of such provision to other persons
2 or circumstances, and the remainder of this Act, shall not
3 be affected thereby.

4 **SEC. 803. TRANSFER NOTIFICATION UNDER TILA.**

5 (a) IN GENERAL.—Section 131(g) of the Truth in
6 Lending Act (15 U.S.C. 1641(g)) is amended—

7 (1) in paragraph (1), by inserting “, including
8 any servicer with respect to a securitized residential
9 mortgage loan,” before “shall notify”; and

10 (2) by striking paragraph (2) and inserting the
11 following:

12 “(2) DEFINITIONS.—For purposes of this sub-
13 section—

14 “(A) the term ‘mortgage loan’ means any
15 consumer credit transaction that is secured by
16 the principal dwelling of a consumer; and

17 “(B) the terms ‘servicer’ and ‘securitized
18 residential mortgage loan’ have the same mean-
19 ings as in section 129I(b).”.

20 (b) SAFE HARBOR FOR MISTAKEN PAYMENTS;
21 FEES.—Section 131 of the Truth in Lending Act (15
22 U.S.C. 1641) is amended—

23 (1) by redesignating subsection (g) as sub-
24 section (i); and

1 (2) by inserting after subsection (f) the fol-
2 lowing:

3 “(g) TREATMENT OF MISTAKEN LOAN PAYMENTS
4 AFTER TRANSFER.—During the 60-day period beginning
5 on the effective date of transfer of the servicing of any
6 securitized residential mortgage loan, a late fee may not
7 be imposed on the consumer with respect to any payment
8 on such loan, and no such payment may be treated as late
9 for any other purpose, if the payment is received by the
10 transferor servicer (rather than the transferee servicer
11 who should properly receive payment) before the due date
12 applicable to such payment.

13 “(h) FEE WAIVE UPON TRANSFER.—

14 “(1) IN GENERAL.—A creditor, including a
15 servicer, may not impose or collect—

16 “(A) any fee that is not listed as having
17 been incurred in—

18 “(i) the notice to the consumer of the
19 transfer of a securitized residential mort-
20 gage loan from the previous creditor or
21 servicer; or

22 “(ii) the notice to the consumer from
23 the new creditor or servicer; or

1 “(B) any fee that is not specified on the
2 monthly statement to the consumer as having
3 been incurred.

4 “(2) DEFINITIONS.—For purposes of this sub-
5 section, the terms ‘servicer’ and ‘securitized residen-
6 tial mortgage loan’ have the same meanings as in
7 section 129I(b).”.

8 **SEC. 804. DETERMINATION OF BUDGETARY EFFECTS.**

9 The budgetary effects of this Act, for the purpose of
10 complying with the Statutory Pay-As-You-Go Act of 2010,
11 shall be determined by reference to the latest statement
12 titled “Budgetary Effects of PAYGO Legislation” for this
13 Act, submitted for printing in the Congressional Record
14 by the Chairman of the Senate Budget Committee, pro-
15 vided that such statement has been submitted prior to the
16 vote on passage.